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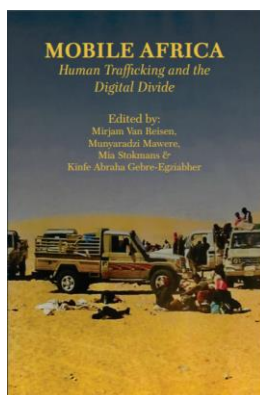


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# Mobile Africa: Human Trafficking and the Digital Divide

Edited by  
Mirjam Van Reisen, Munyaradzi Mawere, Mia  
Stokmans & Kifle Abraha Gebre-Egziabher

From the book Series:  
Connected and Mobile: Migration and Human Trafficking in  
Africa



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We are nomads  
Travellers of the cosmos  
Pilgrims on a journey to explore the world  
To meet each other, to love, to share

There is no end to life  
The stars spin and jump in an infinite vortex  
In the whirlwind we climb up and down, dancing and blown  
To discover, meet, love, share

Dream waves and dreams  
Here is the subplot of post-eternal life  
We remain suspended for a while  
We get to know each other deeply, meet, love each other and share information

In this eternal life  
Whirling and dancing in circles and swirls of infinity  
Call me sublime  
We've been in step for a while to meet, to love, to share

Go to war  
Life would be gone  
This is a great value now  
Meet each other, know each other, love each other, share everything with each other

And things that happen worldwide  
Are part of the destination  
A tiny parenthesis in the nothingness of eternity  
To meet each other, to meet, to love, to share life

We stand on this earth for a while,  
Little brackets forever,  
A small glance in eternity,  
To get to know each other, meet, love, share

These travellers are on an endless journey,  
Hovering and dancing in infinity swirls,  
We stopped for a short time,  
Because we met for a short meeting, to love, to share life

Adapted from Paulo Coelho, *The Alchemist* (1988) by Joëlle Stocker

## **Preface by Chief Fortune Charumbira<sup>1</sup>**

---

This book is about life and death – there is no other way to put it. And now is the right time to be discussing this critical issue, which has become a thorn in the side of those who are eager to see a better world. It is, therefore, my sincere hope that this book will motivate us to come up with a plan that can be used to find solutions for people on the move in Libya and the Horn of Africa.

I am currently the Vice President of the Pan African Parliament, which is an organ of the African Union. It represents the voices of African people. Among other functions, it is the guardian of democracy, human rights, good governance, accountability and transparency on the African continent.

In this book, you will read about refugees and their shocking stories. Their testimonies reveal modern-day slavery in Africa. The heart breaking and horrific stories that I have read here involve the violation of human rights of the highest order. We need to do all in our power to end these practices and stop slavery in Africa.

In Africa, our tradition obliges us as leaders to listen to the troubles of our people. I have personally spent time listening to the suffering of the refugees who crossed from the Horn to Sudan and Chad, surviving the dire situation in Libya and crossing the Mediterranean Sea. The devastating testimonies that I heard are reflected in this book, which is a courageous attempt to understand these experiences based on the voices of refugees – most of whom end up finding a place on African soil.

I have been particularly concerned about the dehumanising experiences encountered by Eritrean migrants and others who have suffered at the hands of human traffickers. These are clearly crimes

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<sup>1</sup> This preface was adapted from a speech given by the author at the conference ‘We the People! Peace in the Horn: The Safety and Future of the Eritrean People’ held in Brussels, Belgium from 13 to 14 December 2019.

against humanity. Millions of Eritreans have been systematically displaced from their motherland, with thousands seeking refuge in Ethiopia, Sudan, Niger, Uganda, Kenya, Israel and Libya, among other places. The story of the Afar people, who have been marginalised, displaced, dispossessed, and victimised, is equally touching and requires urgent attention.

Some refugees find themselves in countries like Libya, where they endure cruel treatment at the hands of prisons officials and the Libyan Coast Guard, who's brief is to ensure that no one crosses over to Europe. Shockingly, we are told that Europe's invisible hand is ever present in funding the Libyan Coastal Guard, which harasses our brothers and sisters. Another shocking revelation is about the network of rich and powerful people involved in the human trafficking trade in Europe and Africa.

I would like to think that as the European Union preaches respect for human rights, as enshrined in the 1948 Universal Declaration of Human Rights, its voice must be the loudest in calling for an end to the ill treatment of migrants. Europe, which projects itself as a champion and enforcer of human rights, risks losing dignity and integrity if it continues to contribute to the inhumane and degrading treatment of African migrants.

On behalf of the Pan African Parliament, I can say that we now have a full picture of what is going on in Libya and in the Horn. My heart bleeds when we talk about the slavery of the people of Africa. I see our people following a familiar, but unpleasant, journey; one that our forefathers travelled during the slave trade. As Vice President of the Pan African Parliament, I can assure you that we will compile all the sad stories that I have heard and present them to the parliament.

Also, as President of the Chief Council in my home country, Zimbabwe, I am the custodian of our morals and cultural values. Hence, I know very well that it is shockingly evil to treat a human being as an animal. In African culture, human life is sacrosanct and we respect both the living and the dead. It is, therefore, worrying

when our colleagues across the oceans in the European Union seem to take a lukewarm approach to ending these problems, which are affecting innocent people. In order to have a world in which human beings are treated as equals, it is high time that we embrace democracy in its totality. People, no matter which part of the world they come from, deserve to be treated with dignity and respect.

Today, Africans are being seen as a ‘nuisance’ in the West, with many of our brothers and sisters perishing as they try to run away from their countries. We need to have a deeper understanding of how this whole thing started. The problems affecting the Third World, especially the African continent, are explicable in terms of history. An attempt to understand the continent outside the various historical trajectories it went through is an exercise in futility. The continent lacks a distinctive historicity, hence, Mbembe (1992) describes the postcolonial situation in Africa as “chaotically pluralistic”.

Because of the emotive nature of this subject, allow me to be blunt by saying that the problems that we have in Africa, at large, and in the Horn, in particular, are the creation of those who sat somewhere in Berlin in 1884 and divided up our motherland. What followed only worked to brew chaos in Africa. At that time, the Europeans themselves were illegal migrants in Africa. But today they are treating our brothers and sisters as animals. The historical legacy of slavery, colonialism and the perpetual struggle to find authentic self-expression has only served to produce multifaceted challenges. At the heart of these struggles lies the need to achieve distributive justice in the face of material lack and political gamesmanship.

The embers of hope ignited by colonial independence are fast dying, with mass disillusionment, civil unrest and structural violence threatening the very foundations of independence. The use of force, coercion and brutality to achieve political goals has remained indelibly etched on the people in the Horn of Africa. Such use of violence to quell real or perceived threats to national security has left deep scars on communities in Africa. There is an apparent lack of open dialogue

about the need to correct past and ongoing threats to peace, resulting in the sustenance of both open and latent strife among citizens.

Let me thank the editors of this book for their valuable efforts to make this important publication a reality. To Professor Mirjam Van Reisen, please accept my sincere and deep felt gratitude. To Professor Munyaradzi Mawere, who is a prolific writer and an African philosopher who makes Africa proud, and to all the editors and authors who have put their heart and soul into this book, I thank you all. When I was invited to contribute the foreword to this book, I did not hesitate because I am aware that this publication has the potential to transform the lives of millions of people who are suffering.

There is urgent need for the European Union and African Union to find each other and to call for an end to the ill-treatment of migrants. We urge the European Union to take a common position and speak with one strong voice against the ill-treatment of Eritreans and other Africans. I call upon political leaders and other stakeholders to come up with a catalogue of issues and a clear plan of action for what needs to be done, and I promise that I will present the same to the Pan African Parliament and the African Heads of States. The Pan African Parliament will also engage the European Parliament on the matter. The African Union, under the framework of EU-AU strategy, will be seized with the matter.

Hon. Chief Fortune Charumbira  
Vice-President Pan African Parliament

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## Acknowledgement

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This book is the result of collaboration between Great Zimbabwe University, Mekelle University, Pan African University in Adua and Axum University, Tangaza University, Mbarara University, Mekelle University, Kampala International University, Tilburg University, and University of Leiden, as well as colleagues in other universities in Africa, especially from Somalia, Niger and Sudan. It brings together expertise from the different regions in Africa, with a strong focus on the Central Mediterranean human trafficking route. The work started in 2016 in response to the realisation that human trafficking is closely connected to digital innovation as a result of the digital divide it creates. Hence, the social consequences of digital innovation require careful academic consideration.

Prof. Dr Kinfe Abraha Gebre-Egziabher was the Chairperson of the Editorial Committee and together with Prof. Dr Munyaradzi Mawere reviewed the chapters in a double-blind peer review. The academic standard was set by Prof. Dr Mirjam Van Reisen and Dr Mia Stokmans, who also provided academic support to the authors, and upheld by Prof. Dr Gebre-Egziabher and Prof. Dr Maware during the peer review. Susan Sellars-Shrestha was responsible for the copyediting of this book, Rick Schoenmaeckers for editorial coordination, and Klara Smits and Kristína Melicherová for editorial support.

We would like to thank NUFFIC (the Dutch organisation for internationalisation in education), the Netherlands Organisation for Scientific Research (NWO), Science for Global Development (WOTRO) and other funding organisations for the support provided for the research published in this book. The content is solely the responsibility of the authors and the Editorial Committee.

Prof. Dr Mirjam Van Reisen  
Executive Coordinator of the Editorial Committee  
Principal Investigator

## **A Word on the Review Procedure**

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All chapters in this book were subjected to an extensive review process. In the first phase, the chapters were reviewed by the executive editorial team (Professor Dr Van Reisen and Associate Professor Dr Stokmans), who contributed to the topics covered and provided scientific and innovative input. The executive editorial team then provided all chapters that were preliminary accepted with specific comments and recommendations to improve the chapters. Some young researchers were extensively coached during this phase.

In the second phase, the adjusted drafts of all accepted chapters were copyedited by Susan Sellars-Shrestha, who also reviewed the chapters for structure, coherence, comprehension, flow and the like. In the third phase, all chapters were double-blind peer reviewed by two reviewers (Professor Dr Mawere and Professor Dr Gebre-Egziabher), with the assistance of a third peer reviewer (Dr Nulagala) for chapters provided by a member of the peer review team. These reviewers did not evaluate the chapters in the first phase. The authors did not know who the reviewers were, and the reviewers were not informed of the identity of the authors, as all references to authors were removed. The process was handled by the editorial coordinator (Rick Schoenmaeckers). Comments received were communicated to the authors who responded to the comments by making adjustments to the chapters.

In the fourth phase, the adjusted draft chapters were reviewed for the last time by the executive editorial team and moved for final approval by the entire editorial team, who considered sensitive issues and any remaining lack of clarity. All of the chapters included in this book are, therefore, the joint responsibility of the four editors in the Editorial Committee, and based on a rigorous double-blind peer review process. The final decisions about the inclusion of the chapters and printing of the book were taken by Professor Dr Gebre-Egziabher, who served as the chair of the Editorial Committee. The publishing of the project was overseen by Professor Dr Mawere.

## Acronyms

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AIDS	acquired immunodeficiency syndrome
ARIO	Articles on the Responsibility of International Organisations
ARRA	Administration for Refugee and Returnee Affairs
ARSIWA	Articles on the Responsibility of States for Internationally Wrongful Acts
AVRR	Assisted Voluntary Return and Reintegration
CB-HIPP	Cross-Border Health Integrated Partnership Project
EASO	European Asylum Support Office
ECRE	European Council on Refugees and Exiles
EDEA	Eritrean Diaspora in East Africa
EEPA	Europe External Policy Advisors/Europe External Programme with Africa
EMDR	eye movement desensitisation and reprocessing/reordering
EPLF	Eritrean Peoples' Liberation Front
ERN	Eritrean nakfa
EU	European Union
EUTF	European Union Emergency Trust Fund for Africa
FCA	Finn Church Aid
Frontex	European Border and Coast Guard Agency
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GPS	global positioning system
HIV	human immunodeficiency virus
HRM	Hotline for Refugees and Migrants
ICC	International Criminal Court
ICT	information and communication technology
IDP	internally displaced person/people
IES-R	Impact of Event Scale-Revised
IFRCRC	International Federation of Red Cross and Red Crescent
ILO	International Labour Organization
INGO	international non-governmental organisation
IOM	International Organization for Migration
ISCS	Internet Social Capital Scales
ISIS	Islamic State (also known as ISIL)
MANOVA	multivariate analysis of variance
NCEW	National Confederation of Eritrean Workers

NGO	non-governmental organisation
NISS	National Intelligence and Security Service
NRC	Norwegian Refugee Council
NUEW	National Union of Eritrean Women
NUEYS	National Union of Eritrean Youth and Students
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
PFDJ	People's Front for Democracy and Justice
PSE	parental self-efficacy
PTS	post-traumatic stress
PTSD	post-traumatic stress disorder
RSF	Rapid Support Forces
SER	Socio-economic resilience (or social and economic resilience)
SHLCPTS	Self Help Low Cost Post Traumatic Stress
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNSMIL	United Nations Support Mission in Libya
USAID	United States Agency for International Development
USD	United States dollar

## Preamble

---

What happens at the nexus of the digital divide and human trafficking? This book examines the impact of the introduction of new digital information and communication technology (ICT) – as well as lack of access to digital connectivity – on human trafficking. The different studies presented in the chapters show the realities for people moving along the Central Mediterranean route from the Horn of Africa through Libya to Europe. The authors warn against an over-optimistic one-sided perspective on innovation as a solution and highlight the relationship between technology and the crimes committed against vulnerable people in search of protection. In this volume, the third in a four-part series *Connected and Mobile: Migration and Human Trafficking in Africa*, relevant new theories are proposed as tools to understand the dynamics that appear in mobile Africa. It presents research analysing the drivers of human trafficking, identifies obstacles to protection and provides recommendations to ensure that the use of new technologies contributes to wellbeing.

Part I, ‘Theoretical Perspectives’, opens with four chapters that set the theoretical grounding of the studies in this book. In Chapter 1, *Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent*, Van Reisen, Mawere, Stokmans, Nakazibwe, Van Stam and Ong’ayo give the reader an orientation to the digital divide in Africa. This chapter discusses the digital architecture and its historic development, as a social architecture through which the extraction of resources and information is organised. It focuses on the emergence of ‘black holes’ in the digital infrastructure, in which people are disconnected from the global digital infrastructure and depend on gatekeepers for information. As youth in particular seek to connect to this architecture and take advantage of the opportunities it poses, many uproot and move towards hubs of connectivity, becoming easy prey for human trafficking, who are often in the position of gatekeepers.

The role of gatekeepers in human trafficking in the digital era is elaborated on in Chapter 2, *Network Gatekeepers in Human Trafficking*:

*Profiting from the Misery of Eritreans in the Digital Era*, by Van Reisen, Smits, Stokmans and Mawere, which gives a detailed analysis of the different manifestations of gatekeeping. This chapter provides a different perspective on people vulnerable to human trafficking; it argues that rather than making rational choices based on full knowledge, potential victims are ill-connected, have little access to information and even less ability to send information. Moreover, the victims of human trafficking have very limited bargaining power to control their situation. This theme is further elaborated on by Mawere in Chapter 3, *Bound Together in the Digital Era: Poverty, Migration and Human Trafficking*. In this chapter, Mawere discusses the intrinsic link between poverty, vulnerability and human trafficking.

