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ILLEGAL MIGRATION AND POLICY CHALLENGES IN NIGERIA

BY LANRE O. IKUTEYIJO

SUMMARY

- Lack of job opportunities, poverty, and corruption force thousands of young Nigerians to leave the country every year in search of better opportunities abroad.
- Illegal migration out of Nigeria is increasing and is largely facilitated through forgery of passports, visas, false asylum claims, and bogus marriages.
- The Nigerian government has taken on a leading role in combating the illegal migration of its nationals but financial, legal, and political shortcomings hinder an effective control of the illegal movement.

With a population of more than 150 million, Nigeria is Africa's most populous country. Nigeria is burdened with corruption and endemic poverty, with nearly 70 percent of the population living below the poverty line (Nigerian Bureau of Statistics, 2010). Scarce employment opportunities, corruption, and poverty force thousands of Nigerians to emigrate every year in search of better quality of life. A large proportion of these migrants resort to illegal means to leave the country or what is termed "irregular migration." There are various illegal processes associated with irregular migration, including forgery of passports, visas and other travel documents, marriage under false pretenses, bogus claims for asylum, human smuggling, and human trafficking.

The bulk of irregular migration in Nigeria occurs among youth aged 18-35 and is largely driven by economic motives. A high youth unemployment rate — measuring 21.1 percent in 2010 — and rising cost of living are two of the major factors contributing to high migration levels among this group (National Bureau of Statistics, 2010).

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In response, Nigeria has embraced a leading role in the fight against irregular migration, becoming the first country in Africa to enact anti-human trafficking legislation — the Trafficking in Persons Prohibition and Administration Act (Adepoju and van der Wiel, 2010:280). It is also the first country in Africa to establish an agency to implement the legislation.

IRREGULAR MIGRATION IN AFRICA AND NIGERIA

In 2000, a notable shift occurred in irregular migration when more Sub-Saharan Africans joined migrants from Algeria, Tunisia, and Morocco in attempts to migrate to Spain via the Strait of Gibraltar and to Italy via Tunisia (de Haas, 2006:16).

In comparison to other countries in Sub-Saharan Africa, migrants from Nigeria, Ghana, and Senegal dominate migration to Europe and North America and they represent 25.5, 16.4, and 12.2 percent of all West African migrants living in OECD countries respectively (de Haas, 2008:24)

Nigeria boasts diverse migration configurations of which irregular migration — especially human trafficking and smuggling — is represented prominently¹ (Atsenuwa and Adepoju, 2010:9).

Additionally, there is evidence to suggest that irregular migration among Nigerians is on the rise. In 2007 the Nigerian embassy in Libya reported an increase in the number of young Nigerians (men and women) leaving the country through irregular means.

MIGRATION MANAGEMENT IN NIGERIA

In migration discourse, countries are categorized either as source, transit, or destination countries. Nigeria is both a source and destination country. But given the high rates of emigration as compared to immigration, Nigeria is primarily considered a source country (Black et al. 2004:11; IOM, 2009:15). Nigeria’s migration management approach has been reactive and lenient, especially with regards to policy formulation. Migration management issues

¹ It must however be noted that not all Nigerian migrants are irregular migrants as there are Nigerian professionals who entered Europe and North America legally, but whose activities are less reported. Most literature on migration often draws a demarcation between human trafficking and smuggling as two different forms of irregular migration. The difference between human trafficking and smuggling lies in the intention and prior knowledge of the individual being moved.

were considered backburner priorities in Nigeria until Italy and Spain confronted Nigerian authorities with evidence of large numbers of trafficked women from Nigeria. Most of the trafficked women are involved in the sex trade in Italy and Spain.

This development led to the signing of bilateral agreements on immigration matters between Nigeria and Italy in 2000, and Nigeria and Spain in 2001. The signing of the bilateral agreements culminated in a review of Nigeria's migration management practices. Other developments contributing to the review of the country's migration policies included the intensive advocacy by some non-governmental organizations working in the area of human trafficking and child abuse, and the wide media coverage of incidents of trafficking and repatriation of trafficked women (Adepoju and Van der Wiel, 2010; 277-278).

AGENCIES MANAGING MIGRATION ISSUES IN NIGERIA

The Nigerian Immigration Service

The Nigerian Immigration Service (NIS), the statutory body responsible for the management of migration in Nigeria, was extracted from the Nigerian Police Force (NPF) in 1958. Formerly, the NIS was known as the Immigration Department and was headed by the Chief Federal Immigration Officer (CFIO). Although the idea for creating a separate body of the NIS was conceived in 1958, it was not until 1963 that the service was formally established through an act of parliament (Ikuteyijo, 2011:22). Its scope, in the initial phase, was limited to issuing visas. In the years to follow, the NIS has undergone restructuring and reformation phases designed to leverage its ability to implement modern migration management practices (Nigerian Immigration Service, 2011). In addition to regulating the movement of people within and outside the country, the NIS also works closely with governmental and non-governmental institutions to control irregular migration.

Federal Ministry of Foreign Affairs

The Federal Ministry of Foreign Affairs is another institution that deals with migration issues, in addition to its core mandate of managing foreign policies and international relations. The Ministry is responsible for the promotion of international cooperation, particularly integration and unity with countries

in the sub-region as well as outside the African continent. The Ministry also ensures the protection of the interests of Nigerians outside the country and attends to the needs of the Nigerian diaspora within the ambit of the laws of the host countries.

