

## Who is doing asylum in Niger? State bureaucrats' perspectives and strategies on the externalization of refugee protection

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## Who is doing asylum in Niger?

State bureaucrats' perspectives and strategies  
on the externalization of refugee protection

Laura Lambert<sup>1</sup>

Dans la ligne des politiques de lutte contre la migration irrégulière vers l'Europe, la procédure d'asile au Niger était récemment renforcée avec le soutien de l'Union européenne et du Haut-Commissariat des Nations Unies pour les réfugiés (HCR) pour établir un mécanisme de protection complémentaire au contrôle de la migration. L'article examine, à partir d'une approche ethnographique de la bureaucratie, ce que certaines des reconfigurations de l'asile au Niger signifiaient pour les agents au niveau de la Commission nationale d'éligibilité (CNE) en charge des procédures de l'asile et de la gestion des réfugiés et comment ils y faisaient face. À partir de l'analyse du mécanisme de transit d'urgence (ETM) et des Soudanais à Agadez, en ce qu'ils constituent deux mouvements de réfugiés récents et politisés en provenance de la Libye, je soutiens que les bureaucrates nigériens connaissaient un amenuisement de leur pouvoir discrétionnaire dans l'octroi du statut de réfugié et dans la gestion de l'entrée et du séjour sur le territoire, principalement en raison d'une emprise croissante du gouvernement nigérien et du HCR, mais aussi au profit des normes et des intérêts locaux à Agadez. En réaction à cet empiètement sur leur pouvoir décisionnaire, quelques agents émettaient des critiques et cherchaient des solutions créatives. D'autres adoptaient une stratégie dilatoire pour tenter de concilier la posture locale anti-réfugiés et les normes globales en faveur de la protection des réfugiés.

In line with the policies fighting irregular migration to Europe, the asylum procedure in Niger was recently reinforced as a complementary mechanism of protection and fixation, with support from the European Union and the United Nations High Commissioner for Refugees (UNHCR). The article investigates from an ethnographic perspective what some of these reconfigurations meant to the affected bureaucrats in the National Eligibility Commission (CNE) and relevant asylum institutions and how they coped with these changes. Based on the Emergency Transit Mechanism (ETM) and the Sudanese in Agadez as two recent and politicized southbound refugee movements from Libya, I argue that the Nigerien bureaucrats experienced a reduced discretionary power in the asylum adjudication and in the question of who enters and remains in the country, due mostly to a power shift up to its government and the UNHCR, but also down to local interests and norms in Agadez. As a reaction to their reduced discretion or practical decision-making power, some voiced criticism or searched for creative solutions. Others slowed down the asylum procedures in order to reconcile the local anti-refugee stance and global refugee protection norms.

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## Asylum in Niger – a “beacon” for the region<sup>2</sup>

Niger’s asylum office Direction des réfugiés, situated in a quiet side street of Niamey’s central government district, has lost some of its tranquility in exchange for a flow of partners, donors and asylum-seekers to the building. Young law graduates crowd in the meeting room to work on the asylum files. They conduct the eligibility interviews in the adjacent store room and former kitchen. This tiny, dilapidated building with heavy curtains, creaking doors and turquoise walls lacks offices for its new staff. Five months ago, these employees lined up here with 800 other people to hand in their applications for the 76 jobs posted – a rare occasion in the tight Nigerien labor market. Outside, the courtyard is crowded with pick-up trucks adorned with European Union (EU) or United Nations High Commissioner for Refugees (UNHCR) logos, leaving little space for the security guard’s children and chicken to run around between them and the manioc and banana plants. The asylum office and its general directorate have outgrown their building both spatially and symbolically. Their new headquarters, far on the outskirts of town, stand ready, but empty. The contractor for the office furniture is five months late with his delivery, as one bureaucrat suggests, deploring the related nepotism (fieldnotes, Niamey, May 2019).

The current expansions of staff, material and work that could be felt in Niger’s asylum office in 2019 were mainly rooted in European Union projects to reinforce the Nigerien asylum regime. As the principal transit country between West and Central Africa and the Maghreb, Niger has since the Valetta Summit in 2015 become a center for the fight against (irregular) African migration towards Europe (Boyer and Mounkaila, 2018). This also entailed an expansion of the Nigerien asylum procedure as a complementary mechanism of migration control. Lauding Niger as a “country of reception, country of asylum”, the UNHCR aimed to turn Niger and its asylum procedure into a “beacon” for the entire region (UNHCR-3)<sup>3</sup>, funded primarily by the EU. Institutionally, financially and numerically, asylum in Niger gained relevance within a short time.

