

Security Challenges and the Implementation of Ecowas Protocol on Free Movement of Persons and Goods between Nigeria and Niger Republic

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Abstract

After many years of signing the Treaty I, establishing the ECOWAS as a regional body, the overall objective of promoting cooperation and integration remains consistently elusive. Article 27 of the ECOWAS Treaty affirms a long-term objective of establishing a Community citizenship that could be acquired automatically by all nationals of the member states. This reinforces the preamble to the treaty that outlined the key objective of removing obstacles to the free movement of goods, capital and people in the sub-region. This paper specifically identified the nature or manifestations of the security challenges in the implementation of ECOWAS protocol on free movement of persons and goods; it also examined the implications of the security challenges on the free movement of persons and goods along Nigeria and Niger Republic borders. Data for the paper were gathered from both primary and secondary sources. Interview was conducted with some border personnel and crossers along Ilella-Konni and Katsina-Jibiya borders. The article on ECOWAS protocol for free movement of persons and goods and documents from Niger-Nigeria Joint Commission of Cooperation as well as related articles were used as secondary source. The data were analysed thematically using content analysis. The paper revealed that banditry, insurgency (Boko Haram/ISWAP), trafficking, armed robbery and other related crimes affected the implementation of the protocol on free movement of goods along Nigeria and Niger Republic borders of Katsina-Jibiya and Ilella-Konni. These security challenges cause delay and harassment of crossers amidst rigorous screening exercise and in some instance, there were extortions of travellers/crossers by some border personnel. The study recommends among others the need for bilateral and multilateral security efforts, at the sub-regional and regional level to confront the security challenges affecting the regional integration.

Keywords: Security challenge, Implementation, Ecowas, Free movement, Persons and Goods

Introduction

In Africa, the leaders of West Africa recognised in the early 1970s that intra-regional integration could be an important step towards the sub-region's collective integration into the global economy. The possibility, and indeed the necessity, of creating sub-regional economic cooperation and integration organisations in West Africa and in fact in all of Africa was reinforced by the experiences both in developed countries, and in other developing countries (Adepoju, 2009). Hence, a treaty was signed in Lagos on 28 May 1975 to herald the creation of the Economic Community of West African States.

The Economic Community of West African States (ECOWAS) as a regional organization was therefore rightly established to encourage economic, social and cultural development of the West African sub-region, and it derived its legitimacy from the Treaty of Lagos signed by its 16-member pioneer member-states. The ECOWAS union according to the document sought for; the establishment of a Common Market through the liberalization of trade by the abolition of customs duties levied on imports/exports and the abolition of non-tariff barrier in order to establish a free trade area at the community level; the removal of obstacles to the free movement of persons, goods, service and capital and to the rights of residence etc.

Phase 1 of the Protocol on Free Movement of Persons and the Right of Residence and Establishment of May 1979, which guaranteed free entry of Community citizens without visa for 90 days, was ratified by Member States in 1980 and put into effect forthwith. The objectives of the community are to promote cooperation and integration, leading to the establishment of an economic coalition in West Africa, in order to raise the living standards of its peoples, to maintain and enhance economic stability, foster relations among member states and contribute to the progress and development of the African continent (ECOWAS Treaty I, 1975).

Specifically, various bi-lateral agreements were signed between Nigeria and Niger Republic to strengthen the protocol for the free movement of persons and goods. These include agreements on commercial trade signed on the 25th of January, 2002, agreements for the creation of Consulate Chamber signed in 2012, the creation of Nigeria and Niger joint commission.

In spite of the visionary efforts of leaders to pursue the objectives of ECOWAS, there has been little to show in terms of genuine integration. Political instability and inter-state border disputes and wars, insurgency and other criminal activities have rendered the economic grouping a toothless bulldog. The smaller and economically less prosperous countries such as Niger are often suspicious of the demographic and economic giants like Nigeria. Also, free movements are still hampered by the challenges of logistics such as inadequate surveillance gadgets, ineffective information sharing etc (Umar, 2011). The porous borders of West Africa however continue to encourage border crimes and instability in the sub-region owing to the lack of appropriate mechanism to monitor movements and illegal activities. Therefore, there has been absence of peace and stability in several parts of the sub-region especially with the lingering Boko Haram insurgency and other internal conflicts that discourage investment and free movement of persons and goods in the Nigeria-Niger borders, the very foundation of integration and development has been constrained.