In Chapter 4, Van Esseveld provides an insightful reflection on the connection between technological innovations and new modus operandi in human trafficking for ransom. Titled *Tortured on Camera: The Use of ICTs in Trafficking for Ransom*, this chapter distinguishes three phases of human trafficking that relate to the introduction of smart phones in Africa.

Part II, ‘Traumatising Trajectories’, starts with a look at Eritrea. In Chapter 5, *Sons of Isaias: Slavery and Indefinite National Service in Eritrea*, by Van Reisen, Saba and Smits, sets out the background against which refugees from Eritrea leave their country. Despite the hope sparked by the Peace Agreement with Ethiopia in 2018, indefinite National Service and other conditions in the country have not changed and the working population continue to be subjected to forced labour, which is tantamount to slavery. The exodus of refugees from Eritrea has actually increased since the Peace Agreement, and this includes many unaccompanied and separated minors. Their understanding of their situation, motives and aspirations is the focus of Chapter 6, *Journeys of Youth in Digital Africa: Pulled by Connectivity*, by Schoenmaeckers. While only 1% of people in Eritrea are connected to the Internet and sim cards are not available to the majority of the people, the youth are keen to connect and find creative ways to do so – even in the difficult settings of the refugee camps, where connectivity is poor at best.



In Chapter 7, *Not a People's Peace: Eritrean Refugees. Fleeing from the Horn of African to Kenya*, Kuria and Araya discuss the traumatic journeys of Eritrean refugees to Kenya. They identify an increasing and worrying trend in the extortion and abuse of Eritrean refugees in the country. In Chapter 8, *Israel's 'Voluntary' Return Policy to Expel Refugees: The Illusion of Choice*, Orgal, Liberman and Avivi describe serious failures in the Israeli policy to expel refugees through mechanisms that put them at risk of human trafficking. In their detailed account, they find that the Israeli government is complicit in a policy of removal that is directly connected to well-known patterns of human trafficking.

In Chapter 9, *The Plight of Refugees in Agadez in Niger: From Crossroad to Dead End*, Wirtz describes how the policy of Niger to stop migration and human trafficking has impacted on the situation of refugees and migrants, as well as those she refers to as 'migration professionals'. Reserving judgement and merely presenting the situation, she describes in detail the societal consequences of the new legislation in Niger. In Chapter 10, *Lawless Libya: Unprotected Refugees Kept Powerless and Silent*, Van Reisen, Smits and Wirtz investigate the situation of refugees in Libya. Noting that information coming out of Libya is scarce, the concern is that refugees are stuck in severely exploitative situations, in which they hold little, if any, power and are controlled by human trafficking networks. In Chapter 11, *The Voices of African Migrants in Europe: Isaka's Resilience*, Press demonstrates the importance of listening to the voices of refugees and migrants, and reflects on the difficulties involved in gaining their trust.

The importance and relevance of addressing post-traumatic stress disorder (PTSD) among refugees living in highly traumatising situations is investigated by Kidane and Stokmans in Chapter 12, *Desperate Journeys: The Need for Trauma Support for Refugees*. These authors found that a short intervention to support refugees suffering from PTSD had a significant impact on their social-economic resilience. They conclude that urgent treatment of PTSD is needed. In Chapter 13, Rozen examines the obstacles to treating victims of torture and slavery in Israel in *Identifying Survivors of Torture: "I Never Told What Happened to Me in the Sinai"*. In great detail, she describes the

administrative difficulties as well as the problems victims have in disclosing their traumatic experiences.

In Part III, the ‘Psychological Impact of Ongoing Trauma’ is explored. How do severely traumatised refugees cope with the responsibility of parenting? In Chapter 14, Mouton, Schoenmaeckers and Van Reisen examine this question in *Refugee Parenting in Ethiopia and the Netherlands: Being an Eritrean Parent Outside the Country*. They find that, although parental self-efficacy is high, this raises questions about the emotion regulation skills of refugee parents suffering from PTSD, which can impact on the socio-emotional development of their children. In Chapter 15, *Journeys of Trust and Hope: Unaccompanied Minors from Eritrea in Ethiopia and the Netherlands*, Schoenmaeckers, Al-Qasim and Zanzottera explore the relationship between Eritrean refugee minors and caregivers in Ethiopia and the Netherlands. Refugees’ hopes of reuniting with their families one day are explored in Chapter 16, *Refugees’ Right to Family Unity in Belgium and the Netherlands: ‘Life is Nothing without Family’*, by Van Reisen, Berends, Delecolle, Hagenberg, Trivellato and Stocker. The discrepancy between the procedural requirements and the realities on the ground can be overwhelming and result in applications for reunification being denied. Requirements can also put family members in danger as they try to cross borders or obtain documents illegally. Hence, there is a need to rethink family reunification policies, as they are currently failing to facilitate family reunification for many.

Part IV, ‘Problem Framing’, provides a policy lens through which to view the problems posed by migration and human trafficking. In Chapter 17, Vdovychenko discusses *The Representation of Human Trafficking in Documentaries: Vulnerable Victims and Shadowy Villains*. Using documentaries as a source of information, she explores the definition of the problem of human trafficking within policy contexts. In Chapter 18, Mawere, Van Reisen and Van Stam critically review the language in which policy problems are defined in *Language Dominance in the Framing of Problems and Solutions: The Language of Mobility*. They point out that the language used not only describes a situation, but creates new situations and dictates what solutions are

proposed. They present the example of the term ‘illegal migrant’, which has direct consequences for people such as refugees, who may lose their right to protection and find themselves criminalised as a result of such terms.

Part V, ‘Extra-territorialisation of Migration and International Responsibilities’, looks at the broader policy context of human trafficking. In Chapter 19, *The Shaping of the EU’s Migration Policy: The Tragedy of Lampedusa as a Turning Point*, Smits and Karagianni describe the new trends in European Union migration policy that emerged after the tragic boat accident at Lampedusa in 2013 in which 360 refugees perished. Despite the promise of more protection for refugees, the collaboration of the European Union with governments and militia aimed at stopping refugees from crossing to Europe has decreased protection for refugees everywhere. In Chapter 20, Crowther and Plaut discuss this in *Sudan and the EU: Uneasy Bedfellows*, arguing that the EU has sacrificed the protection of refugees in order to stop them from coming to Europe by collaborating with a government accused by the United Nations Commission on South Sudan of crimes against humanity in Darfur.

In Chapter 21, *Uncomfortable Aid: INGOs in Eritrea*, Saba describes the situation in Eritrea, where European INGOs could be complicit in crimes against humanity committed by the Eritrean authorities. The uneasy situation of collaboration with deadly regimes is analysed from a legal perspective in Chapter 22, *Complicity in Torture: The Accountability of the EU for Human Rights Abuses against Refugees and Migrants in Libya*, by Sereke and Mekonnen, who point to the European Union’s involvement and responsibility for human rights abuses against refugees and migrants in Libya. In Chapter 23, *Playing Cat and Mouse: How Europe Evades Responsibility for its Role in Human Rights Abuses against Migrants and Refugees*, Pijnenburg and Rijken look at the European Union’s legal responsibility for the human rights abuses against refugees and migrants and calls it to account. The authors conclude that there is a grey area in which collaborating partners cooperate and that responsibilities are in need of greater clarity to avoid impunity and lack of accountability for human rights abuses.

The chapters in Part V point to the need for governance aimed at protecting people and promoting wellbeing – which requires the introduction of ICTs to be flanked by measures to minimise their negative use and support good governance. The undermining of the rule of law increases the digital divide and the misuse of ICTs, and disempowers those in vulnerable situations, putting them at risk of exploitation and extortion, including human trafficking. The global connectivity enabled by ICTs requires that even more, and not less, attention be given to upholding the rule of law and ensuring good governance.

# **Part I. Theoretical Perspectives**



# Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent

*Mirjam Van Reisen, Munyaradzi Mawere, Mia Stokmans,  
Primrose Nakazibwe, Gertjan Van Stam & Antony Otieno  
Ong'ayo*

### Introduction

The use of spatial imaginaries surrounding Internet connectivity. Examples are terms like 'global village' and a 'shrinking world', which depict collapsing geographies. These metaphors play a powerful role in the positioning of information and communication technologies (ICTs) in the international discourse (Smart, Donner & Graham, 2016). In this discourse the 'digital world' is a common good to help innovate the economy and solve social problems. 'Digital' in this sense refers to digital devices and technology, characterised by computerised technology, with particular relevance to the mobility of people and global commerce. However, this terminology and the international discourse seem to emerge non-locally and are far removed from the African context.

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*Today's digital architecture is based on the information networks of colonial times, which carried information and goods – including slaves – to knowledge centres in the West. Hence, structures like the Internet reflect biases in social and political connectivity. Those living in 'black holes' in the digital architecture are 'mined' for information, without enjoying any of the benefits of information flows. Hence, it is clear that digital technology is not impact-neutral. In fact, it seems to be fuelling trafficking in human beings, particularly trafficking for ransom on the African continent.*

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We explore the digital architecture in Africa and its social dimensions that generate political, economic and business practices. The information society has its roots in the 1500s, at which time it supported mobility around the world and the establishment of global commerce. This global commerce included the trade in persons – the slave trade – which still exists today. Although several researchers (including the authors of this chapter) have extensively described the link between digitalisation and new forms of the trade in persons (Van Reisen, Estefanos & Rijken, 2012; 2014; Van Reisen & Rijken, 2015; Van Reisen & Mawere, 2017; Van Reisen *et al.*, 2018; Adugna, Deshingkar & Ayalew, 2019), questions still remain: *Is the knowledge society providing an enabling environment for the trade in people? How can the association between digitalisation and new forms of human trafficking be explained?*

In order to answer such questions, this chapter explores the idea of a digital architecture as a social architecture in which information is handled and distributed to some, but not to others. Being the product of human invention within a social context, the digital architecture has social characteristics, which include a historic legacy through which social relations are reproduced. As a social structure in which information circulates, the question is not only who provides information and who receives it, but also who is able to decide which information is provided to whom and the conditions of the transaction. From this perspective, some people are excluded from the Internet and depend on others to receive information and provide or send information. These people are living in ‘black holes’ in the digital architecture. In this book we illustrate that these black holes in the digital architecture are related to the emergence of human trafficking for ransom, which depends on digital communication.

## **Methodology**

The messy realities on the ground in many parts of Africa and Europe are somewhat more nuanced and diverse than dominant and essentialising theories describe. There are many forms of ‘connectivity’ to information societies and ways to be included and



excluded from access. This leaves much room for developing localised theories, furthering understanding of the inherent structures of the Internet from the position of the disenfranchised. In this book, we use the extended case method, as described by Michael Burawoy (2009). Burawoy (2013) argues that 'living with theory' takes away the separation between the participant and the observer, inspiring critical assessment of the conquest of existing theory and allowing for the conception of society in alternative understandings. We have amended this method to be transdisciplinary and culturally aligned, to recognise common threads in African society. We recognise embodied knowledge (Mawere & Van Stam, 2017) resulting from our engagement with communities and theories.

Furthermore, we recognise that cross-cultural research settings are social settings mediated by power, and that strategies to dominate, silence, objectivise, and normalise may be part of this setting. This can result in epistemic violence, which must be recognised and mediated (Mawere & Van Stam, 2016a). We recognise this actively, by being reflexive and ensuring interaction with local communities about our findings first, before reporting on them in broader fora. The authors are engaged in transdisciplinary research, interacting with various African communities of practice in both urban and rural areas in Eastern and Southern Africa. The book is the result of a collaborative, reflexive and retrospective analysis of our experiences, positioned from Africa.

### **The knowledge society**

Castell (2000) sees the contemporary knowledge society of the information age as a comprehensive social reality in an economic, political and cultural sense that is historically rooted. Historically, these roots are in the 16<sup>th</sup> Century, when corporations, headquartered in Europe, made their way around the globe 'discovering' new continents (Harris, 1998). Information was collected, as were goods and slaves. While slaves were treated as products to be transported along these networked routes (Ward, 2009), the information collected on the voyages was the 'gold' that fuelled the trade. From this



The original information society facilitated by colonial transport routes provided corporate control along trajectories (or networks) and over connecting points (or nodes). The nodes were points at which there was important representation of the colonial power, including legal and financial advisors, and where information was collected. The information nodes on the African continent (e.g., Cape Town for the Dutch and English) provided essential gateways for collecting information, which was transported to Europe where the information was analysed. Universities and other knowledge institutions were established as the ‘centres of calculation’, as Latour (1987, p. 215) coins it, with the aim to turn proceeds from the information society into fuel for a ‘knowledge society’. Through this process, imported information was used in an actionable way, resulting in a European-based analysis and serving as a starting point for future economic, commercial, political and military activity in far-away places. In these European commercial centres of knowledge, the idea of a universal knowledge base emerged, as a result of these activities. The newly-acquired understanding would inform subsequent voyages. The centre of the colonial power would be irreversibly ahead in having the acquired knowledge, and so strengthen its ability to control and govern.

Latour (1987) advances the idea that during the colonial period a new space-time arrangement was developed. Through the *space dimension*, ships with information and goods could go back and forth, but African people could not do the same (or only as a ‘commodity’). As for the *time dimension*, elite engineers and scientists appropriating the shipped-in information were seeking to turn it into (universal) knowledge. Based on this universal knowledge, engineers and scientists were able to design projects before local people could be involved, provide juridical labels and assign property claims on knowledge (Krohn, 2001). Through the idea of ‘universal knowledge’, rather than contextualised knowledge, the time-dimension favoured those holding the knowledge (Latour, 1987).

## **Architecture of the information network**

The architecture of the early information society built in the 16<sup>th</sup> Century was shaped as a network of routes and nodes supporting colonial exploration. The architecture of the Internet follows the same pattern. Its heralded progress lies in the acceleration of the transfer of information and the generation of universal knowledge, the components of which are critical to sustain a globalised economy. Digitalisation has further enhanced the restructuring of the space-time dimension, for instance, in education (Malichi, Van Oortmerssen, & Van Stam, 2013). Information – called ‘traffic’ in technical environments – even between African nodes, continues to travel through European centres (Gueye & Mbaye, 2018). Although various organisations have sought to facilitate interconnectivity between African Internet service providers, these activities are being disempowered by the ‘hunger for information’ from ‘the centre’. As a result, the network remains focused on existing directionalities, linking externally derived ‘harmonies of interest’, continuing to disempower the networks in the colonially defined ‘periphery’ (Galtung, 1971). Orientalistic, imperialistic and colonialistic thinking and behaviour have consistently heralded the ‘real knowledge producers’ in the North – setting the standard for ‘real’ knowledge, with the South seen as only delivering information (Mamdani, 2011; Mawere & Awuah-Nyamekye, 2015). Manning, Böhme and Stehr (1988) discuss the concept of the ‘knowledge society’ in terms of this increasing dependency of society on technology. The digitalisation of information plays a vital role in providing the means for new forms of expropriation in which data is the new gold, moving from the African continent to the data centres in the North (Van Reisen *et al.*, forthcoming, 2019).

