

Chapitre 10



Migration Towards and Transiting Through the Central Sahara: From International to Local Patterns and Practices

Interview with Julien BRACHET

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Julien BRACHET, researcher at the Institut de recherche pour le développement (UMR 201, Université Paris 1 Panthéon-Sorbonne), is working on the local stakes of international movement in the central Sahara and the impact of the tightening of European migration policies on these regions.

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For several years migratory movements between Sub-Saharan Africa and North Africa have received wide media and political coverage. Is this a recent phenomenon?

No, it is not a recent phenomenon. There has always been the trading of goods and movement of persons within the Sahara and between both sides of the vast desert. But besides isolated cases, economic migration really began in the central Sahara at the end of the 1950s, notably with the arrival of low-skilled workers in Ekker and Reggane, in Algeria, where the French had set up nuclear bases. Then during the 1960s, following Algeria's independence (1962) and Libya's sudden wealth due to the discovery and exploitation of oil deposits, the leaders of these two States set up development policies for the Saharan regions of their countries. The greatest work and the economic development projects which followed created high demand for low-skilled labour, notably in the agricultural sector, to which it was impossible to respond locally, even nationally. Thus foreign labour was needed. Within this economic context in the Maghreb Sahara, the serious droughts in the Sahel (1960 to 1973) occurred leading to a famine and a severe pastoral crisis. This drought acted as an accelerator and often as an instigator of migration towards the Algerian and Libyan Sahara. At first, this migration only involved the relatively young male population from Sahel and Sahara regions of Sahelian States, with a few exceptions. Up to the 1980s, the amount and organisation of this migration evolved slowly. On the other hand, the following decade, during the 1990s, there was a renewal of these migratory movements with a wide range of migrants from different countries of origin and a well-known increase in the amount of flows.

Thus, this migration phenomenon existed well before all the media attention and the interest of researchers, African and European

governments. For a long time, migration remained on the sidelines in the work on these African regions which has now become a key issue to the extent where it is now impossible to count the number of conferences, publications and calls for projects on this subject. Moreover, this raises the issue of the autonomy of the research agenda and approaches to the migration phenomenon, notably when it is addressed as a problem to resolve or as a potential driver of development, which corresponds more to political views rather than scientific views.

◀◀ What happened in the 1990s? Why has there been a migration revival?

Up to the end of the 1980s, migratory movements to the central Sahara remained indeed relatively isolated geographically and socially. However, North African migrants returning with the notorious nest-egg, generally material in nature rather than financial, contribute to the construction and dissemination of the Eldorado image of Libya and Algeria greater far from the Sahel regions. Also, when the Libyan leader, Muammar al-Gaddafi, launched a rapprochement policy with various African States (as a result of the failure of his pan-Arab policy and in order to limit the effects of UN, US and European embargoes on his country¹) and openly came out in favour of African immigration in Libya, he spurred on many young Africans who were motivated to migrate for various reasons. Existing Saharan and trans-Saharan networks, progressively set up over the last few decades, facilitated the rapid increase in migratory flows towards Libya, and to a lesser extent Algeria.

Other factors explaining this migration boom are:

- The toughening of European migration policies through which the visa process and the conditions for issuance have become much more complex (as from 1985 bilaterally then more globally as from 1995 with the application of the Schengen agreement on border checks);
- The devaluation of the CFA Franc in January 1994, which resulted in the impoverishment of a portion of “middle class” Africans living in the Franc zone.

These economic and political factors resulted in a favourable local context which led to the increase in migration between the two sides of the Sahara and migration’s diversification. However, examining each individual case separately, migration is difficult to explain. In effect, at the beginning of the 1990s:

- Algeria intensified its combating of clandestine migration which began in 1986 by turning back many Sub-Saharan migrants from outside its borders;
- Despite discourse implying that it is more open, Libya also continued collective deportation of aliens;

- Most of these migratory flows are not going towards Europe nor only to Libya;
- The intensification of these migratory flows preceded the devaluation of the CFA franc.

