

The EU's fight against transnational crime in the Sahel

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by Eva Magdalena Stambøl

Introduction

There are many ways in which internal security concerns are being prioritised and mainstreamed in EU action in West Africa. Recent key EU foreign policy documents, such as the Global Strategy (2016) and the CSDP Compact (2018) have reinforced the 'internal-external security nexus' and called for enhancing cooperation between actors, alignment of processes and convergence of tools of Common Security and Defence Policy (CSDP) and Freedom, Security and Justice (FSJ). The Commission-run external policy instruments (ENP, IcSP, EDF, DCI) are now funding an increasing amount of projects pursuing the objectives of supporting third countries' internal security and criminal justice apparatuses to fight transnational crime, terrorism and irregular migration. In addition, large-scale emergency and ad-hoc solutions have been put in place to tackle irregular migration and crimes perceived to be related to it. 'Migration deals' have been negotiated with third countries with varying track records on human rights. An EU Emergency Trust Fund for Africa (EUTF) was created in 2015 to mainstream migration management in all EU external action. The Fund now comprises 4,1 billion euro, much of which goes to enhancing the internal security apparatuses and borders of African states. Tackling 'illicit flows' by enhancing internal security, police and borders is not a novelty in EU external policy. What is new, however, is the unprecedented amount funds and projects put towards it, and the fact that security sector reform (SSR) will now be among the EU's main forms of external engagement (European Commission 2016).

The pursuit of internal security objectives has become increasingly important in EU foreign policy and external relations. The EU now invests a growing number of efforts towards fighting 'security threats' and transnational crime in the (extended) neighbourhood. This is particularly evident in the Sahel region of West Africa, where initiatives focusing on bolstering internal security apparatuses and borders are mushrooming. The question is whether the EU's emerging role as a 'global crime fighter' contributes to fostering human security or satisfying the internal security priorities of the member states, and whether the two are at all compatible. A closer look at EU policies in the Sahel suggests that solutions based on criminalisation and repression can have harmful unintended consequences which can even destabilise the region.

The Sahel region cutting across the West and Central African Sahara desert has become a priority to the EU in terms of fighting transnational crime and security threats. Mali is experiencing a multidimensional crisis. Extreme poverty and climate changes were supplemented in 2012 by a Tuareg rebellion, a coup d'état, and a complex landscape of 'Islamist' insurgent groups. International actors descended on the country to do all sorts of security-related projects, leading to what some have called a 'security traffic jam'. France intervened militarily in 2013 and is still on the ground to 'fight terrorists', alongside a UN Multidimensional Integrated Stabilization Mission (MINUSMA) and two

EU CSDP training missions – one military (EUTM) and one civilian (EUCAP). This list is not exhaustive. Mali's more stable neighbour to the east, Niger, became a priority to Europe first and foremost due to it being a transit country for migrants travelling to Libya, particularly after the fall of Gaddafi. The country is now seen as a key partner for the EU in the fight against irregular migration and in 'breaking the business model of smugglers', and EU member states are building new embassies in the capital Niamey.

Transnational crime and migrant smuggling

The fight against transnational organised crime has been a key priority for EU security strategies for decades. The 'external dimension' (i.e., cooperation with third countries) has been reiterated as a necessity to counter it (Council 2003; 2005; 2010). The reason for this is that transnational (organised) crime has been conceptualised by the EU predominantly as *cross-border illicit flows*, meaning the cross-border mobility of prohibited goods or individuals threatening to spill over into the EU from the neighbourhood and beyond. An intellectually intuitive solution to such a threat, which has come to be the EU's response by default, is border security.

The category of 'transnational (organised) crime' has, however, encompassed a broad range of very different activities and phenomena which used to be dealt with separately by the member states. They are not easily lumped together. This category has also tended to fluctuate with the political agenda of the EU and its member states, and has typically included issues such as trafficking in drugs, weapons and humans, cybercrime and terrorism-financing. As migration has come to be the most pressing issue on the EU's agenda in recent years and the political climate in Europe has framed migration as an existential threat, so has a relatively new transnational organised crime category become crucial: 'migrant smuggling.' Consolidated in a Protocol to the UN Convention on Transnational Organised Crime (UNTOC) in 2000, 'migrant smuggling' is essentially helping someone against a benefit in breaching a country's immigration law (e.g. transporting a person

without valid ID documents across a border). It is a very different crime than 'human trafficking', which has its own parallel UNTOC Protocol, and which means exploiting the vulnerability of a trafficked victim (e.g. slavery or forced prostitution). However, these two types of crime are often conflated in policy discourse, which has boosted moral legitimacy for waging a war on people who assist migrants on the move. The conflation of different security policy issues is however not uncommon to the Justice and Home Affairs sphere of EU policy making: responses such as border security, police surveillance, security technologies and databases are prescribed to counter all different (real or perceived) security threats simultaneously – terrorism, organised crime, human trafficking, migrant smuggling as well as irregular migration (Bigo 2000). These crime definitions and crime control models are now also increasingly exported to third countries in order to harness them in helping the EU to stop 'illicit flows' long before reaching the external borders.