However, the Internet is not the only infrastructure that is supporting an imperialistic perspective. The platforms designed to manage the information derived from global digital networks follow the same pattern. Service behemoths like Google, Facebook, Microsoft, and Amazon represent centralised information infrastructures (Van Dijck, Poell, & De Waal, 2018) that transport information to be

processed in a colonial centre (Van Stam, 2017a). ‘Free’ services or products, like Facebook, sweeten the harvesting of information, typically targeting areas with limited connectivity and high barriers to access information, attracting users to these forms of social media. The corporate narrative states that its information informs enhanced business approaches; in practice it ensures the continuation and growth of intangible and tangible resources from the periphery to the centre. This move won Mark Zuckerberg the title of ‘digital colonialist’ (Shearlaw, 2016).

The following maps show the old colonial routes for the flow of information and today’s information infrastructure, with fibre optic submarine cables supporting the Internet, which feeds into the knowledge society. The main information routes are overseas and connected through nodes; the directionality is to the hegemonic centre of the North. A quick comparison of the old colonial shipping routes and the current Internet intercontinental network cabling shows an incredible similarity. In resembling the architecture of the global information society as it was created in the 16<sup>th</sup> and 17<sup>th</sup> centuries, the direction of the benefits of the Internet is one-sided (as is seen in the market capitalisation of the so-called ‘beltway bandits’).

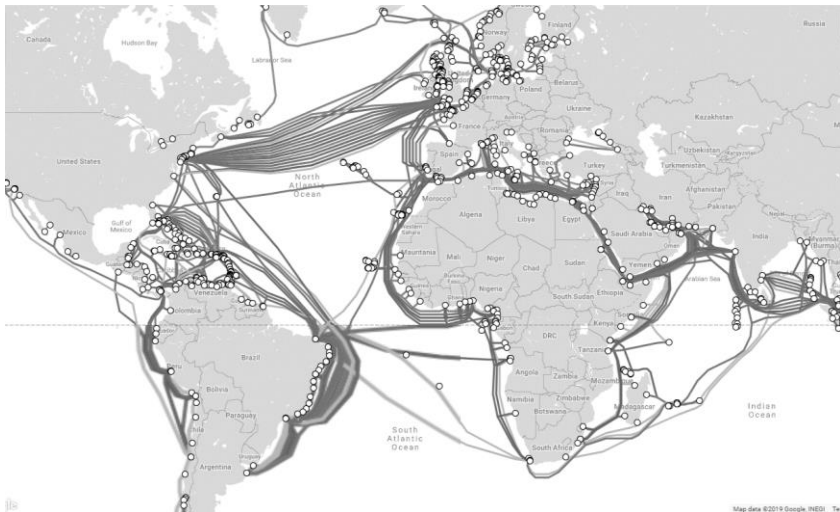
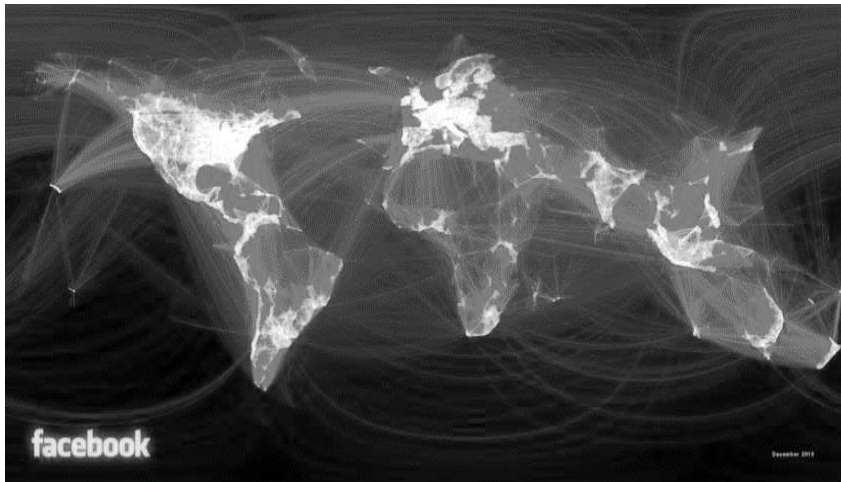
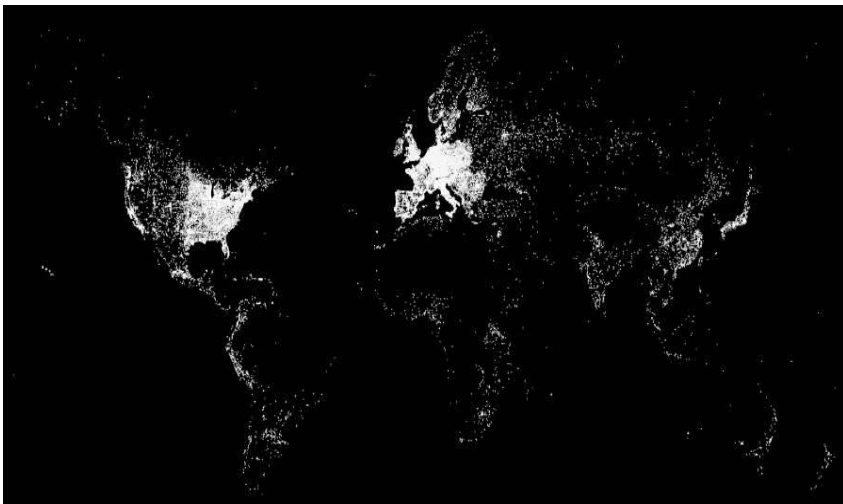


Figure 1.2. Fibre optic submarine cables  
Source: Telegeography (n.d.)

As in the past, the contemporary information society supports the digital traffic to its centres, thereby supporting the basing of economic activity on historic architectures (Heemskerk & Takes, 2016). This can be seen by comparing the maps of the fibre optic submarine cables, social media traffic such as Facebook and the location of the global corporate elite structures.



*Figure 1.3. Facebook nodes; Source: Butler (2010)*



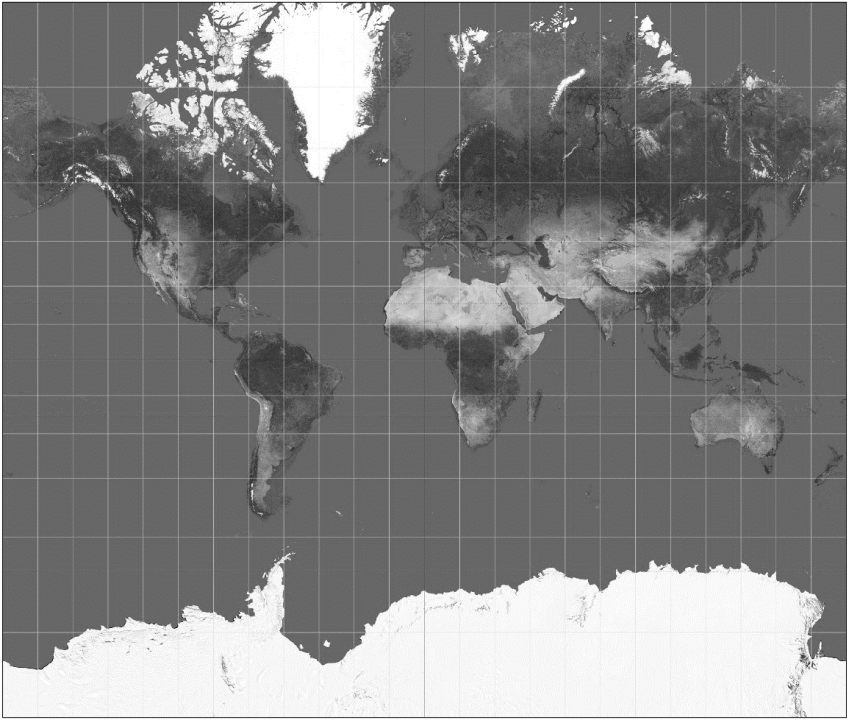
*Figure 1.4. Global corporate elite structures; Source: Heemskerk & Takes (2016)*

As illustrated above, the information society facilitates the traffic of data to the data centres in Europe, the US and increasingly China to support commercial interests (Heemskerk & Takes, 2016). The geographic and social realities of African communities have not informed the conceptualisation and structuring of the digital architecture of the Internet. Moreover, these technologies are not designed in ways that work to empower African communities to sustain their knowledge societies (Van Stam *et al.*, 2012; Johnson & Van Stam, 2016; Van Stam, 2016a; Bidwell, 2016; Van Reisen, 2017), as will be discussed in the next section.

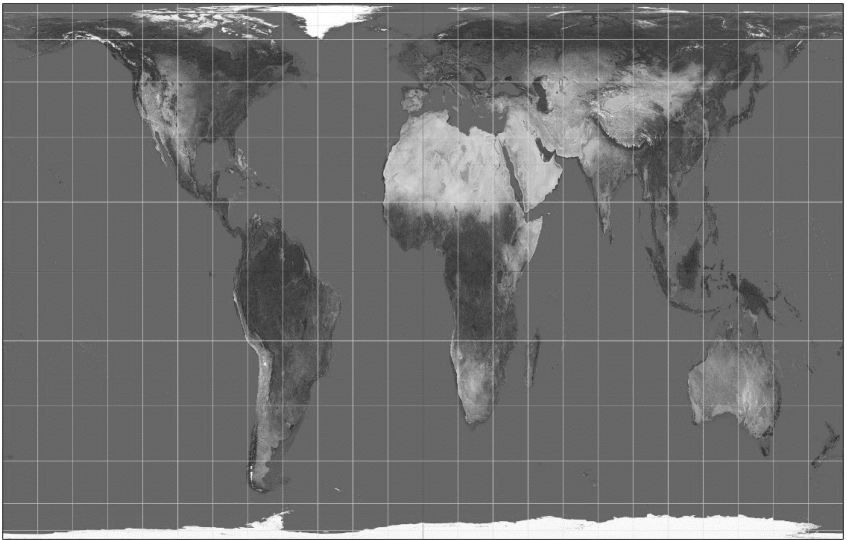
### **The geographic misrepresentation of Africa and its effect on latency**

The dislocation of knowledge from space and time has been translated into the representation of the world on abstract maps. Maps are tools that affect the perceptions of power and space through projection techniques. The earliest world maps that guided ships placed Europe both central and dominant on the world map (Wintle, 1999). The traditional representation using the Mercator projection represents Europe's landmass as proportionally larger than Africa's landmass, although in reality Africa's landmass and geographical distances are much larger. A map based on the true geographical size of Africa would show that Africa's landmass could incorporate China, India, the United States and Europe (Krause, n.d.).

Matching the architecture of the Internet with a more correct geographical representation of Africa in terms of distances clearly indicates the fundamental barriers to the implementation of communication infrastructure, particularly if information network density in Europe is taken as a benchmark. Distances compound the universal connectivity problems due to the combined effects of latency (distance) and congestion (due to limited bandwidth and economic modelling constraints), in combination with the type of equipment and software used, due to older machines and unsupported software (Johnson *et al.*, 2016; Van Reisen, 2017).



*Figure 1.5. Map of the world, Mercator projection*



*Figure 1.6. Map of the world, Peters projection*



Australia, another vast landmass continent physically located far from dominant digital centres, experiences similar latency-related connectivity dark buffer-float problems, creating delays in gaming and affecting time-sensitive communication-related transactions, such as financial and trading markets (Armitage, 2003; Brun, Safaei, & Boustead, 2006). Only if one accepts the correct size of the African continent can it be appreciated how ambitious the idea of connecting Africa using this European benchmark for the Internet is.

Since digital networks are constrained by natural limitations, such as the speed of light, technical limitations, and the information processing capacity of the intermediate technical equipment, the geolocation of connectivity predicts its fitness for use, if this is conceptualised on the basis of latency. Therefore, geographic location is a specific and sensitive factor in the instrumentality of the Internet.

### **Black holes in the global digital landscape**

When matching the hegemonic power centres and their sources of knowledge with daily realities in many African communities, the colonial powers had (and still have) very little information about the real geography, social nature, and local values and means of knowledge production on the African continent. This lack of information translates into gaps in the African information society. Burt (2000), in his work *The Network Structure of Social Capital*, represents society in terms of connections and nodes that deliver a capacity to share information and knowledge. The weaker connections in or between nodes can be represented as 'structural caverns' or 'black holes'. Places that are unconnected or weakly connected with the network, therefore, cannot play a part in the social network underpinning the economy (Burt, 2000). Similarly, Castells (2000) argues that digital technology has created a new social structure. According to him, information processing is the core activity of capitalism within this digital society. Castells refers to the structural holes in this digital social structure as the 'black holes of informational capitalism'.

The concept of ‘black holes’ not only relates to weak connections in the global digital architecture, it also relates to the imperialistic perspective on information. Hence, it relates to what geographically-located people can (or cannot) do when using the digital architecture in an agentic way. From an imperialistic perspective, people living in ‘black holes’ are approached as ‘objects from which to glean information’, or ‘subjects of foreign intervention’. So many people in Africa may recognise little, if any, instrumentality in digital infrastructures. Yet unknown to them, they may be the subject of information harvesting, being monitored by digital technologies. As in the past, these data trajectories are one-directional from the periphery to the centres in the West. Mass surveillance is carried out, for instance, by Western-supported military drone-ports in Africa (Turse, 2015): “For years, American military expansion in Africa has gone largely unnoticed, thanks to a deliberate effort to keep the public in the shadows”. The digital information network that routes messages through its nodes monopolises narratives by filtering communication so it disseminates a dominant story derived from the perspective of Eurocentric social norms. Williams (2017) refers to this as digital imperialism: extending power and dominion by gaining indirect control over the political or economic life of other areas – in other words, the extension or imposition of power, authority, or influence. Black holes are proof of the inability of the architecture and digital infrastructure of the Internet to facilitate African voices on their own terms. This practice perpetuates a super-colonial dominance over Africa.

The imposition of power in the process of digital imperialism not only refers to what technologies are available for use and by whom, but also the norms, values and ways of doing that are implicitly incorporated in these technologies. From their African base, Mawere and other authors (e.g., Mawere, 2014; Nhemachena, 2016; Mawere & Van Stam, 2015) call for the respect of local philosophies and knowledge, countering practices that they labelled as ‘super-colonialism’ (Van Stam, 2017b). Buskens and Van Reizen (2016) point out that Western epistemology, embedded in contemporary ICT, is positioned and imposed as a universal understanding of the

world. They call for the recognition of the diverse and sovereign epistemologies that ICTs should reflect if they are to be relevant to local communities. Williams (2017) calls this digital sovereignty ('your data equals your control'). Mawere and Van Stam (2016a) propose that decolonised African engineers must lead the processes of design and digital engineering for technologies deployed in Africa in order for them to reflect African epistemology and serve African (general) interests.