While much academic attention has been directed towards the EU-led introduction of migration control in Niger (Brachet, 2009, 2018; Boyer, 2019a; Boyer and Mounkaila, 2018; Hamadou, 2018; Boyer and Chappart, 2018a; Molenaar and El Kamouni-Janssen, 2017; Tubiana et al., 2018), the complementary restructuring of Niger’s asylum regime has hitherto been sidelined, as generally few research on asylum procedures in West Africa has been conducted (Fresia, 2014: 548). So far, two overviews on the policies of this “space of protection” in Niger and some of its potential tensions (Boyer, 2019a: 185-189; Boyer and Chappart, 2018b) and a study on the trajectories and aspirations of refugees (Boyer, 2019b) have been published. In this article, I present some perspectives of senior or middle-ranking Nigerien bureaucrats in the National Eligibility Commission (CNE) and other relevant refugee-related state institutions and committees on this restructuring of

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<sup>2</sup> Parts of this article have been published in German (Lambert, 2019). I thank Agathe Menetrier, Timm Sureau, Holger Wilcke and two anonymous reviewers for a constructive and critical reading of the drafts and the Max Planck Institute for Social Anthropology in Halle (Saale) and the LASDEL in Niamey for their extensive support.

<sup>3</sup> For anonymization purposes, I quote the interviewed agents by naming their institution and a number indicating the chronological order.

the asylum regime, their dilemmas, and strategies. Based on two new and politicized southbound refugee movements from Libya, the Emergency Transit Mechanism (ETM) and the Sudanese refugees in Agadez, I argue that the Nigerien bureaucrats struggled with a reduced discretionary power in the asylum adjudication and in immigration and residency issues, due mostly to a shifting of power up to their government and the UNHCR, but also down to local interests and norms in Agadez. As a reaction to their reduced decision-making power, some voiced criticism, some searched for creative solutions, and others slowed down the asylum procedures in order to reconcile the local anti-refugee stance and global refugee protection norms.

I hereby contribute to the discussions on asylum adjudication and its moral economy (Fassin and Kobelinsky, 2012; Kobelinsky, 2015; Gill and Good, 2019; Lawrance and Ruffer, 2015; Dahlvik, 2018; Fresia and von Kanel, 2016) as well as the broader ethnographic bureaucracy research (Lipsky, 2010; Bierschenk and Olivier de Sardan, 2014a; Beek et al., 2017) and legal-political approaches to the externalization of asylum (Gammeltoft-Hansen, 2011; Velluti, 2014; Valluy, 2007). While my 13-month ethnographic research in Niger in 2018/2019 covered more aspects and actors of the asylum regime, I focus here on some of the views and strategies of the state agents. Potentially due to the high political stakes of the field and the everyday effects of the institutions' restructuring, such as work overload, my field access required a continuous (re-)negotiation of my presence with a shifting between more and less formal types of authorization and a sometimes rather "surreptitious ethnography" (Neto, 2019) in a (regularly failing) attempt to avoid multi-sided control.

The article starts with a short description of the asylum procedure and institutions in Niger and then embeds their restructuring in the EU externalization policies. Based on the ETM, I then present some bureaucrats' perspectives on these policy changes, and their dilemmas and strategies regarding their reduced discretionary power. Third, I analyze access to asylum for the "unwanted" Sudanese refugee population in the town of Agadez, linking the bureaucratic practices to a wider local moral and political economy of relevant values, affects and interests (Fassin, 2009) that the bureaucrats relate to.

### **Nigerien asylum in the EU externalization policies – and its stakes**

Individual Refugee Status Determination (RSD) has long occupied a backseat in Niger's administration, compared with other West African countries (Charrière and Fresia, 2008: 17). In fact, the establishment of Nigerien asylum texts and institutions were due to a diminished relevance of refugee operations in the Sahel in the mid-1990s. The UNHCR successfully lobbied for a handover of the RSD and some aspects of refugee management to the Nigerien state (UNHCR-6). In 1997, a national asylum law based on the Geneva and Organization of African Unity refugee conventions was adopted (Niger, 1997 and 1998). In 2001, the National Refugee Eligibility Commission – Commission nationale d'éligibilité au statut des réfugiés (CNE) – responsible for asylum decision-making, was established; an organizational model that the UNHCR promoted in much of the Global South (Van Hövell et al., 2014). The presiding Adjunct Secretary General of the Ministry of the Interior and

sixteen members of various ministries from defense to public health, two humanitarian organizations and a human rights association have since met on demand to discuss and decide each asylum case individually by majority vote. The members I met were often division leaders or directors, appointed by their hierarchy and changed rather often with shifting tasks or positions. Although their asylum expertise was mostly short-term, they had often studied law, received basic RSD training, and foregrounded the diversity of professional knowledge as a contribution (CNE-1-11). The UNHCR participates in the sessions as an observer with an advisory role. The permanent office of the CNE is located in the Direction des réfugiés, a department of the Direction générale de l'état civil, des migrations et des réfugiés (DGECEM-R) within the Ministry of the Interior. Under the ordinary procedure, its staff create the asylum files and attestations and organize the CNE sessions. Since 2006, rejected asylum-seekers can appeal to the Comité de recours gracieux, another small committee of high-ranking officials from the same three central Ministries of Interior, Foreign Affairs and Justice and a different human rights organization (Niger, 2006). A second instance appeal at the administrative high court Conseil d'État had until 2019 not been tested.