Also, due to security challenges, the Nigerian government explained that the nation's land borders were shut in the nation's overall best interest. According to President Buhari, the main reason for the closure was to curtail the smuggling of goods such as rice and textiles to boost domestic production. Therefore, the basic questions are; what are the security challenges affecting the implementation of the ECOWAS protocol on free movement of persons and goods between Nigeria and Niger Republic? What are the implications of the challenges on the free movement of persons and goods? Thus, the objectives of the paper are in line with the research questions. The study covers the period between 2011 and 2018. This was a period where the two countries were trying to strengthen their relationship (trade and security) through partnership in many areas such as agriculture, exchange of goods and services etc.

The paper relies on both primary and secondary data. Interview is used to get first-hand information from the field. The interview was in form of semi-structured format because responses from the structured questions would elicit other questions that may escape the mind of the researcher but relevant to the study. Stratified purposive and quota sampling techniques were used. Stratified purposive sampling was used since the target population is in multiples or categories, those interviewed include two officials of ECOWAS, former Director of the ECOWAS from the Nigerian side at the Abuja headquarters, one staff of

the Niger-Nigeria Joint Commission, some officials of Customs and Immigration from the two borders of Illella-Konni and Katsina-Jibiya, crossers etc. The quota sampling was used to make sure that out of the 12 crossers selected, six each are from Nigeria and Niger Republic, likewise, two police personnel each represented Nigeria and Niger Republic were also selected.

Concept of Security

Attempt will be made to define the concept of security. Security embodies the mechanism put in place to avoid, prevent, reduce, or resolve violent conflicts, and threats that originate from other states, non-state actors, or structural socio-political and economic conditions (Stan, 2004). According to Nwanegbo and Odigbo (2013) the divergent approaches to the conceptualization of human security in the theoretical literature can be categorized into two major strands. One is a neo-realist theoretical strand that conceptualizes security as primary responsibilities of the state. The second strand, a postmodernist or plural view, conceptualizes security as the responsibilities of non-state actors and displaces the state as a major provider of security. Proponents of this approach argue that the concept of security goes beyond a military determination of threats. They are of the view that government should be more concern with the economic security of individual than the security of the state because the root causes of insecurity are economic in nature. Some scholars in conceptualizing security placed emphasis on the absence of threats to peace, stability, national cohesion, political and socio-economic objectives of a country (Igbuzor, 2011; Oche, 2001; Nwanegbo and Odigbo, 2013).

Specifically, in this paper, security challenge comprises insurgency (boko haram and ISWAP), human trafficking, money laundering, drug trafficking, arms smuggling or trafficking of weapons, cross-border terrorism, illegal oil bunkering, illicit trafficking in diamonds, to mention but these notable few. In this study, implies a state or a condition where there is no threat to peace and tranquility that can deter smooth interaction amongst citizens, institutions of Nigeria and Niger in relation to the ECOWAS protocol on the free movement of persons and goods. This specifically means being protected against insurgency, banditry, kidnapping and smuggling. The opposite is insecurity which in the context of this study implies a situation of threat to the peace that can deter smooth movement of citizens along Nigeria and Niger borders, but also the process of ECOWAS integration in general.

Theoretical Framework

Structural-functionalism theory is adopted for this study as tool of analysis. Structural-Functionalism developed slowly over time with the help of many sociologists in different parts of the world. Perhaps the most significant contributors to the initial development of this theory are Durkheim and Radcliffe-Brown. However, we begin with Herbert Spencer. Spencer, an English sociologist, was a forerunner of formalized Structural Functionalism. He is best known for coining the phrase "survival of the fittest" in his book *Principles of Sociology* (1896).

Berker (1967) in a study that is the manifestation of one of the most incisive delineation of the structuralist-functionalist model, demonstrates that societies are self-contained lots, consisting of integrated and independent components - portrayed further in the form of disparate cultures; political and legal institutions; political and technological organizations. In Social Science circles, functionalism views society as a system made up of interrelated parts, all interacting based on a common value system or consensus about basic values and common goals. Every social custom and institution are seen as having a function in ensuring that society works efficiently.

In applying the structural-functionalism, the role of state actors in the enforcement/implementation of the ECOWAS protocol is imperative, when there is failure of state actors in the process of integration, especially in the security architecture, there is bound to be general failure. Thus, structuralism in this case is related to the Nigeria and Niger Republic as ECOWAS members (general structure) and the various agencies (regulatory and security) of the two countries that engaged in the management of the protocol for the free movement of persons and goods to ensure the desired integration is achieved through free movement of persons and goods.