### **Stuck with this legacy**

In the foregoing, it was argued that contemporary digital architecture is a structure that is historically and geographically informed and reproduces biases in social and political connectivity and access. Hence, digital technology, including ICTs and, for instance, cryptography, is not neutral. It is inherently a set of political tools that incorporate social-political and moral dimensions of inclusion, exclusion and bias (Rogaway, 2015). Logically, it follows that if digital architecture and its application are inherently biased, then they are also inherently potentially harmful. The acknowledgement of this is the first rule for responsible computing (Zook *et al.*, 2017). Concerning Africa, this assertion is especially relevant, given the exploitative basis of Africa's insertion in the global economy and the ongoing appropriation and direction of the flow of goods, information and data from Africa to other continents (Mawere & Van Stam, 2016b).

Can Africa change this reality? In answering this question, digitalisation could be regarded as a 'public good' that is available to all members of society to ensure a life in dignity. In the contemporary international community, national states are identified as the caretakers of public goods in respective societies. In the ideal image, it is the role of the state to provide governance that protects its citizens from (digital) exclusion from these public goods. In this context, digitalisation should be facilitated by the state, as part of its responsibility to provide appropriate governance. In reality, African states are coerced to remain more reliant on external centres of

power, rather than on their internal capacities (Herbst, 1989) and needs. Such dependency has weakened the ability of governments to govern in the interests of their citizens (Davidson, 1992; Mamdani, 1996). Governments in Africa have little if any ability to govern digitalisation as a public good for African people (Abrahams & Mbanaso, 2017), and lack specific decolonisation strategies in education (Chukwueren, 2017). This situation is sustained by the lack of local research and indigenous policy development (Paterson, 2017). Exceptions are home-grown innovations, such as South Africa's Television White Space (TVWS) regulations, which are based on African research (Johnson *et al.*, 2016). African broadband operators typically cream off the 'market' and "serve telecommunication services to limited numbers of wealthier (customers) at extremely high prices for bandwidth and voice" (Avila, 2009, p. 142), and the pricing of satellite connectivity serves crisis management in high price-ranges, but de-favours sustainable long-term connectivity based solutions for end-users (Van Reisen, 2017). The increasing divide alienates citizens, which impacts negatively on the governance, security, and development prospects of African nations (Sommers, 2011).

An additional complicating factor of digitalisation as a public good is the definition of the members of a society. In line with Krohn (2001), we believe that the global information society depends on two main variables: technological innovation (digitalisation) and institutional transformation (states in Africa). When the European colonial actors met in Berlin to divide Africa among themselves (in the Berlin conference in 1884–1885), they were ignorant of the geography and life in most parts of Africa. The subsequent transposition of the Westphalian state model, which was created as a bordered geography in Europe to solve specific contextual problems of governance at that time, was alien to the African socio-political reality. Nevertheless, national borders in Africa, based on this model, were imposed (Mbembe, 2002; Van Binsbergen & Van Dijk, 2004). The aim was to distinguish different areas of colonial rule by each of the European empires in Africa and, in doing so, local and contextual factors that are generally taken into account when borders are established were

not considered (Mbembe, 2002). An estimated 30% of the African borders were drawn as straight lines (Touval, 1966). Even if there was some African participation in some parts in the process of partition, the final borders did not reflect local ethnographic or topographic realities, and they were drawn in total disregard for local needs or the circumstances of the communities (Touval, 1966). Consequently, today, historically-connected communities are under the supervision of different states, which affects the information society at the African level.

### **Digitalisation of human trafficking for ransom**

Borders and cross-border dynamics play a critical role in the political economy of migration, especially what is now often referred to as 'irregular migration' – migration that is not the result of the prior approval of the administrations in the countries of origin or destination. These forms of migration depend heavily on (digital) information networks facilitated by smugglers and human traffickers.

From 1950 to 2000, Africa's urban population increased from 33 million to 288 million, and is expected to increase to 1.3 billion people by 2050 (UNDESA, 2013). Due to various factors, many youth, in particular, have decided to leave their home. These homes are often located in black holes in the digital architecture. Access to relevant information about where to go to increase (economic) opportunities and enhance safety is not available using the Internet, due to lack of access, but is only available from middlemen. These middlemen bridge the gap in the digital black holes and bring (filtered) information to those who want to leave. Therefore, social capital moving in different networks can be seen as a function of brokering these black holes. This idea is supported by Burt (2000), who claims that the nodes of the Internet are connected to a social network of real people who share (filtered) information and knowledge with those who are living in digital black holes. A two-step flow model of communication (Lazarsfeld, Berelson & Gaudet, 1944; McQuail & Windahl, 1993) clarifies this. This model states that individuals are not social isolates, but act as members of a social group or

community. Moreover, it recognises the different roles of individuals in the information society: those who are active in receiving and passing information from the Internet, and those who rely on personal contacts as their information source. Those who are active in receiving and passing information can be regarded as ‘gatekeepers’ (Shoemaker, 1991; McQuail & Windahl, 1993). These gatekeepers are not only selectors of information (what is worth passing and what is not), but they occupy bridging roles between networks of those who do and do not have access to the Internet. Since these gatekeepers are part of the community that is living in the digital black hole (or closely associated with it), they are regarded as a reliable source of information (Kidane & Van Reisen, 2017). Adugna *et al.* (2019) refer to the brokers in migration-routes from Ethiopia to South Africa as ‘door-openers’.

The intricate connection between migration and social networks has been extensively described (e.g., De Haas, 2008; Lazzolino & Hersi, 2017). Several researchers have also described the link between digitalisation and the new realities of refugees (Leung, 2010; Maitland & Xu, 2015). Migrants are facilitated or trafficked along the routes on trajectories towards and along nodes. Outside the digital black holes, in the nodes, information is available, mobile phone payments can be received, and travel along routes can be prepared and resourced (Van Reisen & Mawere, 2017; Adugna *et al.*, 2019). The networks strongly resemble the network of the information society, as observed in a Tweet of a map with old slavery routes (retweeted by Cochetel, 2019).

Youth in particular move from the black holes in the information society towards nodes, and once they have access to greater connectivity they can draw on the support of relatives in diaspora communities to try and make their way along the network to “ever better-connected places” (Dekker & Engbersen, 2013). The directionality is from the South to the West (Nyamnjoh, 2015; Van Stam, 2016c). From this perspective, the nodes function as magnets attracting people out of black holes into the digital information society. At the nodes, smugglers and human traffickers provide those who have newly arrived with further information about possible

destinations and migration routes. Those who leave their homes depend on the information provided by trusted middlemen and smugglers. But can we find empirical evidence to substantiate these observations? The next section looks at whether empirical data relates to the concepts explored in this chapter.

### **Some empirical evidence**

During a research visit to Usuku, Katakwi in Northern Uganda by the first and fourth authors, a focus group meeting was held in which access to phones was discussed. The area is poor in the extreme. From the group of around 30 women, only 5 had a phone (a feature phone). Asked why others did not invest in a phone, the women explained that they would very much like to and that it was a prized item that would give them social respectability, but they explained the phone was too ‘thirsty’: too difficult to charge and too costly to make calls. Those who had phones had received them from someone else; a son or a husband living elsewhere, who wanted to be able to communicate easily with the family and community in Katakwi and who would pay for the phone costs. Those sons or husbands who provided the feature phones were critical gatekeepers of information, even if with the best intentions, and with the power to provide information, take information and remove access to the device (Focus group discussion, Usuku, Uganda, 25 February 2019).

The importance of digital access for young people is well illustrated in an observation by the first and second authors during a field visit to Masvingo, Zimbabwe. During the night all along the fence of the Great Zimbabwe University the researchers observed men standing near the fence, from where they could pick up a free Internet connection available at the campus through a password, which apparently, they could access. During a focus group meeting with teenagers (boys and girls) in more remote towns near Masvingo, they explained that they spend long hours on smart phones. They explained that they were spending (almost) all the pocket money they received from their parents on buying connectivity and charging their phones. The news received through social media on the smart phone

was their main source of information (Focus group discussion, Masvingo, Zimbabwe, 14 October 2018) and youth were the best connected in the community. Here we see that, assuming a community has access, the Internet is the main source of information about local, national and international affairs for those living in remote towns in Africa, but not all community members have access. Consequently, those who do have access to the Internet are the gatekeepers of information for those who don't.

In another research on the origin of human trafficking networks in Eritrea, the first author found through interviews that people working under forced labour conditions in Eritrea on road construction were not allowed to have or bring a mobile phone. The researcher also learnt from another informant that it is extremely dangerous to disobey this rule and that heavy punishments can follow. Given the very tightly-controlled digital environment in the country, any digital material that proves situations of human rights abuse needs to be smuggled out of the country at high risk and with the highest secrecy (M., interview, face-to-face, with Van Reisen, May 2019; T., personal communication, telephone, with Van Reisen, May 2019).

The above case illustrates that connectivity is the first barrier to overcome to gain access to information, especially in remote or (almost) unconnected places in Africa. The urge to be connected to the Internet was also observed in a study among Eritrean youth refugees in a camp that lacked digital connectivity in northern Ethiopia. The researcher found out that the youth had developed ingenious and creative solutions to overcome the lack of connectivity, including, for instance, phoning the European emergency number, which would provide them, not with a response, but with a short connection to a satellite that would allow them to pull in or send messages on Facebook (Schoenmaeckers, 2018). Researchers also found that the youth depended heavily on social media and on digital networks of family members or friends whose information was trusted (Kidane & Van Reisen, 2017). Such trusted digital social networks are crucial entry points for smuggling and human trafficking networks to recruit young people. Moreover, such



trusted networks are misused by human trafficking networks for extortion (A., interview, face-to-face, with Van Reisen, the Netherlands, 5 May 2019), as also illustrated in the following example reported by Spratt for the BBC:

*I'm here to meet 35-year-old Chandani. Just over a year ago a stranger added her on Facebook, she accepted, and soon he slid into her DMs and they began exchanging private, direct messages online. The stranger turned out to be an agent for the traffickers. [...] "Social media has really helped the agents – nowadays they don't have to go to rural villages to find girls," she tells me. "They can just search for potential targets online and send them a message with one click." "There was a man who used to chat with my sister on Facebook," she explains. "He added me and started messaging. [...] When this trafficker messaged her, she was living in a temporary shelter. The agent had already been talking to her sister for months, in effect grooming them both. Then, in the continuing chaos in the aftermath of disaster [the earthquake in 2015], he seized his moment. [...] she was locked in a hotel room with 18 other women for several weeks. Chandani looks away when I press her about the details. I notice her eyes glisten. [...] She tells me she knew she was "about to be sold" because tales of trafficking are everywhere in Nepal. Women grow up being warned not to let this happen to them. (Spratt, 2018).*

For migrants held in detention centres in human trafficking-related situations, access to the phone may present a lifeline to get information out on their predicament, and despite heavy sanctions, the phone may be their most important possession:

*Z: Now he [The Chief of a camp where refugees are held captive in Libya] wants to collect the phone, but they refused. The chief beat refugees by gun, like 20 persons (Z., interview with Van Reisen, WhatsApp, 23 April 2019)*

In battles between different factions in Libya, the Guardian newspaper reported on a situation where hundreds of refugees were left isolated and locked in a hangar, based on footage smuggled out of the place and:

*In WhatsApp messages sent to the Guardian on Tuesday, some of the child refugees said: "Until now, no one came here to help us. Not any organisations. Please,*

*please, please, a lot of blood going out from people. Please, we are in dangerous conditions, please world, please, we are in danger*". (Taylor, 2019)

As the situation worsened, guards reportedly attempted to take the phones from the refugees, who refused at gunpoint to hand these over, reflecting the importance they attach to their phone:

*Tranchina took a statement from a man who escaped from the centre after the militia started shooting. "We were praying in the hangar. The women joined us for prayer. The guards came in and told us to hand over our phones," he said. "When we refused, they started shooting. I saw gunshot wounds to the head and neck, I think that without immediate medical treatment, those people would die. "I'm now in a corrugated iron shack in Tripoli with a few others who escaped, including three women with young children. Many were left behind and we have heard that they have been locked in". (Taylor, 2019)*

Lack of information provided by the gatekeepers also leads vulnerable people into deceitful situations, with little information on which they can base their choices. A refugee secretly sending messages from another detention centre in Libya, reported the following predicament, during a visit by the International Organization for Migration (IOM) to arrange repatriations to the country they had fled from:

*Today the members of IOM came with our chief police of [...the] detention centre<sup>2</sup> and the chief said that for us repeatedly, you must be registered to IOM just like an order. His aim is to return us back to our home country. Surprised we are asking him: why? He gave a surprising answer. He said that after one or few months, war will be started in Libya and the war will affect you. So the only option you have is to return to your home country. We are confused. Why he said like that? What I mean is, if he said like that maybe after few days, he want to sell us for that reason who knows. So, the UNHCR Libya office must take urgent action to evacuate us to the other safe detention centres, or to do something for us. (Z., interview with Van Reisen, WhatsApp, Libya, 6 March 2019)*

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<sup>2</sup> Name withheld to protect the security of the respondent.

The refugees, as reported in this case, are entirely dependent upon information from the gatekeeper who holds them and who has his own interests. It is clear that information is not objective or neutral and in such a setting, where there is no access to alternative sources of information, the gatekeeper has the power to determine what information is provided. If refugees establish their own channels for information, this may become a serious power struggle and a matter of life and death, as indicated in this interview:

*The chief [of the camp where refugees are held] is very dangerous. They collect phone one by one. [...] In Gharyan they remove all clothes from your body then they collect money & phone also documents. Now with the new group in Gharyan only one phone is there. Only after 10:00 pm it [is] turned on. (Z., interview with Van Reisen, WhatsApp, Libya, 18 March 2019)*

Even if a phone is (secretly) available, it may be very hard to send information to the outside world to inform others about what is going on. In a place where refugees are held and in fear of being sold to those extorting ransom (reportedly of around USD 20,000, Z., interview with Van Reisen, WhatsApp, Libya, 17 March 2019), it is real challenge to send information:

*Yesterday I was calling by line but my money is too much few. That's why I cut our conversation yesterday. Totally no network prof. Am not okay to inform anything. This is problem of network data. But I will try every time at night. I will send information until network becomes good. (Z., interview with Van Reisen, WhatsApp, Libya, 11 April 2019)*

Black holes create a situation in which those living in them are dependent upon gatekeepers for information and cannot send information, or only with great difficulty. This establishes a social reality in which the power relations control the information that goes in and out. The digital architecture, with its advanced information network, creates opportunities, but also increases dependency on gatekeepers (or ‘door-openers’, Adugna *et al.*, 2019) for those who have no access. The result is a more pronounced polarisation between those with no access and those who can facilitate access. This

dependency provides fertile ground for exploitation, extortion and the corruption of vulnerable people who seek to move on in order to improve their situation. The human trafficking networks depend on control information in order to avoid reputational damage (Van Reisen *et al.*, 2018). Due to this dependency, gatekeepers can easily exploit the situation which can then lead to human trafficking.