It is still difficult to know overall the reason for the development of this Saharan migration. It is important to focus on the individual aspect as well as the various reasons for these migratory flows which alter during the journey. These reasons cannot be explained only due to structural factors. Hence there are migration policies that are only based on structural factors and thus have an influence on structural aspects. Yet they rarely achieve the desired effects.



What are the institutional frameworks currently governing migration in the central Sahara?

The examining of migration policies and legislation related to international migration highlights two different yet complementary approaches to the issue.

- On one hand, the principles and standards which come under State sovereignty (right to protect its borders, admission and expulsion of foreign nationals, combating human trafficking and illicit trafficking of migrants, etc.) and which can apply to inter-state groupings.
- On the other hand, human rights of persons engaged in the migratory process, recognised at the international level through various conventions, without the explicit mention of international migrants (such as human rights, humanitarian rights, refugee rights, the right to work, etc.).

The diversity of these texts (actual non-binding laws or conventions) and their levels of application (national, bilateral or international) lead to the general complexity of migrants' rights. This complexity is found in the central Saharan migration system in which various institutional frameworks protecting migrants and/or governing international migration often overlap.

Only the broad lines of the legal frameworks used to determine migrants' rights and their status during their crossings of the Sahara are set out here. This strategic thinking thus enabled the highlighting of their possible contradictions, and differentiation of the *de jure* (by law) from those *de facto* (concerning the fact) practices of all the actors, in particularly State customs officials and police working on migration itineraries.

At the supranational level, while the UN conventions are accepted, the central Sahara falls is included in two main institutional frameworks concerning international migration, from two African inter-State

organisations, ECOWAS and CEN SAD. These two organisations, each bringing together numerous states including Niger, advocate the free movement of persons within their country.

Within the ECOWAS zone, the Dakar Protocol governs this free movement since 1979, and should enable many migrants to go to Niger and up to the southern borders of the Maghreb without any administrative concerns. Nevertheless, whether or not they are nationals of an ECOWAS member State, have ECOWAS travel documents and a vaccination certificate, they are all allowed to move about within Niger. However, they all must pay bribes to Nigerien border agents; without a doubt leading to migrants' affirmations that they do "not need a visa" in order to go from one country to another. "No need for papers in order to move about the ECOWAS zone, but required to pay bribes" seems to be more the reality.

The second inter-state institutional framework concerning international migration is that of CEN SAD, which is in the process of setting up an area of free movement of persons between member States, and notably on both sides of the Sahara. Unlike the previous protocol, signed and ratified by all ECOWAS member States, it only involves the recommendation which is not binding for the States. Also, while CEN SAD foresees the creation of a global economic union, guaranteeing free movement, residence and right to work, none of the States have truly applied these principles (only through some temporary bilateral agreements, notably between Libya and the Sudan).

Along with these two African institutional frameworks, the European Union as well as some of its member States (France, Italy and Spain) is having increasing influence on these regions. Within the Euro-African Partnership for Migration and Development framework and the bilateral agreements (for example between Italy and Libya), European States are increasingly encouraging North African States, and more recently those of Sub-Saharan Africa, to strengthen control of their borders. The objective is to curb migratory flows from Saharan regions although this goes directly against that which has been set out by organisations such as ECOWAS and CEN SAD.

Nevertheless, the level of application of all of the free movement legislation and thus their practical coherence remains at the national level. Niger, Algeria and Libya, the three states of the central Sahara, have contrasting migration policies.

At the judicial level in Niger, international migration is not considered a problem to resolve and there is no truly specific defined policy. International legislation ratified by the Nigerien Government (thus the Dakar Protocol) is applied with more or less success. EU pressure to curb migratory flows from regions to the north of this country (counter to the principle of free movement of ECOWAS member State nationals) does not seem to have any real effects.