While Niger temporarily hosted around 10,000-20,000 Chadian and Tuareg refugees respectively in the mid-1990s, it gained a reputation as a host country following the crises in Mali and Northern Nigeria in 2012 and 2013. In 2018, the UNHCR lauded Niger for hosting most refugees in "the region" (UNHCR, 2018a). However, the vast majority did not pass the individual RSD procedure, since the Malian and Northern Nigerian refugees passed a group procedure leading to a *prima facie* status and temporary protection, respectively. Until 2017, only a few dozen individual asylum cases were treated annually by the CNE and its office (UNHCR, 2017a), which translated into one or two CNE sessions per year.

This changed with the European externalization of migration control and asylum. Since its 2004 Hague program, the EU has advocated for the externalization of refugee protection to third countries. Niger's asylum system came into focus with the EU-supported creation of a national dispositive to stop irregular migration while requiring protection for those stopped on their journey (Niger, 2015: §35). The 2005 EU Regional Protection Programs to support the UNHCR in the reinforcement of refugee protection in third countries (Velluti, 2014) were expanded to Niger in 2016 and joined by a large EU Trust Fund for Africa project in 2017.<sup>4</sup> The former supported the strengthening of Niger's asylum system, the identification and transfer of potential refugees to government agencies, and the provision of assistance. The latter funded the ETM (see below). Via the EU funding, the UNHCR established an office and outreach and assistance activities in the migration hub of Agadez in 2017 to ensure access to asylum and assistance "without

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<sup>4</sup> Projects within the "Regional Development and Protection Project North Africa" under the lead of Italy, supported by the AMIF. EU Trust Fund Project "Protection and sustainable solutions for migrants and refugees along the Central Mediterranean route" (December 2017 - November 2020, UNHCR: 27,800,000 €).

resorting to the hazardous journey northwards” (UNHCR, 2017b). Therefore, asylum supports a double strategy of protection and fixation in a “Mixed Migration” context, since it can reduce the arrival of refugees in Europe and protect potential refugees from the perceived dangers of migration in the Sahara and the Mediterranean (Boyer and Chappart, 2018b).

This complementarity is also reflected in the ETM that allegedly presented a technical solution for refugees stuck in Libya. It projected to evacuate 3,800 mainly East African refugees detained in Libyan prisons to Niger by the end of 2020 to undergo the RSD and resettlement procedures there (EU Commission, 2018). The mechanism was based on a Memorandum of Understanding (MoU) between the UNHCR and Niger signed in December 2017 between the Nigerien Minister of the Interior and the UNHCR Country Representative (Niger and UNHCR, 2017). It detailed tasks for both institutions and created a Nigerien committee for the management of the ETM in Niger, which was structured like a smaller version of the CNE. The ETM complemented the EU-supported migration control measures in Libya because it reaffirmed that protection for (some) refugees in Libya was possible. It also transformed Niger into a platform for the sorting of refugees into resettlement candidates for the Global North and those excluded (Boyer and Chappart, 2018b). After multiple negotiations, the UNHCR in 2019 only convinced Rwanda to also act as a transit platform (EU Commission, 2019). As some interviewees suggested, Niger’s cooperativeness might have been due to the reinforcement of its involved institutions, the moral indignation about the disastrous situation in its close neighbor Libya, and the symbolic capital for the government to be a reliable partner conform to human rights.

Within the framework of the ETM, resettlement from Niger – and to a much lesser degree complementary legal pathways<sup>5</sup> – became available to refugees for the first time. While resettlement *de facto* did not exist before (UNHCR, 2019a), the resettlement pledges jumped to 800 for the 175,000 non-ETM refugees in 2018 (EU Commission, 2018: 15). Although scarce, resettlement became a resource to reach the Global North safely from Niger in the face of increasing migration control, migration costs and violence. Before, a refugee status in Niger meant legal residence, approximately equal rights, and basic health care, but little assistance and employment prospects in a country classified by the United Nations Development Programme as one of the most underdeveloped (UNDP, 2018). In 2018-2019, many refugees arrived in Niger after mass deportations from Algeria or fleeing the violence in Libya. Asking for asylum in Niger was thus mostly a provisional solution in this precarious and violent context. While foregrounding the security and relative peace of Niger (Boyer, 2019a), many of the asylum-seekers I met hoped that the asylum procedure could create a path to the Global North.