## Conclusion

The Internet and digital infrastructure mirror the architecture of the information society established during the colonial era, and they fulfil the same function in creating the routes and nodes for a global economy driven by corporate expansion in a new time and space dimension. This architecture is not geographically bordered, but extends around the globe – it is not equally distributed. The result is the disempowering of less connected communities (which can include technical, financial, social or legal barriers to connectivity), referred to as ‘black holes’.

The Internet as a public good relies on international geopolitics and on the nation state as the guarantor of the participation and protection of citizens. Yet, states in Africa, as structures inherited from western colonialism, are relatively weak and ill-equipped to counteract the one-directionality of the information society, with digital technologies, services and data directed from hegemonic centres without social contextual embeddedness. The growing inequality emerging from the increasing global digital divide cannot be adequately governed through international bilateral or multilateral cooperation, as nation states in Africa are unable to resist the connected digital corporate economic networks.

The concept of ‘black holes’ in the information society helps to explain why many Africans are forced to move, namely, because of *de facto* exclusion from the benefits of the information or knowledge societies. Excluded from the digital infrastructure, people in marginalised, poorly-connected places depend on gatekeepers, who control the information they receive. As they try to move out of those

caverns and migrate towards the information nodes, they still depend on information provided by gatekeepers, who hold considerable power over these people. At the nodes, they find their way into the information society and enter into its network of routes and trajectories, where new mobility perspectives arise, both in a geographic and social sense. Migration to ‘tap into benefits’ has a long history in colonised, exploited and excluded Africa, resulting in the uprooting of people. In human trafficking for ransom, a *modus operandi* which heavily depends on digital communication, it can be shown that the dependency on information to enter these new worlds gives the gatekeepers one-sided power, leading to the exploitation and extortion of those who are dependent. In the most severe cases of dependency people simply become a tradeable commodity, just as it was in the days of slavery.

Harris (1998) makes the point that the knowledge society was created by *doing*, by a ‘*via activa*’, a way of operating from which architectures arose. So, what solutions are available to change this situation? Latour (1987) proposes that the space-time dimension created by the information society can only be challenged if trajectories are created in different directions. In the spirit of Achille Mbembe, Lovemore Mbiqi, John Mbiti, Sabelo Ndlovu-Gatsheni, Francis Nyamnjoh, Cornell du Toit, and many others, the heritage, epistemology and knowledge in local communities could be used to direct the recognition and handling of information and the production of knowledge and technology in a different way. As this chapter has shown, however, this may be a struggle, as the digital architecture is negatively skewed against such a change and more exploitation may result from this. Hence, it is clear to see that the technical infrastructure of digital technology is not impact neutral. How digitalisation affects societies in differentiated ways is, therefore, a relevant and necessary area of academic inquiry.

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# Network Gatekeepers in Human Trafficking: Profiting from the Misery of Eritreans in the Digital Era<sup>3</sup>

*Mirjam Van Reisen, Klara Smits, Mia Stokmans & Munyaradzi Mawere*

### Introduction

In 2009, the connectivity of mobile phones was realised at a global level (Van Reisen *et al.*, 2018a). Around the same time, a new form of human trafficking emerged in the Sinai desert of Egypt, which came to be known as Sinai trafficking (Van Reisen, Rijken & Estefanos, 2012). Whereas human trafficking usually involves the secret extortion of people, this form of trafficking relied on others knowing what was going on. Vulnerable people who had been displaced from their homes, many of whom were Eritrean refugees, were kidnapped or transported under false pretences, only to be locked in human trafficking warehouses and tortured for ransom. All the traffickers needed was a mobile phone number of a family member

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*Human trafficking for ransom is a new form of trafficking facilitated by digitally-supported communication, particularly, mobile phones. But why do Eritreans appear to be among the most vulnerable to this form of trafficking? This chapter looks at the role of network gatekeepers, and the dependence of Eritrean refugees, who live in a 'black hole' in the digital architecture, on these gatekeepers, placing them at the mercy of smugglers and traffickers.*

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<sup>3</sup> This chapter is based on a presentation at the 23rd Karlsruhe Dialogues held at the Karlsruher Institut für Technologie (KIT) Generale in Germany. A different article based on the presentation was prepared with the working title: 'The (un)intended role of gatekeepers of information in human trafficking in the Digital Era' (authors: Van Reisen, M., Smits, K., Stokmans, M. & Mawere, M.) for the Karlsruhe Institute für Technologie (undated).

or friend of the victim. They would call these numbers and let the relatives or friends hear the cries of those being tortured to induce them to pay the ransom. This new form of human trafficking for ransom depends heavily on digitally-supported communication, especially mobile phones and mobile payments, that can be controlled by the traffickers. The link between the emergence of this form of human trafficking and the simultaneous widespread introduction of digital technology has been described by some scholars (Van Reisen & Rijken, 2015; Van Reisen & Mawere, 2017; Van Reisen *et al.*, 2018a), but remains largely unexplored.

Control over the flow of information accessible to victims – a key characteristic of ‘network gatekeeping’ (Barzilai-Nahon, 2008) – is a necessary condition for the modus operandi used by the human traffickers. As has already been noted, digital technology plays a key role in the modus operandi of human traffickers for ransom, allowing them to exchange information freely, track and target vulnerable refugees, and remain anonymous (DSP-Groep & Tilburg University, 2016; Van Reisen & Mawere, 2017). This chapter seeks to elaborate on the concept of network gatekeepers and their control of information flows in the context of human trafficking, using Eritrea as a case study. It looks at network gatekeepers in a new light, in the context of today’s uneven digitally-connected world, which is exacerbated by the digital architecture in place. As a case-study, this chapter explores ‘gatekeeping’ in the lives of Eritreans during the trajectories of human trafficking that have emerged in the last decade. Eritrea is used as a case study, because it is an extremely closed country, at the bottom of the ranking of free access to information and open communication (Reporters Without Borders, 2019), while at the same time producing a large number of victims of human trafficking relative to other countries (Van Reisen & Mawere, 2017). Eritrea also has a monopolised digital architecture, owned by the ruling party (the only party), which runs the country.

The main research question is: *How is the mediating role of network gatekeepers intertwined with the human trafficking of Eritreans and how does the digitalisation of communication influence this situation?* It is hoped that

answering this question will help us to understand the modus operandi of the network gatekeepers in an uneven digitally-connected world. The study is also expected to provide us with information about the new forms of human trafficking that are victimising Eritrean refugees so that more effective policies can be put in place to stop this tragedy.

## **Network gatekeepers**

Open communication or open access to, and distribution of, information is related to ‘social capital’. The term social capital defines the cohesion of society and its ability to function through shared values and connections (Field, 2008). Social capital relies on the flow of information between people and is, therefore, related to open communication. However, structural holes in communication and information flows exist where the connections between groups are weak. Information brokers can facilitate the flow of information across such structural holes, effectively controlling the information flows (Burt, 2000) and regulating the access to open communication of the people involved. This control over the flow of information is a key characteristic of network gatekeepers (Barzilai-Nahon, 2008).

The concept of network gatekeepers was introduced by Karine Barzilai-Nahon, who focused on gatekeeping in digital networks. She restricted gatekeepers to social entities such as people and organisations and defined ‘gatekeeping’ as “a type of control exercised on information as it moves in and out of gates” (Barzilai-Nahon, 2008, pp. 1496–1497). However, we believe that the architecture of digital networks and the software used (such as apps) also control the flow of information. Consequently, in this chapter we define ‘network gatekeepers’ as social *or digital* entities (such as human traffickers and the architectures of digital networks and software) that exercise gatekeeping. This definition is broader than former definitions of gatekeeping (see, for example, Shoemaker, 1991), as it also includes the information that goes out of a gate, i.e., the information the gated, such as victims of human trafficking, can send to intended receivers of the information, such as relatives or

friends. The gated are people subjected to gatekeeping (Barzilai-Nahon, 2008, p. 1496). The gated can be subjected to gatekeeping by his or her own free will (for example, as a strategy to handle information overload), or have it forced upon him/her (as in human trafficking). A gate refers to an “entrance to or exit from a (social or digital) network or its section” (Barzilai-Nahon, 2008, p. 1496). One should realise that the existence of a deterministic gate is not realistic in social or digital networks, due to the dynamics of such networks, as well as developments in digital and information technologies.

Now that the main concepts are clear, we will elaborate on the process of gatekeeping. Usually, the process of gatekeeping is described by means of ‘gatekeeping mechanisms’, which are defined as tools, technologies or methodologies used to carry out the process of gatekeeping (Barzilai-Nahon, 2008, p. 1496). These mechanisms include different aspects of information handling, such as the selection, addition, manipulation, timing, disregarding and deletion, of information (Barzilai-Nahon, 2008, p. 1497). These actions are performed by the gatekeeper. However, by focusing only on the actions overlooks the social process between the gatekeeper and the gated, as well as the motives of the gatekeeper and the gated to accept or engage in information control. According to symbolic interactionism (Blumer, 1969; Hewitt & Shulman, 2011), these motives dictate what and how gatekeeping mechanisms are performed, as they evolve in the roles of the gated and the gatekeeper, as well as the action-reaction involved in the social process of information control. By looking at gatekeeping as a social process, the relationship between the gated and the gatekeeper becomes the core of gatekeeping. We will investigate this relationship in the case of the human trafficking of Eritrean refugees for ransom. But first, let’s look at the uneven digitally-connected world.

### **The uneven digitally-connected world**

In the current digital era, social connections and information exchange are governed by the spread of digital technology in information exchange. This has created a ‘network society’ (Van Dijk,



2006), which, unfortunately for many, is controlled by gatekeepers and the digital architecture. Castells (2000) argues, in his three-volume work *The Information Age: Economy, Society and Culture*, that digital technology has created a new social network in which information processing has become the core activity of capitalism with little or no participation by other actors in society. Within this digital social network, structural holes exist in which people are not connected to the rest of the world. Castells calls these the ‘black holes’ of informational capitalism. In this chapter, the term black holes is also used to refer to gated areas in a digital or social network. The term describes locations with no, or limited, access to digital networks, software that can only handle specific information, and structural holes caused by incompatible apps or social networks of different groups of people. Information does not flow freely through these gates, but can be mediated by a gatekeeper. These gatekeepers mediate the ability of individuals to access information that is relevant to them and distribute information freely to intended receivers.

So, what is the situation regarding such black holes in Africa? In most parts of Africa, people do not have much say over their digital infrastructure, because information is disseminated and data mined according to Eurocentric norms, which Williams (2017) calls ‘digital imperialism’. As Van Reisen, Mawere, Stokmans, Nakazibwe, Van Stam and Ong’ayo (Chapter 1, *Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent*) show, the structure of the digital architecture bears close resemblance to the architecture of the information society created during the colonial era. During the 16<sup>th</sup> and 17<sup>th</sup> centuries, specific routes (networks) and connection points (nodes) came into existence in which information was collected by the European colonisers and analysed and transformed into general knowledge, which was used by European traders. This knowledge turned into power – the people who were colonised and enslaved could not access this knowledge, nor use these networks and nodes. Van Reisen *et al.* (Chapter 1, *Black Holes in the Global Digital Landscape*) show that this 16<sup>th</sup> and 17<sup>th</sup> century infrastructure provides the foundation for the modern-day digital infrastructure. Old colonial shipping routes and modern-day Internet

routes (its cable networks and trajectories) and nodes, closely resemble each other. In addition, the collecting and handling of digital data is Eurocentric, as in colonial times. As a consequence, a lot of African people do not have access to digital infrastructure and, if they do, the facilities and information provided are predominantly Eurocentric.

This brings us back to the critical role of gatekeepers as information brokers who play a crucial role in social capital by bridging the black holes described above. In the black holes in the digital architecture, those who have access to digital networks and specific apps can become powerful information brokers – or gatekeepers – who control the information flows within and across the black holes. In the context of black holes, information gatekeepers are middlemen and dictate both the information that people in black holes can *access*, and the information they can *produce* and *disseminate* to intended receivers. This is clearly visible in the context of human trafficking for ransom in Africa, where access to digital technology, as well as access to, production of, and distribution of, information is limited, so that gatekeeping is forced upon the gated by gatekeepers, such as human traffickers. In this chapter we will look at the human trafficking of Eritrean refugees for ransom as a case study to investigate the relationship between the gated and network gatekeepers more closely. But before we do, the following section sets out the research methodology.

## **Methodology**

In Sinai trafficking, the first form of human trafficking for ransom described by researchers, the digital phone played a unique role and as many as 95% of the victims were of Eritrean origin (Van Reisen *et al.*, 2012; Van Reisen & Mawere, 2017). Similarly, in Libya, there is currently a large group of refugees of Eritrean origin being held by human traffickers, many of whom are being held for ransom. Eritrean refugees, therefore, appear to be extremely vulnerable to human trafficking for ransom and provide an extreme case to study the interaction between gated and network gatekeepers in the digital era.

Accordingly, the case study presented in this chapter focuses on Eritrean refugees. The study is based on a review of reports and communications with resource persons and victims of human trafficking. Data was collected in focus group discussions and interviews – including through social media. Information was also received through frequent contact on social media and in-depth written engagement with persons held in human trafficking situations. This information was cross checked with experts in the area. In addition, pictures and other visual material was collected to verify the information obtained. Cross checking was conducted to achieve an acceptable level of trustworthiness, proportionate to the extremely difficult area of research being conducted (including personal danger to the informants).

The data was collected in 2018 and 2019. The respondents and informants were of Eritrean origin and were residing either in Europe or North Africa, especially Libya, at the time. Detailed information was obtained from one of the camps in Libya where the refugees from Eritrea were being held. The interviews were carried out by the first and second authors of this chapter. For reasons of safety and security the names of all respondents are treated with anonymity. The next sections present the results of the research

### **The relationship between the gated and the gatekeepers**

In order to describe the relationship between the gated and network gatekeepers, the theoretical framework proposed by Barzilai-Nahon (2008) is adopted. Barzilai-Nahon states that the gatekeeper-gated relationship relies on four characteristics: 1) the alternative information sources available to the gated; 2) the ability of the gated to produce and distribute information freely; 3) the relationship between the gated and the network gatekeeper (directness, enduring nature); and 4) the political power of the network gatekeeper. In this section, we use these four characteristics to present the results of this research on the relationship between the gated and the gatekeeper.

### ***Alternative information sources***

Benkler suggests that the networked information economy increases an individual's autonomy by enlarging "the range and diversity of things that individuals can do for and by themselves" and by giving them an unlimited range of alternative sources of information and communication opportunities (2006, p. 133). However, this autonomy does not result in more freedom or power for ordinary people, due to self-regulation (Sunstein, 2001), strong control by gatekeepers, and black holes in the digital architecture caused by the unavailability of (access to) the Internet or the incompatibility of apps. The autonomy of the gated is contingent upon the gatekeepers legal and social rules, as well as the technologies provided (Barzilai-Nahon, 2008).