Algeria is not part of the previously mentioned inter-state groupings. For a long time it was perceived as only an emigration country. Although the practice of combating irregular migration began in the mid-1980s, Algeria's migration policy is based on laws incorporating issues related to immigration and transit only since the 2000s. Currently, movement of aliens on Algerian territory only depends on fulfilling the consular visa formalities for which Algeria applies the rule of reciprocity. But new laws being prepared foresee distinguishing individuals who enter and stay on in Algeria from those who are only passing through, that is to say who are presumed to be going to Europe. We find the same patterns of these migrations which have led to the creation of this legal abomination of "illegal emigration."

This notion is highly criticised because it is based on suppositions and not on acts. It is counter to Article 13.2 of the Universal Declaration of Human Rights which stipulates that "Everyone has the right to leave any country, including his own, and to return to his country." This notion is becoming ever more the reality in African Atlantic coast and Mediterranean countries.

In Libya, the founding country and leader of CEN SAD, movement and residence of aliens of all African nationalities requires a visa. One of the important aspects of Libya regarding is the promotion of free movement and pan-Africanism (notably through the discourse of its leader Mr Gaddafi), all while accepting to play the police of Europe with regard to migration and by not regularising the many African immigrants on its soil and by regularly carrying out collective deportations, by plane or by land.



In the regions that you studied, is trans-Saharan migration systematic of clandestine migration?

Firstly, I would like to recall that it not only involves trans-Saharan migration but migration towards and through the central Sahara because some migrants that transit through Niger, and no doubt most of them, arrive in towns and oases of Saharan regions of Algeria and Libya. They don't thus cross the Sahara, but they go there.

Concerning the characterisation of these flows to central Sahara (to Niger, in Algeria and Libya), we should distinguish between regular, irregular and clandestine migrants. Clandestine migrants move about irregularly off the radar of State border officials. During the journey, migrants often pass from one of these categories to another: a regular migrant whose documents have been stolen or whose visa expires becomes irregular. Entering or exiting secretly is a situation always redefined by the contact or avoidance between migrants and officials of the State in which they are moving about.

In Niger, there are two types of migrant status: either migrants in a regular situation (case of Nigeriens and aliens who have legally entered this country), or in an irregular situation. In fact, this matters little because the legal status does not modify the possibilities to be mobile or the conditions for mobility. To be in a regular situation does not mean that bribes do not have to be paid to State officials when crossing Niger. To be in an irregular situation does not prevent crossing this country by official routes from the moment that these same bribes are paid (this explains why one need not necessarily be clandestine to move about irregularly in the south of the Sahara).

Concerning the entrance of migrants in Algeria and Libya, the categories are the same but with a different distribution of the workforce. In order to deal with the more or less strict application of these States' migration policies at their Saharan borders, migration networks developed different ways to cross the borders, with various costs and risks. Firstly, there are much fewer regular migrants as it is costly to acquire an Algerian or Libyan visa and rarely are they obtained. However, contrary to popular belief, they actually exist (mostly Malian nationals who can go to Algeria without a visa). Then, there are migrants who cross the borders in an irregular manner but not clandestine: a simple bribe paid to border officials at the Algerian border (Assamaka) or tolerance on the part of Libyan border officials (Tumo). These types of border crossings illustrate, in the first case, the limits of possibilities to apply the migration policy, besides constraints in the natural environment, and in the second case, the manoeuvring of the Libyan authorities. For a long time the status of their border with Niger has varied where it is declared open, or sometimes partially or totally closed. Nevertheless, for the last several years, tolerance and bribes paid at Algeria and Libya's southern borders have greatly declined. Fewer and fewer people wanting to cross the border seem in a position to negotiate at the borders the entrance of irregular migrants of these two States. Clandestinely, still rare in the south of the Sahara, is the way in which to enter North Africa, the surest and least costly.

« How great are the migratory flows today?