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<sup>5</sup> Due mainly to harsh visa policies, a pilot project on complementary legal pathways only completed one successful case between 2018 and early 2019, a family reunification (Forum Réfugiés-COSI-1). The UNHCR also implemented a humanitarian corridor to Italy.

The increased migration control in Niger and the Maghreb, the violence in Libya, and the ETM with its resettlement program have multiplied the individual asylum applications in Niger from a few dozens per year to almost 4,000 in 2018 (UNHCR, 2018b). Compared to one or two sessions per year before, the CNE adjudicated 437 asylum applications in 8 sessions in 2018, out of which a relatively high share of 80%<sup>6</sup> received the refugee status (author's participant observation, May 2019). The workload for the involved state agents hence increased – and so did their daily allowances for CNE sessions and workshops, the frequency of international training trips and the recruitment offers at the UNHCR (participant observation, 2018-2019).

The linking of the Nigerien asylum procedure with EU and UNHCR externalization policies raised the stakes of Niger's asylum for diverse actors, namely the UNHCR, the EU, the Nigerien government, its bureaucrats, and refugees and migrants.

### **The loss of discretionary sovereignty – the Emergency Transit Mechanism**

What do these policy changes imply for the struggles of the state agents in the CNE and the ETM committee? In interviews on the ETM, some of them exposed their struggles with their reduced discretionary power in the asylum adjudication and in immigration and residency matters.

Generally speaking, after the UNHCR opened a country office in 2012, its influence on the asylum adjudication process in Niger has increased. After the UNHCR had initially only taken notes in the CNE, the CNE members asked for a more active counselling. The UNHCR agent then started to provide up-to-date country information, regularly orienting the CNE members' opinions in the adjudication (CNE-4). The UNHCR also organized legal training sessions for the CNE members, who appreciated them, but often deplored their rarity and shortness. With the increased work, the UNHCR also recruited, funded, trained and supervised ten additional eligibility agents for the CNE office in Niamey and Agadez in 2018, who since conducted the vast majority of non-ETM eligibility interviews. That way, the UNHCR extended its role from an observer-advisor to decision-taking in the field of recruitment and the RSD. The UNHCR's noting "the lack of a functioning asylum system" (EU Commission, 2018: 4), and that individual RSD had to be built "from scratch" (UNHCR-4), hinted to a deficit perspective on the RSD work done by the state.

This influence of the UNHCR became more pronounced still within the ETM. While European media often portrayed the ETM as an externalized hotspot where EU countries could conduct their asylum procedures without Niger's involvement (*Le Monde*, 2018), ETM's seminal MoU ruled that the UNHCR did the eligibility interviews and analysis and then submitted them for the adjudication to the CNE. Afterwards, EU and other third countries conducted resettlement procedures in Niger. The MoU hence established an eligibility cooperation between Niger and the UNHCR followed by a classic resettlement

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<sup>6</sup> In 2007, the recognition rate in Niger was at 45.5% (Charrière and Fresia, 2008: 31).

procedure, and not an extraterritorial RSD as the hotspot imagery would suggest. One CNE member judged the role of the UNHCR in the ETM thus:

[Before] it was like a technical counselling. Well, now it is their business, they are running it. Even when it needs whatever, it is them. Until now, it is them who initiate, they receive the people, because we cannot afford to interview people. Especially in the case of the Eritreans and others who only understand their own language. So the UNHCR does everything. The very asylum file is created by the UNHCR. (CNE-7)

This member saw the UNHCR as appropriating the asylum work as “their business” and, given the unequal resource distribution, dominating the CNE office. Additionally, the risen caseload for each CNE session as an add-on to the members’ office work made some of them, in order to cope with this pressure, limit the study of the ETM asylum files to UNHCR’s written recommendations (CNE-3, CNE-9). This enhanced their adjudicating power. Nonetheless, most CNE members stressed that their opinions could diverge, since Niger was sovereign in adjudicating asylum and since the UNHCR agents’ judgements could sometimes be rather harsh (CNE-1, CNE-2, CNE-3, CNE-4, CNE-5, CNE-10). That way, the CNE members reclaimed a discretionary power of their CNE work that they saw as weakened by an increased file load and division of labour with the UNHCR.