In Eritrea, strong controls by gatekeepers and black holes in the digital architecture limit the alternative sources of information available to the general public. The vast majority of information comes from the state media (gatekeeper), relatives abroad (gatekeeper), although this communication is restricted by the risk of surveillance, as will be explained later, satellite radio (gatekeeper) and other gatekeepers within the country, including those involved in human trafficking networks. Digital information plays only a meagre role as an information source, as Eritrea is a black hole in the current digital landscape. The World Bank estimates that in 2017, only 1% of the Eritrean population had access to the Internet (World Bank, n.d.). Internet cafes are available in places such as the capital, Asmara, but access to the Internet there is restricted by the knowledge that the government might be 'watching' – which can be regarded as a gatekeeping mechanism – thereby reducing most of the Eritreans to the status of citizens in a black hole (Chapter 5, *'Sons of Isaias': Slavery and Indefinite National Service in Eritrea*, by Mirjam Van Reisen, Makeda Saba & Klara Smits).

Mobile services are dominated by only one provider, which is Eritel. However, access to sim cards is severely restricted. Sim cards are only available to those with an ID card, and most of the country's youth are not able to obtain an ID, as it is contingent upon finishing

National Service (Chapter 5, *'Sons of Isaias'*, by Van Reisen, *et al.*). In order to obtain a sim card in Eritrea, a customer needs clearance from the authorities managing National Service (R., personal communication with Van Reisen, email, 24 May 2019). The majority of the working population in Eritrea are assigned to National Service, which is open-ended in duration and includes conditions of forced labour (Kibreab, 2017). As it is compulsory and indefinitely in practice, National Service is tantamount to modern day slavery (UN Human Rights Council, 2016).

The reality of this is described by a refugee, originally from Eritrea, now residing in the Netherlands. In his testimony he says that he was forced to work without a salary in construction from 2002 to 2015 when he fled Eritrea. If he did not obey the orders of the military commanders, he was put in prison, which happened twice. Over the years, the situation worsened and he decided to escape. He describes having hardly any access to communication or information:

*We were not able to use a phone. The landlines were controlled and we could not speak freely. We could not give any information. We did not say anything. We spoke only in code. We were not allowed to have a sim card. It was not possible to communicate to explain the severity of our situation.* (D., interview with Van Reisen, face-to-face, 26 May 2019)

At the time of writing, it is still the case that people working on road construction in Eritrea (who are all assigned under National Service) are not allowed to have a mobile phone or a sim card.

Due to this situation, the Eritrean population relies on limited sources for the information they need. A select few may be able to circumvent surveillance and the blocking of social media by using virtual private networks (VPNs), but the Internet speed is so slow that a single message may take minutes or even longer to send.

Those fleeing Eritrea do so to escape repression, especially the indefinite National Service (Melicherová, 2019a), and rely heavily on gatekeepers, often smugglers or traffickers, for information (Van

Reisen & Mawere, 2017). These gatekeepers offer the only opportunity to escape from repression and are, therefore, often hailed as ‘saviours’ and parents tell their children to trust and follow what they say (Van Reisen & Mawere, 2017).

Outside Eritrea, most Eritrean refugees own a smart phone, which is their most prized possession, as it allows them to keep in touch with family and to access information on their destination (Bariagaber, 2013). A study by Kidane (2016) highlighted the reliance of refugee communities on social media for information and found that relatives are the most trusted source of information. However, along the migration routes, technological barriers restrict the use of mobile phones as tools of communication. In research done in one of Ethiopia’s refugee camps, it was found that access to digital networks is highly restricted (Schoenmaeckers, 2018). The study by Schoenmaeckers found that young refugees had to employ all sorts of tricks to get even the smallest signal in order to send a message to their friends and family members, as connectivity in the camps is very poor. Person-to-person contact in the camps was regarded as the most common way of sharing information.

With limited access to digital networks to receive and send information, refugees easily fall prey to gatekeepers such as human traffickers. From the interviews, it emerged that the recruiters for the human trafficking organisations are never far away, with easy-to-find contacts who can tell you who to turn to. As Eritrean refugees often live in black holes and, thus, cannot freely access information, attempts to better inform refugees about the risks of migration are often ineffective. Internet access is too limited and the refugees rely on their close social networks for information (Van Reisen *et al.*, 2018b). In addition, the camp officials who refugees turn to for information or assistance (Schoenmaeckers, 2018) are often unaware of official migration procedures (such as resettlement or family reunification) or not capable of helping the refugees to access these procedures (Chapter 16, *Refugees’ Right to Family Unity in Belgium and the Netherlands: Life is Nothing without Family*, by Mirjam Van Reisen, Eva

Berends, Lucie Delecolle, Jakob Hagenberg, Marco Paron Trivellato & Naomi Stocker).

***Ability to produce and distribute information***

Many technologies facilitate multiple applications that provide ready and easy-to-use apps that produce content that can be freely sent to intended receivers, giving the gated greater autonomy and reducing the control of gatekeepers (Barzilai-Nahon, 2008). However, these apps and the digital networks that make their use possible are not as open and democratic as it appears. Besides technological barriers, there are political, economic, and social impediments that prevent the gated from reaching others with their intended message (Barzilai-Nahon, 2008). In many cases, gatekeepers have created platforms with a specific architecture and specific policies set by the gatekeeper, that restrict what and how information can be posted by the gated. Moreover, by using these platforms, the gated are restricted in terms of the audience they can reach.

In Eritrea, the gatekeepers heavily restrict the opportunities of the gated to produce and distribute information freely. First of all, it is not only very difficult to obtain a sim card and to obtain access to a mobile phone, there is also no free press and limited access to social media, which is further restricted if there is any risk of protest (Africa News, 2019). Even if people do have access to a mobile phone or social media, it is not safe to send information (M., interview with Van Reisen, face-to-face, 26 May 2019; A., interview with Van Reisen, WhatsApp, 12 May 2019). All outgoing phone and Internet traffic is heavily monitored. In 2015, the United Nations Commission of Inquiry on Human Rights in Eritrea found the following:

*The Commission collected a body of testimony that indicates the existence of a complex and multi-layered system to conduct surveillance of and spying on the Eritrean population, both within and outside the country, with the ultimate purpose of controlling it. Information collected through this system is then used to take actions aimed at instilling fear in people and maintaining a state of control leading to arbitrariness that paralyzes them: arbitrary arrests, unjustified detentions, torture,*

*enforced disappearances, extrajudicial killings, etc. [...].* (UN Human Rights Council, 2015, p. 91)

Thus, Eritreans in Eritrea (the gated) have a very limited ability to produce and distribute information freely. This was also indicated by respondents who are forced to work in national service on road construction in Eritrea. When asked whether or not they could send information, pictures or videos to explain their situation, these informants responded that this was not allowed and could put them in great danger (M., interview with Van Reisen, face-to-face, 26 May 2019; A., interview with Van Reisen, WhatsApp, 12 May 2019).

Those fleeing Eritrea are also restricted in their ability to receive, produce and distribute information, as they are often situated in digital black holes with limited or no connectivity. In limited ways, refugees trapped in situations of human trafficking and detention in Libya, attempt to contact many people, including journalists and international organisations, using their mobile phones to call for help (Sunderland, 2019). Using phones in these circumstances can carry great risk, if it is not done according to the conditions set by the human traffickers (Z., interview with Van Reisen, WhatsApp, April–May 2019). Refugees may face severe consequences, such as beatings and torture, over the secret use of their phones and many have their phones taken away from them by force (Smits, 2019). Even in Libya's official detention centres, where horrific abuses also take place, demonstrations are rare and few pictures make it out (France24, 2018). The limited ability of Eritrean refugees to produce and distribute information has meant that they are unable to access protection or be evacuated, such as would be expected under international standards, and the situation remains largely unknown to the public at large (Z., interview with Van Reisen, WhatsApp, Libya, May 2019).

Often, at the start of their journey, refugees are asked for a crucial piece of information by the smugglers or traffickers, people who they think are helping them. This is a phone number of a friend or relative and often a name and address as well (Van Reisen & Mawere, 2017).



Friends or relatives are then contacted by the smugglers/traffickers to arrange payment for their trip. Some refugees enter into 'no-fee' migration deals (they are told they can pay later on arrival at their destination), which turns out to be trafficking for ransom. Even if the refugee has access to sufficient funds to pay (usually obtained from relatives), this is not carried in cash and family in Eritrea or friends in refugee camps or cities are required to arrange the payment on their behalf after they have arrived at their intended destination (Van Reisen *et al.*, 2018b). This illustrates how the different parts of the human trafficking network cooperate and that the refugees are passed from one group within the network to another, perhaps all belonging to the same overarching organisation. Within these umbrella organisations, there are those who play the role of coordinators, for example, the notorious General Teklai Manjus, who played a critical role in coordinating cross-border smuggling from Eritrea during the Sinai trafficking (Van Reisen and Mawere, 2017). Other names repeatedly come up in conversations with victims of human trafficking (Van Reisen & Mawere, 2017).

Much of the information that the refugees produce during their migration is closely controlled and disseminated by the human traffickers to specific audiences. This mainly includes phone calls to relatives or friends who are forced to listen to the torture of their loved ones in order to induce them to pay large sums of money in ransom (Van Reisen *et al.*, 2012). New methods used to extract ransom include digital methods that keep up with the progress of technology, such as embarrassing pictures spread on Facebook (Hayden, 2019) and heart-breaking videos sent to family (CNN, 2018) via Facebook Messenger, Imo or WhatsApp. Whereas in Sinai trafficking, family and friends of victims were forced to listen to voices and sounds, trafficking for ransom has now progressed to videos that are published on social media (CNN, 2018). Digital technology is clearly providing opportunities for human traffickers to hone their modus operandi regarding the distribution of information about victims. In addition, desperate family members often turn to social media and fundraising platforms to collect money. They use the horrific images of torture to crowdfund ransoms (Hayden, 2019).

Although the use of social media may lead to the freedom of individual refugees, when their ransom has been paid – often multiple times – it also leads to ever higher ransoms and increasing numbers of victims.

The sounds and images of torture invoke feelings of shame for the victims. The shaming of victims appears part of a deliberate strategy to disempower the victims of human trafficking for ransom (Z., interview with Van Reisen, WhatsApp, March–May 2019). Images sent by the refugees, as well as those disseminated by the human traffickers, are distributed within the Eritrean community across social media networks. Through the deliberate and involuntary spread of this disempowering information, not only are the victims traumatised, but their friends, families and the wider community as well. This, in combination with the crippling amounts of ransom that members of the Eritrean community have been forced to pay, has led to a situation where the Eritrean community is experiencing collective trauma (Kidane & Van Reisen, 2017). This collective trauma results in ever-increasing profits for the human traffickers. It can also discourage survivors and their families from exposing the practices of human traffickers beyond the Eritrean community.

### ***Relationship between the gated and the gatekeepers***

Putnam, Phillips and Chapman (1996) describe relationships as linkages or ties between nodes, which in our case are the gated and the network gatekeepers. Such linkages have different characteristics, such as reciprocity, directness, and strength due to endurance and frequency of contact between the two nodes (Barzilai-Nahon, 2008; Plickert, Cote, & Wellman, 2007, Putnam, *et al.*, 1996). Reciprocal, direct, and strong relations can produce a platform of negotiation between the gated and the gatekeeper.

First of all, victims of human trafficking do not have a reciprocal relationship with the human trafficker, as the human trafficker dominates the relationship. Smugglers and traffickers work together, keeping in touch using digital technology, to exchange information on refugees' movements and to understand which refugees may be

particularly vulnerable. This exchange is kept secret from the refugees, and when a group guided by a smuggler is intercepted by human traffickers, the smugglers often maintain their innocence in order to protect their reputation, whereas, in reality, they may have orchestrated the interception and profited from it (Van Reisen *et al.*, 2018a). The refugees will remember the smugglers as trusted gatekeepers of information and services. They may communicate the name of a trusted smuggler to family members and friends and may be more reluctant to give information about this part of the human trafficking infrastructure to legal agents.

Secondly, victims of human trafficking rarely have direct, face-to-face contact with the persons at the top of the human trafficking organisation – those organising the business, who decide what the next move will be. The crossing from Eritrea to Sudan or Ethiopia may have been facilitated by someone the refugee knows, or who is introduced by a trusted person, but those in charge of transport, accommodation, and food or those who execute the extortion of ransom and perform torture are different people from different places and of different nationalities. The collection of payments and ransoms is done anonymously, to avoid the tracing of the payments. Digital technology facilitates this anonymity.

Gatekeepers with no bad intentions – handlers or mediators communicating with the traffickers – often use code names and multiple sim cards from providers such as Lebara or Lycamobile, that do not require the users to be registered (Van Reisen *et al.*, 2018a). If friends or relatives are making the ransom payment – which can be from anywhere in the world – they are simply told where to leave the money. A refugee held in Libya explained how the money is paid:

*A: When you enter Libya, the smugglers tell you to pay the chief.*

*MvR: And how do you pay the chief? In Dubai or in Sudan?*

*A: USD 7,500 is all paid in Dubai.*

*A: USD 3,500 is paid in Sudan.*

*MvR: The USD 7,500 that is paid in Dubai – do you pay it to a bank?*

*A: They give only a telephone number in Dubai. Someone in Dubai has to call it, and then pay.* (A., personal communication with Van Reisen, WhatsApp, 16 February 2019)

After the money has been paid through several channels, usually by relatives, a number (code) is communicated to those holding the refugees captive to initiate their release or next transport, although refugees may also be released and sold on to new traffickers who may again extort them for ransom.

A veil of anonymity regarding those in charge of trafficking and regarding payments is used to avoid a direct and enduring relationship that could produce a platform of negotiation between the gated and the gatekeeper. This creates a further power difference and dynamics in the relationship between the traffickers and the refugees. Many victims of trafficking only hear the name of the top-level trafficker in passing, usually only the first name or a nickname. They are not offered a platform for negotiation and are, therefore, completely dependent on what the trafficker wants from them. In addition, the relationship between the gated and gatekeeper is rarely strong. The gated are frequently handed over to other gatekeepers along their journey. The victims are treated as commodities, and often sold from one trafficker to the other.

### ***Political power***

Barzilai-Nahon (2008) argues that this construct is important, as the main objective of a gatekeeper is to control information. The ability to do so can be framed in a power struggle between stakeholders who all have their own objectives or political interests. In the case of network gatekeeping and human trafficking, (political) power can be defined as the ability to get others to do what you want them to do, even if it is against their will (Barzilai-Nahon, 2008; Weber, Gerth & Mills, 1947).

Looking at the political power of the Eritrean refugees in relation to their Eritrean traffickers reveals a fairly straightforward first difference. The United Nations High Commissioner for Refugees

(UNHCR) eligibility guidelines from 2011, which are still in place today, clearly identify Eritrean refugees as in need of international protection (UNHCR, 2011). UNHCR specifies that it is not safe for Eritrean refugees to return to their country, whether through forced or voluntary returns, as repression structures are still firmly intact in Eritrea. The political power in Eritrea is centralised in the hands of President Isaias Afwerki, there is no constitution, parliament or independent judiciary, and are no opposition parties (Plaut, 2017).