Further, it must also be emphasised that for the coalition of the two countries to succeed security is pre-requisite, effective management of the borders is fundamental within the varied structures and institutions that are intrinsic and central to the organization. Therefore, it is assumed that the protocol can only be properly implemented when there is no security threat triggers by the activities of insurgency and other transborder crimes, especially at the borders that link the two countries. Therefore, security is a component on the structure-functional

arrangement that will affect the effectiveness of the implementation of the protocol on free movement of persons and goods. Because, with the present threat due to transborder crimes as a result of drug trafficking, human trafficking, smuggling, Boko Haram/ISWAP insurgency, stringent measures have to be taken by the stakeholders of the two countries, especially border personnel, which are likely to affect the free movement of persons and goods. It was due to the security threat that Nigeria took the decision to close its border in 2019, which also goes against the provision of the protocol.

However, effective management of the borders that link the two countries is fundamental, as the protocol can only be properly implemented when there is no security threat. Furthermore, there is need to have a proper link between the strategies put in place and the tactics employed to implement the policies at the level of operation or implementation by the various border personnel.

From the foregoing, it is clear that the structural functionalism theory emphasises on the actualisation of regional integration in the ECOWAS with specific reference to Nigeria and Niger Republic through cooperative approach.

Discussion

The ECOWAS, in order to pursue its objectives in eliminating obstacles restricting the free movement of persons, services and capital between member states came out with guidelines. **Article 2** provides that the community citizens have the right to enter, reside and establish in the territory of Member States. In case of Nigeria and Niger, the two countries have signed several bi-lateral agreements to strengthened the enforcement of the protocol on free movement of persons and goods. There was cross-border Initiatives Programme (CIP) launching workshop, held from 19 to 21 September 2007 in Katsina (Nigeria), where three platforms were put forward on which to establish cross-border cooperation between Niger and Nigeria along the Kano-Katsina-Maradi (abbreviated "K²M") corridor. These platforms are: 1^o Information on the markets; 2^o Cross-border movement of goods; 3^o Cross-border movement of capital. Nigerian-Niger joint commission of cooperation (NNJCC) was created to facilitate the various agreements between Nigeria and Niger.

Other specific agreements included strengthening efforts in implementing the agreements on commercial trade that was signed on the 25th of January, 2002,

agreements for the creation of Consulate Chamber signed in 2012; the most recent development towards this agenda is the December 2014 agreement of ECOWAS members to replace the antiquated ECOWAS Travel Certificate, approved in 1985 for intra-ECOWAS travel in lieu of a passport, with an upgraded biometric travel card called the National Biometric Identity Card (NBIC), effective 2015.

However, after years of signing of the TREATY I, establishing the ECOWAS as a regional body, the overall objective of promoting cooperation and integration, in order to create an economic and monetary union for the purpose of stimulating economic growth and development remains consistently a myth or mere rhetoric. According to Umar (2011), the absence of genuine commitment on the part of the leadership, as key actors within the system, especially with regards to addressing core economic issues such as tariffs and customs related matters, cross-border crimes; constrained movement of goods and persons, etc. are constitutive of a huge set of inhibitive factors colossally debarring effective integration in West Africa.

Evidently, in the borders of the two countries (Nigeria and Niger Republic) crimes such as drug trafficking, human trafficking, arm smuggling, advanced fee fraud (419), etc. are great visible as big threats for peace and security along the border. Other major threat has to do with the activities of boko haram and the ISWAP faction that has been terrorising more especially Nigeria. So, if Nigeria and its immediate neighbour Niger must gain international acceptability and have an environment conducive enough for foreign investment, then, more efforts and energies must be directed toward securing a crime-free environment. The manifestations of security challenge are briefly described as follows:

Insurgency is one of the major security challenges affecting the implementation of the protocol on free movement of persons and goods between Nigeria and Niger Republic. For instance, Boko haram insurgency has claimed thousands of lives with great loss of properties especially in Nigerian North East. The activities of the insurgents have now become a regional issue or threat. The insurgents are against western education and anything related to it.

Also, the smuggling of diamonds has become something of a specialty in parts of West Africa, due largely to the occurrence of high-quality alluvial diamonds in Sierra Leone especially, that can be mined with no more equipment than a spade

and a sieve, and deficiencies in government that permit smuggling and other evasion of official regulations on a massive scale.

Furthermore, the global abuse of drugs and the drug trafficking situation is becoming more complex, in part, due to political and economic changes around the world which have led to increasingly open borders between many countries.” It furthered by saying that the emergence of a more affluent class of drug abuser with higher disposable income to spend on so-called ‘recreational’ drugs

Human trafficking is another worst trans-border crime in the world. West Africa again cannot be left out when discussing the dimensions and effects of human trafficking especially in women and children. It is a major challenge facing most of the countries of the world with the developing countries having the highest share. Globally cross-border trafficking has increase in recent years as a result of increased economic differentials between neighbouring countries and the growth in people movements that has resulted.