In contrast with the CNE members’ claims of their discretionary power, the everyday workings of the ETM in Niger during the year 2019 were, although not amounting to an EU asylum hotspot as suggested by the media, more externalized than I had expected. Already in June 2018, the UNHCR negotiated an amendment with the Minister of the Interior that, in case of a resettlement country’s readiness, ETM cases could be resettled before they received a Nigerien refugee status (Niger and UNHCR, 2018). *De facto*, however, this concerned all ETM cases in 2019, with only a minority being handed to the CNE. The UNHCR recognized 560 cases under UNHCR mandate between January and June 2019 (UNHCR-4). In the same period, the CNE adjudicated zero ETM cases and had fifteen waiting for adjudication (author’s participant observation, June-July 2019). The UNHCR confirmed that only in case of a negative decision were the cases to be handed to the CNE. Its agents explained that the national RSD took too long for a resettlement-oriented operation (UNHCR-3) and that it was under much political pressure from the resettlement countries (UNHCR-4). Handing the rejected cases to the CNE, however, was still needed, because the UNHCR did not have a territory and only Niger had the capacity to deport or legalize people (UNHCR-5). The CNE members had been informed about the amendment of the MoU, but not about its scope. One member I discussed this with was shocked and bitter about this perceived circumvention of the national asylum system: “It is like the UNHCR is doing it in place of us!” (CNE-11).

Apart from the responsibility for the asylum adjudication, another outspoken disagreement was the number of evacuees present in Niger. The MoU fixed the threshold to 600 after long negotiations between the assigned ETM committee and the UNHCR (ETM-1). Later, the Minister of the Interior and the UNHCR verbally lifted it to 1,000 and 1,500 without amending the MoU (ETM-4). Then, even the 1,500 were exceeded (UNHCR, 2019b), which would require the agreement of the ETM committee (Niger and UNHCR, 2017: §2.2). As one member recalled, the ETM committee once insisted on the respect of



the threshold and was then bypassed by the UNHCR who used its negotiating power with someone high up in the government to increase the number of evacuations to Niger. This left the ETM committee member in anger: “This is not serious. Normally a text is to be respected. It is a contract. There are principles. But the UNHCR told us: ‘No, this is an emergency’” (ETM-1). Here, the disempowered state agent referred to a procedural-legalistic argument of fair partnership that required the respect of a written agreement, authorizing his discretionary power, which he saw as having been disrespected by UNHCR’s humanitarian project logic of putting life first (Redfield, 2012) and his government’s cooperativeness with the UNHCR. Nevertheless, the bureaucrats’ vocal pressure likely also mobilized their superiors against the interest of the UNHCR. The Ministry of the Interior asked at least twice for a halt of the evacuations in light of slow resettlement (ETM-2, ETM-4) and finally lowered the number of evacuees to the initial threshold (EU Commission, 2019).

The bureaucrats’ opposition to further evacuations was due to their dilemma of managing the ETM evacuees and the related security issues in the everyday, without having a say in who was evacuated to Niger.<sup>7</sup> As was widespread in Niamey’s moral economy, they blamed the evacuees for petty crimes, violent behavior, lacking normative standards such as wearing appropriate clothing, and being former combatants and suspects of war crimes (ETM-2, ETM-3, ETM-4). In an already tense, war-like security situation in Niger (*The Economist*, 2019), the state agents blamed the UNHCR for its selection: “They bring whoever here to us in their flows. There is all in there” (ETM-1). One also voiced conflicting loyalties to his government in its support of the ETM:

Niger is already hosting most refugees in the region. The government does this [ETM] program, but we as *cadres* [senior executives], we want to put an end to this. Yes, Niger has to respect the international conventions, but Niger has its own security problems. (ETM-3)

In being particularly vocal to everyone, including the ethnographer, about the troubles of the ETM, the state agents attempted to exert pressure on their government to end the ETM and its perceived additional burden on national security. The ETM committee also urged the UNHCR to enhance its profiling in Libya (ETM-2).

Lastly, the remainder of rejected asylum-seekers in Niger was an unresolved issue. Due to the set-up that people first got evacuated to Niger and then passed the RSD, evacuees brought to Niger might not get asylum and/or resettlement. While the MoU had foreseen the possibility of a few people remaining in Niger, their future was unclear in 2019: “The resettlement countries leave with a part that is harmless to them. But those [...] [others] what will we do with them?” (ETM-1). In a dilemma between national security and protection for the individuals, the Nigerien bureaucrats did not want those considered security risks to stay except under close surveillance, but also saw deportations to the country of origin or Libya as problematic (ETM-1, ETM-3). The rejected asylum-seekers,

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<sup>7</sup> This decision on legal status and visa would usually be in the hand of the national police’s department Direction de la surveillance du territoire, which is also part of the ETM committee.