Without a free press, people within the country cannot express themselves publicly. Outside the country, even as far as Europe, Eritrean refugees cannot count on the support of Eritrean embassies, which have even been implicated in human trafficking (Van Reisen & Mawere, 2017). Eritrean embassies have also been accused of threats and violence against, and the extortion of, Eritreans in the diaspora, to obtain a 2% diaspora tax, among other things (Buysse, Van Reisen & Van Soomeren, 2017). From this it is clear that within and outside the country, Eritrean refugees cannot count on the support of their government. What is more, within the international political arena, refugees exist in what Peter Nyers calls a “depoliticized humanitarian space” (2006, p. xiii). In the international arena, which is based largely on the concept of sovereignty, the refugee does not fit in.

The human traffickers, on the other hand, enjoy a position of power due to their wealth and connections. Research has shown that trafficking organisations facilitating the smuggling and trafficking of Eritreans have their roots in Eritrea (Van Reisen & Mawere, 2017). The people in control of the human trafficking of Eritreans are Eritrean themselves, those at the top of the regime benefit from it and do nothing to stop it (Focus group discussion, Van Reisen, 28 March 2019). Outside of Eritrea, the human traffickers have been seen as closely cooperating with state actors, such as officials in the Sudanese police, security and intelligence branches and Libyan military and non-state militia. This network gives the traffickers solid political connections and protection. A refugee explained:

*Hegdef [PFDJ, the only political party in Eritrea] collaborates with all the regimes in the region. I was threatened in one country then moved on to the next country. There Hegdef approached me to work with them as informer and they offered USD 50,000. I refused. They sent people who beat me up badly but I still refused. They then attacked my family. They have put several of us in prison in this country. They pay their protection and they have all the power here. I am very scared now. I need to get out. But I don't have any options now.* (B., interview with Van Reisen, face-to-face meeting, Egypt, 6 August 2019).

The political power of the human traffickers and smugglers in the region is confirmed by their use digital technology to gather intelligence, facilitate negotiations and transactions, and coordinate with local authorities. They also exchange information on what routes are safe and whether any law enforcement agents pose a threat to their operations, and they use global positioning system (GPS) to determine what routes to take (Van Reisen *et al.*, 2018a). The traffickers can freely travel in and out of Eritrea, apparently without fear of persecution by the government, as opposed to the refugees they victimise (Sahan Foundation & IGAD Security Sector Program, 2016). Although they operate in an illegal space, the prosecution of human traffickers has been very limited in the context of human trafficking for ransom in Africa and has even ended up in the victimisation of the refugees, as well as humanitarian organisations seeking to assist them (Tondo, 2019; Bulman, 2019). Indeed, government officials up to the highest level are heavily involved in and profiting from smuggling people out of the country and are involved in international organisations for human trafficking for ransom (Van Reisen & Mawere, 2017).

Due to this political power, human trafficking organisations can induce refugees to do things that they might not otherwise do, through information control. Promoting themselves as the only way to safety, the smugglers and human traffickers take advantage of people's desperation and draw people into their networks. This includes taking the dangerous route over the Mediterranean Sea, despite its high risks, as well as accepting being pushed back to Eritrea in 'voluntary' returns, equally knowing the risks of this. Although

refugees are often aware of the risks, they experience high levels of trauma putting them in a hyper-vigilant state (Stokmans & Kidane, 2018). The decision to go along with the human traffickers appears to be instigated by a combination of fear, desperation and manipulation of information (Kidane & Van Reisen, 2017; Z., interview with Van Reisen, WhatsApp, April–May 2019).

The power of human traffickers to induce fear in the refugee is very real, as is apparent from this message received from Libya by a refugee held in captivity in Libya since 2017: “Please remove me first from Libya, because when they know this information they can kill me” (A., personal communication with Van Reisen, WhatsApp, 14 February 2019). Constantly changing sim cards and phone numbers, this refugee is still finding ways of sending information out, but the fear is always with him, making him request that all information received from him is immediately deleted: “Please take this message to your phone, because every time I will make delete after you put in your phone, because I am afraid always (A., personal communication with Van Reisen, WhatsApp, 15 February 2019).

Some refugees held in captivity in Libya operate with a foreign sim card. Z. explains how he set up a French social media number, from captivity in Libya, and why this was necessary:

*My best friend stays in France. [...] I asked him to help me with WhatsApp and Imo through his number, so he download it for me. Because here in Libya any sim card you have you need to buy first, but then you have to come with an ID card. Me, I don't have an ID card, so the only question is how to solve it. How to open a way of sending/receiving information? A sim card in Libya you can buy from these Arabs, but after a short time the man who sold it to you can close it. (A., personal communication with Van Reisen, WhatsApp, 15 February 2019)*

The experiences described show the level of fear induced in refugees in the process of trying to open communication channels and provide information about their situation, but also the difficulties experienced in trying to overcome the gatekeepers who stop them from communicating freely about their situation. This has enormous

consequences. Most refugees do not exist in the digital world and, therefore, there is little, if any, understanding of their situation. They live in black holes in the digital architecture and entirely depend on gatekeepers to help them get information out. This creates extremely skewed power relations and dependency. The dependency of Eritrean refugees on human traffickers can further be illustrated by looking at the alternatives they have open to them, which is the topic of the next section.

### **The dependence of Eritrean refugees on human traffickers**

The results suggest that Eritrean refugees have no choice but to go along with human traffickers to migrate to Europe. This dependency will be illustrated by paying attention to the alternatives open to Eritreans and understanding their autonomy in choosing which alternative to take. This will be discussed by looking at: 1) the alternatives to migration to Europe; 2) the alternative migration routes or options; and 3) the autonomy to choose human smugglers and traffickers. Examining the alternatives open to Eritreans is important as it shows the range of alternatives available to them and the power that smugglers and traffickers have to make them victims of human trafficking.

#### ***Alternatives to migration to Europe***

Starting with alternatives to migration to Europe, these include settling in the region or staying in refugee camps. It should be emphasised that most in fact do take this option. For example, as of August 2018, UNHCR reported that over 170,000 refugees are hosted in Ethiopian refugee camps (UNHCR, n.d.). This count does not include those who have settled directly in cities and other places. Ethiopia's new refugee proclamation (No. 1110/2019), adopted in February 2019 makes it possible for refugees to work and move outside of the refugee camps, facilitating better integration (Ethiopia, 2019). Other countries which host Eritreans include Sudan, Uganda, Israel and Kenya. Uganda, in particular, was named in a resolution of the Pan-African parliament as an example of refugee hospitality, for integrating refugees into host communities as much as possible (Daily Monitor, 2019).



However, the option of ‘not migrating’ is hindered by barriers to settling, which include lack of safety, inadequate provision of basic needs in refugee camps, and lack of livelihood opportunities (Van Reisen *et al.*, 2018b). Officials from Uganda, which hosts nearly 1.4 million refugees, note that, especially as the number of refugees increases, it is a challenge to meet basic needs and provide security and integration opportunities (Malole, 2018). Similarly, officials from Ethiopia have expressed concern about the inadequate conditions in refugee camps in the northern region (Gebreyesus & Schoenmaeckers, 2019; Melicherová, 2019b). An official explained the inadequacy of the services available to deal with the large number of refugees arriving from Eritrea:

*The border situation hasn't produced any change in the number of Eritrean asylum seekers per day, which is 250 individuals. From this total, 25% are unaccompanied and separated minors. The Eritrean government start to kidnap the children to go to SAWA military training. That is why they are coming. Regarding the registration situation, more than 1,000 individuals are staying every day. The services in all camps are inadequate. (T., personal communication with Van Reisen, 1 May 2019)*

Regularly refugees have no free choice, as they are kidnapped and abducted and end up in the hands of human traffickers (Van Reisen & Mawere, 2017; Van Reisen *et al.*, 2012). This particularly, but not exclusively, relates to vulnerable groups, such as unaccompanied minors and young women and men.

### ***Alternative migration routes or options***

Although limited, migration routes to other places exist. Eritrean refugees migrate and are trafficked along Southern (towards South Africa) and Eastern (towards the Middle East) migration routes. Although deaths along these routes have been less publicised, the routes carry equally high risks (Gebre-Egziabher, 2018). Legal, or so-called ‘regular’, migration pathways are also available to some. Eritrean refugees with family members already in Europe may qualify for family reunification. However, there are two main barriers to this: firstly, someone needs to reach Europe and, secondly, regular

migration requires documentation, and refugees often face insurmountable bureaucratic hurdles to obtaining documentation, including having to go to an Eritrean embassy to obtain the necessary documentation, which many refuse to do due to fear (DSP-Groep & Tilburg University, 2016). Other legal pathways are basically non-existent. The European Parliament recently asked for humanitarian visas to be made available to Eritreans through the new EU visa code, but this was rejected by the European Council and Commission (European Parliament, 2018).

### ***Autonomy to choose human smugglers and traffickers***

The final point of analysis is the consideration of alternatives available to refugees to pick and choose human traffickers and smugglers. Operating under the veil of anonymity, refugees do not have options, or what appears to be a choice may only be a pretence. Refugees usually have control over their own mobility only up to a certain point, for example, by withholding payment until their safe arrival at the agreed point. Smuggling often becomes trafficking when the refugees arrive in a situation of lawlessness, such as in Libya. The decision-making ability of refugees is negated by captivity (which involves no access to open communication), lack of food and other basic necessities, lack of access to health care, and subjection to torture, violence and sexual violence. They are no longer in control of their lives. In the worst cases, their family is not able to raise the ransom and they are left without any leverage to negotiate with those holding them. In such cases, the only option may be to follow instructions to carry out tasks to support the human trafficking operation, including by contacting people who are willing to migrate, translating, arranging transportation, and even implementing torture, (sexual) violence, and extortion.

## **Conclusion**

Today's digital architecture produces 'black holes' – places that are unconnected or barely connected. The emergence of black holes in the digital architecture has a strong resemblance to the colonial information society, with the direction of information flows being from unconnected places (e.g., in Africa) to super-connected places

in Europe. The digital architecture and the advances made in digital communication tools and connected information have increased the divide between those who are connected to the digital world – and can make full use of it – and those who are not. This creates a new role for those who facilitate information between connected places and those in the black holes, namely, the gatekeepers of information and the gated. Gatekeepers bridge the inflows and outflows of information from the gated communities and, therewith, have the power to control the information streams. This chapter set out to investigate how the mediating role of network gatekeepers intertwines with the human trafficking of Eritreans and how the digitalisation of communication has influenced this situation.

Previous research has indicated that a lot of Eritrean refugees are victims of a new form of human trafficking, which makes use of all kinds of digital tools, particularly information and financial flows and GPS. As the modus operandi of human traffickers is evolving with the introduction of new technologies, it appears that digitalisation is creating new opportunities in the human trafficking business. These digital innovations, however, are not available to Eritrean refugees, due to stark differences in connectivity, as well as access to digital services. When an Eritrean refugee is a victim of human trafficking, the traffickers control the information stream between the refugee and his/her social network. They are the gatekeepers of information and have total control over information flows. However, a lot is still unclear about the relationship between the gatekeepers of information and the Eritrean refugees (the gated). Which gatekeepers introduce Eritrean refugees into the network of human traffickers, and how does the relationship between the gatekeepers and the gated evolve into a situation of total control by the gatekeeper over the gated?

This reality is investigated by studying the situation of Eritrean refugees through the theoretical framework of network gatekeeping proposed by Barzilai-Nahon (2008). This paper assessed four factors to determine the extent to which Eritrean refugees were dependent on gatekeepers for information. The first factor regards the

alternatives available to the refugees to get information about migration options. This research found that Eritrean refugees are trapped in black holes within the digital infrastructure. Moreover, the Eritrean government controls all the media, as well as the information flows. This considerably restricts Eritrean's free access to information about migration options. The information about opportunities to migrate to, for example, Europe is provided by trusted middlemen who are connected to smugglers. This research indicates that the trafficking of Eritrean refugees is facilitated through social networks controlled by Eritreans, which have their roots in Eritrea. When human rights abuses in Eritrea prompt someone to flee, they rely on information provided by these middlemen and smugglers who have ties to human traffickers.

The second factor is the ability of the gated to produce and distribute information. This research indicated that in Eritrea, information streams are under the full control of the government. It is very difficult to obtain a sim card and citizens face severe consequences for the unauthorised use of mobile phones. Consequently, the ability of Eritreans to produce and distribute any information about migration to Europe to family or friends is severely restricted. If refugees are on the move, they are probably under the control of human traffickers, who have full control over the information produced and distributed by the refugees. Although most victims have a mobile phone and are able to obtain access to services, such as social media, despite low connectivity, the tool they use for communication (the mobile phone) becomes a tool of extortion (to collect ransom). This paper argues that Eritrean refugees are forced into the role of passive *gated*, whereas human traffickers assume complete control of information and act as the *gatekeepers*. The images and communications that do come out, and are shared freely across social media, are facilitated by the human traffickers. They are horrific images and sounds of torture that are produced to extort ransom from the refugees. This traumatises the victims, as well as members of Eritrean society, who resort to loans and crowdfunding to collect the money to pay for the release of victims.

The modus operandi of the human traffickers is such that no enduring relationship between the gatekeeper and the gated evolves (the third factor). Such an enduring relationship could give refugees an opportunity to negotiate. However, victims of human trafficking are handled as commodities who are passed on to different people along the trajectory who remain anonymous. Consequently, the relationship between the human traffickers and the refugees is indirect and veiled in anonymity, ensuring that no platform for negotiation is possible. The top-level traffickers remain safely hidden. This sets up a distorted relationship between anonymous, but powerful, human traffickers and their victims, ranging from Eritrea to Europe.

The research found that the Eritrean refugees have limited if any political power, either before or after they flee Eritrea. The human traffickers hold political power through their wealth and ability to operate in lawless areas, as well as cooperation with state actors involved in the human traffic networks. Through the control of information, they are able to force the refugees to enter their world. The absolute control gatekeepers of information have in new forms of human trafficking puts them in an almost untouchable position. This facilitates the human trafficking trade and protects the human trafficking organisations. Moreover, it misleads policy orientations, as gatekeepers control the flow of information, not only to the victims of trafficking, but also to those orientated to fight it.

The fact that the gated have very little control over information flows in any part of the migration process goes against the push-pull theory of migration, which underlies much of the policies implemented by the European Union to stop irregular migration. This theory assumes that refugees make calculated decisions, weighing the pros and cons of migrating to Europe (Van Reisen *et al.*, 2018b). In contrast, this study found that information is tightly controlled by the human traffickers as gatekeepers and factors that may provide agentic space to act to the refugees as the gated are lacking.

The policy implications of this are that human traffickers should be regarded as central actors in the migration decisions of refugees and that those decisions are not made freely. The control of information by gatekeepers is used to force refugees into lucrative human trafficking situations to extort ransom. One approach to changing this dynamic is to increase protection by the international community and supported by key political actors, such as the African Union (AU) and EU, that gives the refugees more agency and political power, by increasing their ability to produce and distribute information freely. International protection of Eritrean refugees in countries such as Ethiopia, Uganda and Sudan and providing adequate means to communicate, earn a living and integrate should be supported. In this way, the business model of human traffickers is challenged, as it is based on gated information and the creation of black holes in which people become entirely dependent on the information provided by gatekeepers who are intertwined with the trafficking networks.