It is very difficult to evaluate the volume of these migratory flows for several reasons. If we take the case of Niger, which is a known transit country:

- The data produced by official State services, notably the border police who count the entries into and exits from the national territory, is very approximative and even incomplete.
- The conditions in which border checks are carried out and the counting of persons at border police posts of Assamaka concerning

movement between Niger and Algeria and of Dirkou for movements between Niger and Libya, and notably the corruption that results in some movements not being registered hence sabotages the validity of the data produced.

- But the main pitfall, well-known and inevitable regarding migration statistics, is the movement of clandestine migrants who, by definition, are not counted.

In order to deal with this problem of deficient national statistics devices, it is possible for researchers to produce his own figural data, attempt to quantify flows as they are observed, then to provide estimates according to various criteria. This way, which seems to be the most relevant as it is based on a long-time experience on the ground, we can obtain the order of magnitude which responds to the needs of scientific research in human and social sciences.

For example, after the research that I have been carrying out for several years in Niger, I believe that there are approximately 40,000 to 80,000 migrants who go to North Africa through this country, and with a view to returning by land, only 10 to 20% seem to continue their journey to Europe. This range can be considered too wide to be useful for policy decision-makers, but in this case, is it for the researcher to produce precise figures on the subject while the relevant authorities are not doing so, or do not have the means to do so, as some States are showing sufficient interest in these migratory movements? In addition, the media and politicians are generally not waiting for scientists to put forward figures which are often unreliable but which provide the media with the sensational news they so desire and the political intent of the relevant authorities.

The importance of the quantification of migration between Sub-Saharan Africa and the Maghreb cannot be ignored. This enables at times to curb sometimes manipulative discourse or discourse that is based on extrapolations which are not very precise nor supportive of the reality. But at the same time, the limits of quantifying migration flows should be recognised and notably by making public the methodologies used to produce this type of data.

« Finally, do you think that co-operation on migration policy between the European Union and these African States is based on a true understanding of the ongoing phenomenon?

This is without a doubt one of the key questions raised or that should be raised with policy decision-makers. On what models of actuality are they basing their interventions? As for co-operation on migration issues, I would say that our policy strategists require and produce too many global analyses, without focusing enough on the historic and anthropologic

complexity of these phenomena about which they are talking, or without focusing on the dynamics of local societies on which they are intervening.

For example, the Saharan regions of Algeria and Libya are today considered in Europe as priority zones to combat irregular immigration coming from the south of the Sahara as well as the Mediterranean and Atlantic coasts of Africa. Now while it is true that some of the migrants arriving in Europe illegally have first crossed the Sahara, few of those crossing the central Sahara are aiming to go to Europe.

The focus of attention by the media, European and African Government on migrants who continue their journey arriving in Europe makes it seem as though all these migratory movements are transcontinental economic migration towards Europe. This situation sustains the fear of a “migration invasion” and obscures the diversity and complexity of contemporary Saharan mobility. This comparison of migration towards and through the Sahara to trans-Mediterranean migration is based on an erroneous perception of the phenomena underway. It seems to go in the direction of a certain ideology of the threat from the South, carried on in Europe by governments who perceive and depict the alien from the south as a problem, risk or threat.

While studies show that even today migration to the Sahara is mainly Sahelo-Maghrebian, European countries intend to combat irregular immigration coming from Sub-Saharan Africa (which numerically is minimal with regard to the two continents) by inciting Maghreb States to curb migratory movements in the Sahara. Through diplomatic pressure and economic and military co-operation, Europe thus upsets an age-old cross-border migration system which does not concern them if very little. But while this co-operation with the EU, which is conveyed through a toughening of migration policies in Africa, has effectively made movements and residence of migrants increasingly difficult, risky and costly in many countries, it is very difficult on the other hand to determine its effects on flow volumes. Besides, we can ask ourselves if States such as Algeria and Libya, who are subject to pressure from their European neighbours, have the veritable willingness to put an end to these migratory movements, or if they are only pursuing an age-old practice of “managing” aliens on their territory through arrests and collective deportations, and thus not taking into account many international conventions. Libya, and to a lesser extent Algeria, is indeed aware of its need for foreign labour and more globally the benefits for their economy brought about by these migratory movements, where sometimes ambiguous positioning on this issue and the discrepancy between official discourse and their application. Ambiguities and discrepancies also exist, in other ways, on the north bank of the Mediterranean.