Advance Fraud and money laundering are other transborder crimes. According to Peel (2006:4) advance fraud is attempted daily on office workers and other e-mail users throughout the world, is the so-called advanced fee fraud.” In the case of Nigeria, it is derogatorily referred to as 419 representing the section of the Nigerian criminal code that deals with such crime. Typically, the sender will seek to involve the recipient in a scheme to earn millions of dollars through illegal acts. On the other hand, money laundering is the practice of engaging in financial transactions to conceal the identity, source, or destination of illegally gained money. It could also be defined as the process of taking any action with property of any form which is either wholly or in part the proceeds of a crime that will disguise the fact that that property is the proceeds of a crime or obscure the beneficial ownership of said property.

In addition, other transborder crimes include banditry, kidnapping and armed robbery. There is also the negative trend of prostitution that is going on in the region. Some of the prostitutes migrate in order to perpetrate the trade in order to make a living. Therefore, from the data gathered through the interview conducted, on the security challenges affecting the ECOWAS protocol on free movement of persons and goods, The president of Niger’s chamber of commerce who was in charge of commerce, customs and free movement at the ECOWAS from 2016 to 2018 was of the view that; Yes, the activities of Boko Haram, bandits, kidnappers constitute a threat to the free movement of persons and goods between Nigeria

and Niger. That Boko Haram was for instance the cause of the delay in the operations at the Diffa-Yobe-Borno corridor. To corroborate this statement, the task force President stated that yes, the activities of Boko Haram, bandits, kidnappers constitute a threat to the free movement of persons and goods between Nigeria and Niger.

Indeed, due to the security threats, we recorded drop in the export of livestock from Niger to Nigeria-many weekly cross border markets do not regularly operate. Climate change constitutes a security threat in the sense that it brings poverty that leads some people to pose act of threat to the security of persons and goods.

Furthermore, the customs officials stated that the activities of Boko Haram, armed robbery and kidnapping have affected the free movement of persons and goods. Other security threats are cattle rustling; bandits used to attack Fulanis and take their cows and cattle.

On their part, the crossers generally believed that banditry is one of the security threats at the borders. However, there are problems of drug trafficking and arms circulation in some instances; the people carrying arms don't follow the routes with security operatives, and they follow the bushes used by smugglers. One of them stated and I quote: "I think the two governments should try to put security operatives around those places".

Moreover, the respondents emphasised that the two countries signed bilateral agreements in the following areas under the auspices of the Nigeria-Niger joint cooperation commission: agreement on road transport signed on 18/07/1990, agreement on the establishment of local bilateral committees signed on the 18/07/1990, commercial agreement signed on 25/01/2002, as well as agreements on information between the two countries signed on 25/01/2002 etc.

On the other side, the crossers interviewed along the two borders (Illella-Konni and Katsina-Jibiya) unanimously stated that they know that there is protocol on free movement of persons and goods among members of ECOWAS but sometimes the staff at the border don't value it and some of them are not even after the travel documents but after money. They further asserted that the travelers carrying goods for sale are more likely to be harassed if they fail to make unofficial payment, the goods can even be seized.

Unfortunately, the implication of security challenge on free movement of persons and goods is that the protocol for free movement of goods was not fully enforced by Nigeria and Niger Republic which recently forced the Buhari administration to violate the ECOWAS protocol with the closure of border in favour of national interest.

It was generally believed that the activities of Boko Haram, bandits, kidnappers constitute a threat to the free movement of persons and goods between Nigeria and Niger. Most of the respondents interviewed believed that the activities of Boko Haram have caused delay in the operations at the Diffa-Yobe-Borno corridor. Also, due to the security threats, there was recorded drop in the export of livestock from Niger to Nigeria; many weekly cross border markets do not regularly operate. Climate change constitutes another security threat in the sense that it brings poverty that leads some people to pose acts of threats to the security of persons and goods.

There is need not to be over-emphasised that the ECOWAS protocol on free movement of persons and goods is to facilitate free movement across the borders of member states. But criminals have been using this protocol to perpetrate their notorious activities. According to Peter and Asogwa (2017), in spite of the Protocol of The Economic Community of West African State (ECOWAS) on Free Movement of Peoples and Goods across the borders of members of the community, the countries involved have to go beyond this provision to institute some legal provisions aimed at averting transnational organized crime. This has become particularly important because of the fact that each of these countries has individual responsibilities of restoring the confidence of the international community on them so as to attract foreign direct investment (FDI). The effects of transborder crimes are numerous.