however, despaired after 1.5 years of involuntarily being stuck in Niger and the lingering threat of deportation to countries where they feared renewed human rights violations (interviews with asylum-seekers, February-April 2019). The Nigerien administration attempted an alternative strategy to solve this dilemma. The Minister of the Interior ordered the Comité de recours gracieux to grant refugee status to all of the appeal cases so they would be resettled and leave Niger, which the committee did in its first 2019 session except for one case with further need of clarification (CRG-1). However, this problem-solving attempt was short of the UNHCR's principle that only refugees also recognized by the UN agency are submitted to resettlement (UNHCR-4) and meant Niger assuming responsibility for people they wanted to get rid of, making their forced removal more difficult. Granting refugee status in the appeal committee represented a final political problem-solving attempt in a mechanism reducing Nigerien bureaucrats' agency to a minimum, squeezed between the UNHCR's decision on the profiles of evacuees to Niger and the resettlement country's decision on the profiles of resettlement candidates.

As I attempted to demonstrate briefly, the bureaucrats concerned by the ETM voiced three issues that touched their discretionary power and understanding of sovereignty: the asylum adjudication, the number and profiles of evacuees admitted to Niger, and the future of people excluded from the resettlement pipeline. They were critical of the expanding discretionary and informal diplomatic power of the UNHCR, regretting a loss of sovereignty and rule of law of their own state and themselves. From the start of the ETM, the evacuation to and the resettlement from Niger, and more recently the asylum adjudication in Niger, were hardly in the hands of Nigerien bureaucrats. Instead, they were in those of the UNHCR and the resettlement countries from the Global North. The assigned bureaucrats hence found themselves limited to recommendations and vocal criticism to the UNHCR and their superiors and learned that the three state committees concerned with the ETM – the CNE, the ETM committee and the appeal committee – were unexpectedly powerless to provide solutions. The bureaucrats hence situated themselves in an uneasy conflict of interest and loyalty with their government and the UNHCR regarding the discretionary power of the administration.

### **Unwanted asylum-seekers – the Sudanese in Agadez**

In the following, I embed the bureaucrats' perspectives and strategies in their social context as a driving force for their actions in refugee protection. Based on the example of the Sudanese asylum-seekers in Agadez, I analyze how the concerns, fears and interests of the local population and the authorities in the northern Nigerien town impacted on the eligibility staff, who resolved their dilemma of opposing local moral and political economies and global refugee protection norms by slowing down the registration and asylum procedures.

During the cold season of 2017/2018, around 2,000 Sudanese women, men and children, mostly from Darfur and many with 15-year-old displacement biographies, travelled from Libya to Agadez to apply for asylum. Upon their arrival, the newly established UNHCR field office and the national regional asylum office (DRECM-R) set up

emergency assistance, which left hundreds homeless for months, and began with their registration. The population and local authorities, however, quickly opposed the Sudanese presence. In the *fada* or discussion circles, on the radio and in meetings, they spread the rumor that the Sudanese were not genuine refugees. Instead, they would be (former) combatants involved in warfare in southern Libya; criminals threatening, stealing or raping the local population; and gold miners from the region's illegal mines (Tubiana et al., 2018: 20). Their asylum applications were seen as incompatible with the economic, criminal or warlike actions attributed to them. In the first six months of their presence, I found little official evidence to support these claims. The Sudanese themselves stressed that they were war refugees and had turned their backs on the violence in Libya in search of protection, security and a better life (interviews with Sudanese, July-August 2018, February 2019). However, their voices were hardly heard.

This xenophobic discourse in the (former) tourist destination, trade and migration hub of Agadez, which has always lived off strangers in transit (Brachet, 2009), can be explained by fears regarding 'foreign' mobile subjects and a broad interest in controlling them linked to the region's tense security situation. Residents and local politicians mobilized fears, rumors and affects about the supposed criminal and immoral behavior of the Sudanese, which rose to a "moral panic" (Hall, 1978) based on fears about the degradation of security and morality projected onto the Sudanese as a concrete social object in order to resolve these fears. These mobilizations pushed the central government to take action. It stopped the acceptance of asylum applications and ordered – or at least supported – the deportation of 132 randomly arrested Sudanese towards Libya in May 2018 (*Irin News*, 2018). UNHCR efforts only prevented the deportation of women, children, and some family fathers. Less than ten deportees returned to Agadez. Afterwards, the governor announced push-backs at the Libyan border to prevent further Sudanese arrivals. The UNHCR, criticized for having created a pull factor to Niger and Agadez, also tried to stall arrivals and foster departures by communicating that there was no resettlement for them (UNHCR-1). This stood in contrast with its otherwise propagated provision of protection from the dangers of the desert and the Mediterranean (see first section). The UNHCR also pursued readmission attempts in persuading those with refugee status in other states like Chad to return there, but the majority rejected this in 2019.