NOTE \\\

- 1 *Embargoes imposed as from 1992 following the bombing of Pan Am Flight 103 over the small Scottish town of Lockerbie in 1988, and the bombing of UTA Flight 772 over Niger, for which Libyan nationals, protected by their government, were suspects. These embargoes were progressively lifted as from April 1999, following an agreement authorising the two Libyan nationals involved in the "Lockerbie bombing" to be judged in the Netherlands. At the same time, six Libyans involved in the bombing of the UTA DC-10 were sentenced.*

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Glossary¹

Alien: A person who is not a citizen of the country in which he/she lives. A “legal alien” is someone who lives in a foreign country with the legal approval of that country. An “illegal alien” (or undocumented alien) is someone who lives in a foreign country without having legal status in that country. A distinction is made between illegal immigrants and illegal aliens; the former being someone who wishes to settle permanently in the new country. A distinction is made between illegal immigrants and illegal aliens – the former being someone who wishes to settle permanently in the new country.

Arrest Warrant: An order give by the examining judge to the police to seek and arrest someone for indictment then take them to a correction centre.

Circular migrant: One who moves regularly between his/her home country and a foreign country for employment-related reasons. Typically, though not exclusively, circular migrants do agricultural or construction work, returning home when employment opportunities wane, or when they have saved a bit of money. The term “circular migrant” is not entirely synonymous with guest worker, because the latter term implies that the individual fits into a specific employment-visa category of the host country; a circular migrant can be in a host country illegally or legally. Further, a guest worker may come to a host country for a set period of time and only return home when the visa expires – in other words, there is no back-and-forth and hence no circularity

Economic migrant: *Sometimes used as an equivalent to the term labour migrant or migrant worker. However, the two concepts may cover different categories. The term “labour migrant” can be used restrictively to only cover movement for the purpose of employment while “economic migrant” can be used either in a narrow sense, which includes only movement for the purpose of employment, or in a broader sense that includes persons entering a State to perform other types of economic activities such as investors or business travellers.*

Expulsion: A measure undertaken by the police by which an alien is ordered to leave the country. There is a tendency to systematically use the word “expulsion” every time an alien is forced to leave a country. There are several expulsion measures:

- Arrested and sent to the border: on the basis that the alien is in an irregular situation.
- Deportation order: ordered if the alien constitutes a threat to public order (sentenced to a long prison term, for example).
- Legal exclusion from the country: often goes along with a prison term whereas at the end of the term, the alien is deported from the country as a result of a judge-ruled exclusion. It can be used in cases of irregular situations, for certain offences or crimes.
- Surrendered to another country: can only take place in application of an agreement between two countries to which the alien is surrendered.

There are cases of protection from expulsion measures following the individual situation and the alien’s country of origin: protection from being led to the border, protection from expulsion, protection and guarantee from judicial banning from the country

Flagrante delicto: Delicto or offence in process of being committed or which was just committed and registered by the police. When the crime is punishable by a prison term, the Prosecution can quickly present the suspect before the judge for a hearing called an immediate appearance for a decision to be made.

Flow: The term used for the unstable and changing portion of an overall population figure

Forced departure: So as to avoid using the word “expulsion” (a legal-technical term in State immigration law), we speak of “forced departure” of an alien in cases in which authorities enforcing the decision of expulsion have used physical or other pressure to force an alien to leave his former country of residence.