The Sahel – battleground for the EU's wars on crime

Tackling Justice and Home Affairs issues such as terrorism, transnational crime and irregular migration has become crucial to the EU's policies, projects and missions in the Sahel region. This is typically done through 'assistance' to drafting regional and national security strategies and penal codes, and through advising, training, equipping and capacity-building of internal security and criminal justice apparatuses.

There has been a re-orientation in the work of the EU Delegations as well as the civilian CSDP missions in Niger and Mali that reflects the internal-external security nexus in EU policy, according to interviewees from these entities. EU Delegations work with relatively new counterparts such as Ministries of Interior, Justice, (border) police, gendarmerie and customs authorities. Security attachés and Frontex representatives have recently been posted to the Delegations. Among the Trust Fund projects managed by the Delegations can be mentioned GAR-SI (41,6 million euro), which builds gendarmerie units

to counter terrorism and transnational organised crime in the G5 Sahel countries, PARSEC (29 million euro) in Mali on security in the region of Mopti including borders, and AJUSEN (30 million euro) in Niger to support justice and security 'to fight organised crime, smuggling and human trafficking'.

Also the CSDP missions have incrementally seen a re-orientation from a focus on institution- and statebuilding towards securitised crime-fighting. Since its inception in 2012, EUCAP Sahel Niger has had a (non-operational) mandate on countering terrorism and transnational organised crime, and in 2015 'irregular migration and associated criminal activities' was added. The mission then opened an antenna in the northern town of Agadez, seen as a hub for migrants travelling to Libya and Algeria, to support Nigerien law enforcement in the fight against 'migrant smugglers'. The mandate and activities of EUCAP Sahel Mali, launched in 2015, has also moved from state and institution-building (efficacy, hierarchical chains, role of judicial and administrative authorities) towards development of crime-fighting capabilities such as intelligence-led counter-terrorism and border policing.

Following the principle of 'African solutions to African problems,' international donors, including the EU and its member states, have also pledged millions of euro to a Joint Force to fight terrorism and organised crime, consisting of security forces from the G5 Sahel. This is a security-focused sub-regional organisation that emerged in 2014 comprising the countries Burkina Faso, Chad, Mali, Mauritania and Niger. The EU is pushing for the development of a police component within the G5 Sahel Joint Force. Most the EU security-related missions and projects in the region have some supporting function for the new G5 structure or units. Training on human rights has also become a priority after Malian armed forces including G5 contingents were recently accused of committing war crimes.

Countering crime or producing insecurity?

While Malian and Nigerien authorities are seemingly very much welcoming the EU's security-oriented

initiatives (and particularly the budget support that follows in their wake, increasingly tied to security indicators), the full impact of crime-fighting projects is sometimes not well-understood in Europe. Some EU policies and projects have had unintended consequences which has fuelled resistance among local communities and civil society organizations (CSOs). They may harm the EU's overall standing in the region in the long term.

The political economy of the Sahara desert is more complex than what is often assumed in the design of border security and crime-fighting projects. International policy discourse tends to portray the Sahara as an 'ungoverned space' where the state needs to be re-inserted and 'porous borders' re-enforced. In reality, hybrid (security) orders, including 'big men' and their patronage networks, control or compete to control trade in all kinds of commodities, and the distinction between legal and illegal is often blurred (Raineri and Strazzari 2017). These actors are sometimes non-state, sometimes state, and often something in-between (Bøås 2015). Cracking down on all kinds of activities defined in international conventions as 'transnational organised crime' may upset a fragile micro-political stability that these hybrid actors ensure. International actors know this, and there seems to be a de facto hierarchy in the security priorities where 'terrorists' are chased, while 'drug traffickers' are often left untouched.