After the push-back, declared an "intimidation" by the central state, the UNHCR pursued diplomatic efforts to secure access to the asylum procedure for the Sudanese. In a joint forum of the UNHCR, local, central and traditional authorities and Agadez' civil society – but without the Sudanese – the tensions about their and the UNHCR's presence filled the room. However, when the UN organization promised support in acquiring development projects for the "space of asylum" in Agadez, this corresponded to local calls for development aid for the region, considered disadvantaged by the central state and severely affected by the criminalization of transit migration. Another result of the negotiations was the Sudanese' spatial segregation in a site with IKEA's "Better Shelter" plastic houses 15 km outside of town (author's participant observation of the Agadez forum, July 2019). That way, the mayors pursued the town's urban development strategy in their choice of location, as the camp promised an expansion of the infrastructure in the

neighboring districts (mayor Agadez-1). But for the Sudanese it meant isolation in the desert in small overheated plastic houses, surrounded by dusty winds and with minimal social assistance for a year.

Although formally admitted to the asylum procedure after the Agadez forum, most Sudanese only received an initial UNHCR registration after 18 months and not the usual asylum-seeker attestations, which were retained for reasons of “state affairs” (DGECM-R-2). This led the Sudanese to frequently worry: “Are we asylum-seekers or not?” At the forum, the central and local authorities also called for the introduction of a special security screening for the Sudanese prior to the asylum procedure to exclude combatants. Initially, the state and the UNHCR did not agree on the costs (UNHCR-3) and only after a year a pilot screening was conducted by a panel of different security forces. The regional directorate DRECM-R remained understaffed with its five new eligibility agents. It prioritized other nationalities and vulnerable cases over the majority of the Sudanese for the establishment of the asylum files (UNHCR-2). Only after 19 months, in its August 2019 session, did the CNE determine for the first time a relevant number of Sudanese applicants.

These obstacles to the Sudanese’ access to the asylum procedure were actually an expression of the administration’s stance towards the Sudanese. In some conversations, the CNE office staff and CNE members reproduced the same fears and stereotypes that the population in Agadez had developed, concluding that they would not be refugees or that they were “trouble-makers” who should be excluded from the asylum procedure (CNE-6, CNE-7, DGECM-R-1, DGECM-R-3, DGECM-R-4). That way, some central state agents responsible for the asylum procedure extended to Agadez’ local moral and political economy. I was told that the Ministry of the Interior was trying to see how to “chase” the Sudanese away, but that it was just not clear where they should go (CNE-4). When hundreds of Sudanese left for Libya, Algeria or the gold mines at the start of the 2019 hot season due to the substantial slowdown in the asylum procedure and the adverse living conditions, no one officially commented on their departure. Informally, the bureaucrats in Agadez and Niamey expressed relief and hope for their complete disappearance. The lack of satisfaction among the Sudanese of their reception in Agadez was seen by Nigerien bureaucrats as ungratefulness and evidence that they were actually “economic migrants” hoping for resettlement. Slowing down the procedures was a strategy of the eligibility staff and refugee directorate to solve the conflict between the local moral and political interests and global refugee protection norms, reminiscent of strategies rationing service delivery based on the agents’ “practical norms” like stereotyping and favoritism (Bierschenk and Olivier de Sardan, 2014b: 36).

A refugee movement that had quickly been classified as undesirable in Agadez’ local constellation of political interests, in a tense security and economic situation and of alleged norm-breaking, thus tended to scatter and relocate without having received the refugee protection it was searching for. The pressure exerted on the regional and central authorities, and the extension of the moral and political orientations from Agadez to the central state, led to a first effective blocking of their access to asylum via push-backs and

non-admission and a subsequent *de facto* blocking via the subordinate, slowed-down processing of asylum applications. After my fieldwork, the conflict between the Sudanese, the UNHCR and the government escalated when the police violently cracked down on their protest in front of the UNHCR office and some burned down the camp, leading to mass incarceration (*Al Jazeera*, 2020).

### **Conclusion – a conflict-laden remaking of asylum**

What does a focus on the bureaucrats' perspectives and strategies regarding the restructuring of asylum in Niger, embedded within the EU externalization of migration control and refugee protection, help us to understand? If we were to judge from the policies alone, they inform us that asylum in Niger got incorporated into this EU externalization, figuring as a complementary mechanism for migration control. A focus on the everyday decisions of refugees and migrants tells us that the choices for asylum in Niger were often rather temporary, made in a precarious situation, and also in the hope for resettlement.