National Agency for the Prohibition of Traffic in Persons and Other Related Matters

The National Agency for the Prohibition of Traffic in Persons and other Related Matters (NAPTIP) is the focal agency tasked with handling human trafficking and child labour cases in Nigeria. A first of its kind in Africa, the NAPTIP has a mandate to investigate, arrest, prosecute, counsel, and rehabilitate victims of human trafficking. It is also tasked with educating the public and liaising with partners to eradicate human trafficking in Nigeria (Adepoju and Van der Wiel, 2010:198).

RESPONSE TO IRREGULAR MIGRATION IN NIGERIA AND CHALLENGES

The Nigerian response is visible in the creation of a multiplicity of institutions to address irregular migration, coupled with the enactment of legislation, and signing of international treaties. In 2003, the Trafficking in Persons (Prohibition) Law Enforcement Act, hereafter referred to as TIP Act, established the NAPTIP. The TIP Act was in line with the United Nations' Transnational Organized Crime Convention and its Trafficking in Persons Protocol (also known as the Palermo Protocol) to which Nigeria became a signatory in December 2000.

But Nigeria's management of irregular migration continues to face considerable challenges on financial, legal, and political fronts.

Financially, the Nigerian Immigration Service (NIS) is underfunded, resulting in difficulties in managing irregular migration along Nigeria's porous borders. Not only is there inadequate funding for staff to patrol borders, but the agency also lacks modern technology to monitor the movement of people across the country's borders.

On the legal front, the NAPTIP works closely with other agencies to rescue and rehabilitate human trafficking victims and prosecute traffickers—but faces numerous challenges. Between October 2007 and September 2008,

NAPTIP rescued 887 trafficked victims and from February 2008 to February 2009, 932 victims were sheltered by the agency (NAPTIP, 2011:3).

Since its establishment in 2003, the agency has made a significant number of arrests, but its record on prosecuting traffickers has been low, mostly due to difficulties in collecting evidence to successfully prosecute traffickers. Additionally, gathering evidence from witnesses is difficult as most witnesses are reluctant to take the stand due to intimidation by the criminal cartels involved in human trafficking (Oyibo, 2009).

Political interference also hinders the effectiveness of NAPTIP. The TIP Act has proven inadequate in shutting loopholes that prevent the successful prosecution of traffickers. For instance, the law needs to define in clear terms the protection of victims and their relatives, whose testimonies are required to prosecute traffickers in the law courts. Although the law was amended in 2005 to reflect new dimensions in human trafficking, shortcomings still allow traffickers to beat some of its provisions. To demonstrate, Section 11 of the law stipulates that only children (defined as any person under the age of 18 years) qualify as victims of human trafficking. In other words, anyone over 18 is considered an adult and according to the law, adults cannot be trafficked. As a result, traffickers have resorted to training victims to lie about their age. The problem is further compounded by poor national record keeping, making it difficult to establish the correct ages of many children and adults in Nigeria.

UPDATING LAWS TO COMBAT IRREGULAR MIGRATION

Between 2002 and 2005, over 200,000 students graduated from various universities in Nigeria and over 70 percent of them added to the figure of unemployed youth in the country (Nigerian Bureau of Statistics, 2010). This trend, coupled with growing security challenges in Nigeria, indicates that the country is likely to witness a surge in irregular migration in the coming years, particularly among the youth.

The situation is exacerbated by the strict visa regimes introduced by most developed countries, which push Nigerian youth to clandestine migration practices. Criminal cartels are capitalizing on the desperation of the youth to emigrate by becoming agents in facilitating the falsification of documents

and illegal travel.

Currently, the national migration policy plan of Nigeria is still in the draft phase. The absence of an official policy has inhibited the development of a migration plan to address the problem of irregular migration and its consequences. The plan is expected to establish an agency to coordinate the activities of all stakeholders in the management of migration and policy implementation; to provide adequate information to promote regular migration; to create a database of Nigerian diaspora; and to promote more effective border control practices. In order for the policy plan to be effective, wide consultations with all stakeholders will need to take place and inform implementation. These groups include youth, religious bodies, non-governmental organizations, local and international civil societies, and other relevant organizations.

There is also need to update the legislation on human trafficking as the existing law only has provisions for the prosecution of perpetrators of “trafficking” and is silent on “smuggling.” Both acts invoke separate issues and require separate approaches — especially given the human rights implications of human trafficking and the criminal implications of human smuggling.

The struggle against irregular migration in Nigeria necessitates amendments to relevant laws, in line with current realities. Additionally, there is a need for clearly stated roles for all agents of government and, if possible, a separation of victim counseling from prosecution of traffickers (both currently handled by the NAPTIP). Such a separation would make way for effective prosecution of traffickers and the cooperation of victims, who currently see the NAPTIP as a law enforcement agency whose duty is to punish criminals. Lastly, the protection of victims and their relatives should be guaranteed in amendments to the laws to enable cooperation in the prosecution of traffickers.

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ABOUT THE AFRICA PORTAL

The Africa Portal is an online knowledge resource for policy-related issues on Africa. An undertaking by the Centre for International Governance Innovation (CIGI), Makerere University (MAK), and the South African Institute of International Affairs (SAIIA), the Africa Portal offers open access to a suite of features including an online library collection; a resource for opinion and analysis; an experts directory; an international events calendar; and a mobile technology component—all aimed to equip users with research and information on Africa’s current policy issues.

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