Accordingly, Peter and Asogwa (2017) identified the following (first four) impacts of trans-border crimes on regional integration especially in West Africa. These include erosion of confidence by ECOWAS member state even in the event of legitimate trade. This probably might have been the reason for the poor profile of intra-regional trade in West Africa. Secondly, it leads to mutual suspicion among the member state of ECOWAS. This accounts for the rigorous check at the various border-crossing of West African states to the extent that some crossers or travellers are harassed. Thirdly, Intra-regional investment is of poor profile owing to the ferocity of trans-border crimes, fear of the unknown and the possibility of

being defrauded. Fourthly, there has been acceleration of investment between West African countries and other advanced countries of the world due to transborder crimes, hence frustrating any tendency for regional integration in West Africa.

Other effects of insecurity in forms of insurgency and related transborder crimes include threat to lives and property. Transborder crimes affect the lives and property of members, both crossers and neighbouring communities. This is in relation to banditry, trafficking (drug and human), smuggling etc. Also, security threat led to the suspension of the protocol on free movement of persons and goods by country like Nigeria. The Buhari administration has in August 2019 closed its borders by suspending the protocol on free movement of persons and goods in order to address issue pertaining smuggling etc. This decision has both social and economic effects and by extension affects the regional integration.

From the foregone discussions and analysis, the study revealed that both Nigeria and Niger Republic have signed various bilateral agreements for the implementation of the protocol on free movement of persons and goods. In spite of the protocol and the bilateral agreements, insecurity within and along the borders of Nigeria and Niger Republic affected the enforcement of the protocol on free movement of persons and goods.

It was found out that the major security challenges affecting Nigeria and Niger Republic are in relations to insurgency (Boko haram/ISWAP), human trafficking, smuggling, armed robbery and other transborder crimes. The Boko haram/ISWAP insurgency is one of the major security threats that mainly affected Nigeria. This security threat is one of the factors that triggered the decision of the Nigerian government to restrict the free movement of goods along Nigeria and Niger Republic border.

Finally, it was discovered that the security challenges have affected the free movement of persons and goods between Nigeria and Niger Republic. This leads to harassment of crossers or travellers by the officials at the borders to the extent that some official extorted the crossers or travellers irrespective of whether they have the required valid documents or not. They sometimes seized the traveller's goods.

Conclusion and Recommendations

Conclusion

It is concluded from the data analysed that the level of commitment or political-will between Nigeria and Niger has been commendable. Security challenges due to banditry, insurgency, kidnapping, money laundering, smuggling due to porosity of borders etc. have great obstacles that continue to militate against the implementation of the protocol on free movement of persons and goods as enshrined in the various articles (ECOWAS) and by extension regional integration. If insecurity in forms of insurgency, armed robbery, smuggling and other despicable and reprehensive cross-border activities continues unchecked, this could also spell doom in the proper implementation of the protocol.

Recommendations

Therefore, effort should be intensified in ensuring that the requisite political will is maintained and strengthened (by the state actors as emphasised by the rationalists) to facilitate smooth movement of persons and goods along the borders. Therefore, there is need for the state actors (government of Nigeria and Niger Republic) to raise up in providing adequate security personnel at the borders considering the porosity of most of our borders. But this will not be enough without the supply of sophisticated gadgets for the security personnel and other officials at the border in the midst of pervasive activities of insurgents (Boko haram/ISWAP), armed robbers and kidnappers. Therefore, the provision of adequate security personnel should be commensurate with adequate and sophisticated weapons, surveillance vehicles and other related gadgets to enable them to carry out their activities with ease.

There is need for adequate security personnel at the borders considering the porosity of most of our borders. Therefore, the provision of adequate security personnel should be commensurate with adequate and sophisticated weapons, surveillance vehicles and other related gadgets to enable them to carry out their activities with ease.

Also, in relation to the structural-functional theory, there is need for synergy among the various official at the borders in working as a team with one common goal of ensuring that there is free movement of persons and goods along the borders. Therefore, the structural-functional model for integration is relevant as it

emphasises on the need to work together harmoniously to achieve a common goal. West African countries under the ECOWAS should commit all necessary resources and work as a team to realize the integration goal.

Finally, efforts should be intensified by the government of West African countries to ensure that poverty is reduced to the barest minimum. First, basic infrastructural facilities should be provided to improve the living standard and for businesses to thrive, education and health care services are to be made affordable. Secondly, more empowerment programmes should be formulated and vigorously implemented to improve the level of income of the citizens.

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