The bureaucrats' struggles, however, show us that the remaking of asylum in Niger was not just a question of remote control from outside. First of all, making asylum in Niger proved difficult and conflicting. With the rising stakes of their work, the state agents were confronted with a considerable loss in discretionary power. In core tasks for the pilot project ETM, the three state committees for asylum adjudication, first-instance appeal and the ETM implementation were surprisingly powerless. This was the case for the asylum adjudication, the number of evacuees, and the regulation of entry and stay in Niger, where instead of the bureaucrats, their government or the UNHCR took practical decisions. For the Sudanese refugees in Agadez, the local moral and political economy of Agadez exerted such an influence that the state agents played along with an exclusionary approach contradicting refugee protection and EU externalization policies. One could speak here of a loss of power of the administration, where administrative decisions were, on the one hand, shifted up to the political decision-makers and the intragovernmental body UNHCR and, on the other, shifted down to "the street" amidst popular – in this case – xenophobic opinions. Given these power shifts, but also that the funding and political pressure came from Europe, the bureaucrats' sovereignty in asylum matters was very limited.

This bore consequences for the relation of the bureaucrats to their superiors and their partner UNHCR, risking a widening gap between them. In the case of the ETM, the concerned state agents opposed their government's supportive stance, expressing a broken loyalty to their employer. The UNHCR was seen as taking over the asylum adjudication instead of providing support and cooperating with them. For the population of Agadez, however, the bureaucrats did not seem to juxtapose themselves to the local anti-refugee voices. They rather defended these perspectives, underlining a stronger loyalty to the local population than to the opposing norms of global refugee protection. This boiled down to a close imbrication of the local moral and political economies in

Agadez and the central state, oriented towards the preservation of moral values, security and the creation of economic opportunities.

Despite their limited scope of action, the state agents gave accounts of some strategies to deal with their reduced power. Most importantly, they voiced criticism and thereby exerted pressure from below on their superiors and the UNHCR. By privileging a legal agreement and national security over UNHCR's humanitarianism and the government's cooperativeness with international donors, they refuted informal cooperation politics with reduced institutional discretion and control. In reasserting their sovereignty, they signaled its importance for them and their disagreement with a growing influence of the UNHCR. A second strategy was the slowing down of the case processing for the unwanted Sudanese refugees, thereby solving the bureaucrats' dilemma of seeing their presence as a problem and respecting refugee protection norms. A rather innovative strategy, of granting refugee status to make those excluded from the resettlement pipeline leave Niger, might have created the opposite effect, depending on the UNHCR and the resettlement countries.

The article sheds light on the bureaucrats' accounts of their experiences and practices, but not on their observable everyday practices, frictions and "practical inventiveness" (Hamani, 2014) in implementing the refugee protection linked with the EU externalization policies, which would have required further participant observation. While the asylum authority surely soon moved into its new headquarters, some of the other constraints on and pitfalls of the everyday work of the bureaucrats might be less easy to solve. The EU policy documents rather glossily describe the advantages of improving refugee protection in Niger, but these bureaucrat accounts help us to see some of the frictions and counter-effects, where parts of the bureaucrats' discretionary power in asylum, border and residency control were reduced, further destabilizing the idea of a sovereign state. Paradoxically, they were reduced by the same EU policies that purport to reinforce effective national border control in Niger (Boyer, 2019a). We cannot assess what these frictions mean for the actual protection that refugees receive and the article's focus on the state agents risks being mostly sympathetic to the bureaucrats. The unclear future of the rejected ETM asylum-seekers and many Sudanese refugees again leaving Agadez hints to a tragic constellation with the refugees as the first ones to get the short end of the stick. They (self-)evacuated from Libya to potentially end up in Niger without protection. These global hierarchies of refugee protection between the UNHCR, Europe, Niger and the refugees require further study.

Although they are just as important for the asylum regime, I have not detailed the strategies of refugees and migrants in coping with the administration and the UNHCR. They endure waiting, write diplomatic letters, make "useful" friends, refuse cooperation with the authorities, and organize public protests in order to secure their access to protection. Otherwise, they try to collect the resources to travel on or accept the "voluntary" assisted return to countries they have sometimes last seen in war. Accounts of the UNHCR agents would highlight their struggles in this remaking of asylum, but also their own organization's routines, moral and political economies.

To what degree these developments can be found in other countries is an open question. Nearly all West African countries have undergone these processes of building national asylum institutions and RSD handover from the UNHCR (Fresia, 2014; Van Hövell et al., 2014). Niger's administration might be particularly prone to a heightened influence of the UNHCR in line with its acceptance of the highly politicized ETM and to local anti-refugee mobilizations, since it has so drastically turned its migration approach away from local economic interests and circular livelihood strategies to a wide-ranging criminalization, straining the relationship between Agadez and the central state. It remains to see how the renegotiation of the ETM MoU between Niger and the UNHCR at the end of 2019 will turn out. In comparison to the political debates around the externalization of asylum in the Maghreb (Valluy, 2007), this is so far not the case in Niger.

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