Illegal migrant: A person who comes to settle in a country without the correct legal documentation, or who lives there using false identification or no documentation at all (“sans papiers” – without papers), or who otherwise resides in a country without formal permission. E.g., a person who enters a country on a tourist or student visa and then overstays his or her visa becomes an illegal immigrant.

Intergovernmental method: Negotiation sessions between representatives of national governments

Irregular migration: As defined by the Global Commission on International Migration, it is a complex and diverse phenomenon in which the main focus is irregular flows and entries, rather, for example, than the various challenges posed by stocks or irregular migrants such as undocumented work.

Immediate appearance²: A procedure which makes it possible to make judge quickly somebody following the police custody.

Labour migration: Movement of persons from their home State to another State for the purpose of employment.

Migrant smuggling; smuggling of migrants: Defined in the relevant Protocol as follows: “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. Trafficking victims can be, at least in the beginning, consenting and candidates for emigration, unlike those described by the expression “human trade.”

Naturalization: In law, refers to an act whereby a person acquires a citizenship different from that person’s citizenship at birth. Naturalization is most commonly associated with economic migrants or refugees who have immigrated to a country and resided there as aliens, and who have voluntarily and actively chosen to become citizens of that country after meeting specific requirements. However, naturalization that is at least passive and often not voluntary, can take place upon annexation or border adjustments between countries. Unless resolved by denaturalization or renunciation of citizenship, naturalization can lead to multiple citizenship.

Non-refoulement: *A core principle of refugee law that prohibits States from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. This principle is usually considered a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention relating to the Status of Refugees.*

Refugee: Defined under Article 1 of the Geneva Convention (28 July 1951) relating to the Status of Refugees as “any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the

country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country”.

Return migration: I.e., migrants returning to their country of origin – going home.

Statutory Refugee: In France, refugee status is a legal status recognised by the Office français de protection des réfugiés et apatrides (OFPRA), in accordance with the Geneva Convention of 28 July 1951 as well as the law of 25 July 1952 (in its draft of the law of 11 May 1998) referring to two categories of persons: - anyone meeting the definitions set out in Article 1 of the Geneva Convention of 28 July 1951 related to the status of refugees; – “any person persecuted due to his/ her actions on behalf of freedom” (L. 11.5.1998, Article 29).

Stock: In migration statistics, used to describe the stable portion of an overall population figure.

Total population (Contribution by J.-M. Cour): as set out in the WALTPS women, the aged and children, “inactive” and “unemployed” included is comprised of three strata:

- The primary strata corresponds to the total population of urban and rural households who depend on most of their total revenue (including non-monetary) from a primary activity;
- The formal non primary strata corresponds to households having a formal private or public salaried employment and households involved in formal (officially registered businesses) non agricultural businesses (non primary); and
- The informal non primary strata corresponds to the total population of households not classified in the two other strata. The non-primary population is that of two non-primary strata, formal and informal.

This breakdown of the total population into three strata, which abolishes in fact the household entity and ignores the notions of activity and unemployment, can evidently be disputed, but it enables the aggregates and ratios to be calculated taking into account the totality of the population which is often the only known data and prevents disputes over the definition of active (over 7 or 15 years of age? Less than 60 or 90 years of age?) and the unemployed (concept which has no sense except in the formal and modern sector).

Primary value added (Contribution by J.-M. Cour): is that of the primary sector of the economy, agriculture, livestock rearing, fisheries and forestry.

Warrant of Committal: An order given by a magistrate or judge to enforce a judgment or order to receive and maintain an indicted person in detention pending trial.

NOTE //

- 1 *The text in italics has been translated based on the official source text. www.iom.int and United Nations Multilingual Terminology Database <http://157.150.197.21/dgaacs/unterm.nsf>*
- 2 *www.speedylook.com/Immediate_appearance.html*

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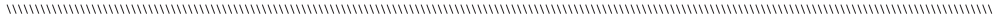
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