Most European crime-fighting projects are centred on border security, police training and promoting the sharing of intelligence – often through technological solutions. The idea is that border posts and its security personnel will represent the state in remote border regions, and function as a 'filter' that lets licit flows go through while stopping illicit ones. However, some of these are border regions where the state has never really been in control of its entire territory, where security forces and police are seen as predatory by the local populations, and where electricity for security technology is non-existent. Land borders are colonially-inherited lines in the sand, and in the case of Mali only a small share of these borders have even been demarcated. In many of the regions where trafficking in illicit commodities

is prevalent, the territory is not in the state's control, and it is simply too dangerous for international actors and contracted staff to construct border posts there. Success indicators such as 'number of border stations supported to strengthen border control' – applied by the Trust Fund to measure 'governance' – does not tell much about the nature, extent or level of harm of the extra-legal trans-Saharan trade, nor the impact of security and crime control efforts on it.

One crime-fighting effort that has been seen as a big success by the EU is the 'assistance' to Niger (pushed by aid conditionality) to adopt a law criminalising migrant smuggling and rigorously enforcing it. Since 2016, more than 130 so-called migrant smugglers were arrested and more than 250 vehicles confiscated in the northern region of Agadez where the law was selectively enforced. The amount of migrants crossing the border into Libya registered by IOM (which IOM acknowledged did not reflect the entire number of crossings) dropped. However, the local population and CSOs in Agadez are strongly opposed to the criminalisation of mobility which has been crucial to the region for centuries (interviews with author, Niamey 2017). They claim the law is de facto suspending the ECOWAS Protocol on free movement for ECOWAS citizens, which most of the migrants are. Moreover, research has documented severe destabilising effects of the law enforcement as the economy of the region of Agadez collapsed, leading the local population to lose their livelihoods, fuelling economic frustrations and anger, and increasing armed banditry and general insecurity (Molenaar et al. 2017). The transport of migrants went underground and led to more dangerous routes for migrants as well as to more professionalised 'smugglers' (Brachet 2018). The risk of repeating the typical success measurements originating from a (European) law enforcement perspective, such as number of arrests, confiscations and seizures, is that it ignores the impact on the social context in which crime and its repression is embedded. Moreover, a narrow repression of one social phenomenon might have a destabilising effect and lead to aggravating other, potentially more dangerous ones. It has been

argued that combating 'migration smuggling' can endanger other security imperatives of EU as it can lead to destabilising Niger, increasing radicalisation and recruitment to 'Islamist' insurgencies already present, as well as bolstering other kinds of trafficking such as in drugs (Raineri 2018).

Conclusions

The policies of the EU in Africa and the Sahel are increasingly driven by the internal security priorities of the member states, particularly on migration and terrorism. The solutions are also increasingly centred on security, police, surveillance and borders. However, a too narrow focus on combating unwanted social phenomenon through criminalisation and repression, based on thin assessments of local micro-politics and potential outcomes, can lead to unintended consequences and even aggravate the situation in the EU's extended neighbourhood. Such adverse effects will not be captured by the current, simplistic and predominantly quantitative success indicators that focus on numbers of 'criminals caught' and migrants stopped. If the EU is actually interested in improving human security in the Sahel, then context and conflict sensitivity, understanding of the local hybrid (security) orders and bottom-up design of projects are important.

However, the trend of EU member states' internal security interests dominating EU foreign policy is not only likely to persist but also to accelerate in the future. This seems evident when looking at the current planning of a new EU foreign policy mega-instrument for the next multiannual financial framework (MFF) 2021-2027: the Neighbourhood, Development and International Cooperation Instrument. Out of the almost 90 billion euro that this instrument is supposed to comprise, a substantial part is to be made flexible for the member states' 'foreign policy needs'. It should be remembered that while the compatibility of top-down EU internal security interests with bottom-up local needs of African communities may be reiterated in press releases about new EU-Africa 'partnerships', it does

not necessarily reflect the reality on the ground. Basing policies on wishful thinking and short-term barriers while ignoring micro-politics and protests of local communities may continue producing unintended effects.

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About the author



Eva Magdalena Stambøl is Doctoral Researcher at Aalborg University, and Visiting Researcher jointly at the Institute for European Studies (IES) and Brussels School of International Studies (BSIS). Her research explores the intersection between EU Justice and Home Affairs and EU policy and external action in West Africa, including how the EU's policies on transnational crime and security are agreed upon and implemented in Niger, Mali, Senegal.

Institute for European Studies

Pleinlaan 5

B-1050 Brussels

T: +32 2 614 80 01

E: info@ies.be

www.ies.be