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# Bound Together in the Digital Era: Poverty, Migration and Human Trafficking

*Munyaradzi Mawere*

### Introduction

Mixed migration is a hot topic of discussion at the moment with talk of a ‘migration crisis’, viewed mostly from a Western perspective. At the same time, human trafficking has become a global epidemic, which occurs in all countries of the world, but more often from ‘less developed’ to ‘developed’ countries. Although different in scope and nature, trafficking is often conflated with mixed migration. There is a relationship between the two phenomena – although this link is not always clear.

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*Poverty in the digital era has a new face. Those living in poverty are often attracted by the opportunities offered by migration or targeted by traffickers, who lure them with false promises of marriage or a high-paying job. However, rather than lifting them out of poverty, many find themselves trapped in a cycle, where poverty drives migration and trafficking, which results in more poverty. The solution? Tackle the root cause: enhance livelihoods and the resilience of vulnerable people living in poverty by democratising access to digital innovation.*

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Analysis of the literature on trafficking in persons and mixed migration shows that there is a lack of research in Africa on the link between poverty, human trafficking and mixed migration. For instance, Kashumba (2014, p. 3) observed that “the prevalence of human trafficking and mixed migration in Zimbabwe has not been empirically and scientifically verified due to challenges which include the absence of enabling legislation and limited funding to undertake the research at a national level”. The question, therefore, remains: *What are the root causes of human trafficking and mixed migration?*

This chapter looks at the underlying causes of human trafficking and mixed migration in the context of mixed migration trajectories, with a focus on Africa. In the following sections, I will critically examine the intricate relationship between human trafficking and mixed migration, and how the two are connected to poverty. I will then look at the political-economy sustaining human trafficking and mixed migration in an attempt to unravel their underlying causes. Finally, I will come to some conclusions and hopefully inform those who seek to make policies to protect those vulnerable to human trafficking and to enable Africans to find futures at home.

### **The relationship between human trafficking and mixed migration**

Although a relatively recent phenomenon, mixed migration has come to mean different things to different people depending on their orientation. The term has become the latest buzzword, assuming different definitions and interpretations, both conceptually and historically. It has indeed become “the cliché of our times” (Held, McGrew, Golblatt & Perratin, 1999, p. 6), with scholars like Castles and Miller (1998) pronouncing that “we are living in the age of migration”. However, generally speaking, mixed migration can be understood as the complex and irregular movement of people to a foreign country for a certain length of time and includes refugees, asylum seekers, economic migrants and other migrants (UNHCR, 2006). It can be broken into four different sub-categories, some of which overlap: migration, irregularised migration, smuggling, and human trafficking. These categories, captured under the rubric of mixed migration, serve as a contra point to the concept of ‘mobility’, which is generally understood as a positive thing, practised for economic growth, tourism, upward mobility, exposure and experience.

Human trafficking can be understood as one element of mixed migration. Van Reisen and Rijken (2015) describe how the terms smuggling and human trafficking are often used interchangeably, depending on the person’s knowledge of the deliberate exploitative

nature of the journey. Smuggling can also become trafficking: migrants may initially pay smugglers to start their journey, but end up in the hands of traffickers. Human trafficking often has multiple layers and can be difficult to distinguish from mixed migration, particularly migration in irregularised situations, where people without documents are assisted to illegally traverse national borders. In fact, many migrants in irregularised situations use smugglers to facilitate their journey, inadvertently ending up in the hands of traffickers. The United Nations Convention on Human Trafficking defines human trafficking (or trafficking in persons) as:

*...the recruitment, transportation, transfer, harboring, or receipt of persons either by threat or use of abduction, force, fraud, deception or coercion, or by the giving or receiving of unlawful payments or benefits to achieve the consent of a person having the control over another person for the purpose of exploitation. (UNODC, 2004)*

Similarly, the US Department of State (United States, 2013) defines human trafficking as “the act of recruiting, harboring, transporting, providing, or obtaining a person for compelled labour or commercial sex acts through the use of force, fraud, or coercion”. It is on this basis that the US Attorney General, Loretta Lynch, in her introduction to the *National Strategy to Combat Human Trafficking*, describes human trafficking as: “a devastating crime that threatens society’s most vulnerable members, exploiting them for sex, labour, and servitude of all kinds... destroying families, shattering lives, and undermines our most fundamental beliefs about the dignity of all people” (United States, 2017).

The term mixed migration seems to be associated with poverty, not mobility, and has a negative connotation. However, mixed migration may include the movement of highly skilled and wealthy people, as well as unaccompanied minors, smuggled persons, stateless persons, victims of human trafficking, stranded migrants and other vulnerable persons in transit. Different forms of migration are highly stigmatised. In Zimbabwe, the local Shona vernacular distinguishes ‘bad’ migration (*kujamba bhodha*/border jumping) from ‘good’ migration (*kuenda mhiri*/going abroad). In the first form, the people

involved usually migrate illegally to another country without proper documentation (such as a valid passport), mainly because they cannot afford to secure proper documentation. These people are generally fleeing poverty in the place of origin. This differs from the good form of migration, which refers to people who go abroad and who, because of their status (as wealthy or educated), can financially and legally afford to travel. This means that migration has different values attached to it. While seeking to become part of the 'good' high-end spectrum of migration, mixed migration trajectories are followed. Human traffickers and smugglers prey on people with such aspirations.

A close look at human trafficking and mixed migration clearly shows that both are complex, multi-layered and diverse social phenomena, especially if we realise that the movement of both migrants and human trafficking victims can be forced. In addition, both types of migrants are increasingly making use of the same routes and means of transport to get to their destination (Van Reisen & Rijken, 2015). Worse still, where legal entry to the preferred state is impossible, both mixed migrants and human trafficking victims often use the services of human smugglers, putting their own human rights at risk. Thus, more often than not, mixed migrants and the victims of human trafficking are both vulnerable groups – the defenceless and people in poverty – whose rights end up in the hands of criminals. Their situations pose a formidable challenge to humanitarian aid actors in terms of accessing and assisting these people.

In addition, there can be a continuum between mixed migration and human trafficking as migrants – for example, economic migrants and refugees – can become trafficking victims, and vice-versa. Different forms of migration may intersect at some point in the migration process, for example, in relation to the motivation to move, use of the same agents or brokers, and interactions with mixed communities. This mixed migration-trafficking nexus makes human trafficking and mixed migration a more complex multi-layered problem that needs researching beyond the borders of one discipline in order to understand and contain it. Thus, although different in nature and

scope, efforts to address the problems associated with mixed migration and human trafficking go hand-in-hand, making it even more difficult to deal with either issue, especially at policy and judicial levels:

*Trends in global patterns of migrant smuggling are difficult to assess. A range of factors such as the lack of regular migration channels, high visa fees, the often lengthy bureaucratic procedures and increasingly restrictive entry requirements, coupled with a demand for the various contributions migrants make and services they provide, may create the conditions and incentives for migrants to engage the services of smugglers.*

(United Nations, n.d.)

Mixed migration, therefore, encompasses those forms of migration that are the opposite of regularised and organised migration for work in formalised market environments. It is understood in this chapter as mobility that can change form during the one journey. Mixed migration is generally carried out along migratory pathways in which regularised and irregularised migration, as well as smuggling and human trafficking, may be present simultaneously or successively in one trajectory. Thus, mixed migration can also involve human trafficking.

### **Poverty, the main driver of mixed migration**

In Africa, poverty remains an issue, not because the continent lacks natural and human resources, but due to the continued influence of neo-colonialism, which maintains a stranglehold on Africa and its resources. While poverty on the continent was previously driven by conquest and subjugation by the colonial regime, which, besides looting, instituted the privatisation of communally-owned resources, today it is perpetuated in more subtle ways, such as direct resource externalisation, under-invoicing, tax evasion, capital flight, corruption, bribery and debt repayment, all with the complicity of African governments (Mtapuri, 2017; Mawere & Nhemachena, 2017). One of the most debilitating aspects of the fight against poverty on the continent is the political denial of the fact that poverty is manmade and the result of the denial of rights.

One of the major problems that co-exists with poverty is migration, which also promotes (human) capital flight from Africa, thereby, depriving the continent of its human resources. Mixed migration is acknowledged as having multiple causes (see, for example, Brewer, 2008; Lehnardt, 2016), which vary from one country (or place) and continent to another. However, in many countries of the world, especially in Africa, there seems to be one main cause of mixed migration: poverty.

This brings us to the topic of development, and the relationship between migration and development. De Haas, a leading scholar in the area, warns against a deterministic theorising of the relationship between migration and development. He claims that development may in fact encourage migration, stating:

*Rather than absolute poverty, a certain level of socioeconomic development, combined with relative deprivation in the form of global inequality of development opportunities, seems to be the most important cause of migration. To a large extent this can also explain why leading emigration countries (e.g. Mexico, Morocco, Turkey, the Philippines) typically do not belong to the group of least developed countries. (De Haas, 2005, p. 1271)*

Warning against a naive connection between migration and poverty, De Haas (2010) proposes an empirical-based approach to explain the relationship between migration and development.

While the link between migration and development has been extensively studied (for an overview, see De Haas, 2010), the causes of new forms of human trafficking and its rapid expansion in the last decade have been much less considered. Chuang (2006) warns that the socio-economic causes of human trafficking are often overlooked and points to the need to address lack of access to economic, social and cultural rights as a long-term remedy to effectively combat human trafficking. Poverty, which can be understood as the *lack* of material or immaterial ‘necessities’ (see Mawere, 2017; Sen, 1999), creates and sustains the economy of mixed migration and human trafficking. There is an intricate relationship between poverty and mixed



migration/human trafficking, in terms of both their root causes and their impact on human society, as will be discussed in the next section.

### **The cycle of poverty and human trafficking**

The past few decades have witnessed an uptick in human trafficking (Finn, 2016; SIDC, 2003; Russell, 2014). It is widely acknowledged that poverty is both a cause and a consequence of human trafficking (in as much as it is also a cause and a result of mixed migration) (Mawere, 2017). Abundant literature on human trafficking exists. Most of it, understandably, emphasises economic hardship, political instability, lack of a safe environment for children, early marriages, population explosion, discrimination, and lack of birth registration as causes of human trafficking (see, for instance, Brewer, 2008; Lehnardt, 2016). These are all symptoms of poverty.

Basing his argument on a literature review, Adepoju (2005) identifies the root cause of human trafficking as poverty, citing “deepening poverty, deteriorating living conditions, persistent unemployment, conflicts, human deprivation, and hopelessness” (see also, Salah, 2004). He states:

*Deepening rural poverty forces poor families to give up their children to traffickers, under the pretext of providing them the opportunity to secure good jobs and better lives (Dottridge, 2002). Poverty, lack of access to education, unemployment, family disintegration as a result of death or divorce, and neglected AIDS-orphaned children, make young persons vulnerable to traffickers (ILO, 2003; Moore, 1994). (Adepoju, 2005)*

As mentioned in the previous section, poverty is multi-dimensional and generally connotes a state of lack (of necessities, opportunities, and freedom) (see Sen, 1999; Mawere, 2017). This resonates with Ramlogan’s (2004, p. 140) observation that “poverty, in its most extreme form, is the condition that exists when people lack the means to fulfil basic human needs, adequate and nutritious food, clothing, housing, clean water, and health services”. It also coheres with Narayan and the International Bank for Reconstruction and

Development's (2000, pp. 4–5) assertion that poverty is a multi-dimensional deprivation that “includes hunger, illiteracy, illness and poor health, powerlessness, voicelessness, insecurity, humiliation, and lack of access to basic infrastructure”. Poverty, therefore, undermines people's liberty to make independent decisions over their own lives; it robs them of the chance to decide on matters of basic importance to them as people and is, therefore, a denial of rights.

Poverty has political, economic, cultural and social implications. It renders people powerless: it deprives them of choice, access to protection from the violation of their rights, and access to material resources. The powerlessness and vulnerability that come with poverty render victims worthless and prone to making risky choices (Kidane & Van Reisen, 2017). Such choices may “include resorting to migrant smugglers, which in turn makes them more vulnerable to trafficking in persons (TiP) and associated forms of exploitation and abuse” (United Nations, n.d.).

Unfortunately, there is a knowledge gap that exists on the link between poverty and the various forms of human trafficking, as well as how to combat them. More specifically, poverty is rarely considered as the greatest contributor to human trafficking in global discussions and national-level policy frameworks, such that the nexus between them remains underexplored. The few studies that do link poverty to human trafficking focus more on the feminisation of poverty, as they seek to link poverty and human trafficking with the sex trade (Fayomi, 2009; Bancroft-Hinchey, 2001). This calls for a need to constantly interrogate the epistemological, methodological and theoretical approaches to the study of human trafficking.

Inserting Africa and its people at the centre of that interrogation, I argue the centrality of poverty as a cause of human trafficking (and migration), which is supported by the fact that there have been several decades of initiatives to curb trafficking in persons that have failed to improve the situation of the vulnerable and those in poverty. Basically, there is a two-way causality, whereby people (and countries) in poverty have a greater disposition to human trafficking, while at

the same time poverty itself is an outcome of human trafficking. In other words, poverty can put people at risk of human trafficking and human trafficking results in poverty.

In many countries in Africa, victims who are living in extreme poverty, who have limited economic and social opportunities and are largely unprotected in terms of their rights, are often targeted by traffickers who lure them to leave their homes with false promises of marriage, high-paying jobs, and a good life. Observing the situation in Africa, a report by Swedish International Development Cooperation revealed that:

*People become the victims of human traffickers mainly due to inequitable resource allocation and the absence of viable sources of income. Families have no assets and incomes are inadequate. In the countryside, agriculture is less profitable than formerly and land has become increasingly scarce. Women and children are therefore compelled to contribute more towards the family's subsistence than in the past. Households become increasingly vulnerable as margins shrink. Social security schemes are either lacking or do not reach the poorest, most disadvantaged sections of the community... In many countries in Africa, the spread of HIV/AIDS places ever increasing responsibility for support on the surviving family members, themselves often children. The principal economic causes on the demand side of the equation include the substantial profits to be made in the sex trade and the call for cheap labour. (SIDC, 2003, pp. 15–16)*

In Africa, the vulnerable – particularly women and children – are the most targeted when it comes to human trafficking. Women comprise at least 56% of the world's trafficking victims (Kubatana.net, 2010). The presence of women and children as victims of human trafficking can be explained by the feminisation of poverty, in that women and children can access rights to a lesser extent and are, therefore, more prone to exploitation and extortion in mixed migration trajectories. However, Yuval-Davis (2009) observes, importantly, that human trafficking is larger than just a gender problem and she warns that the equation of women and children as the sole victims of human trafficking creates a bias in the empirical understanding of human trafficking. She states that “the idea of a female ‘victim’ of trafficking

who is in need of ‘rescue’ and ‘return’ is a pervasive image that is often conjured up and negates scholarly attempts to establish a more nuanced understanding of the complexities of trafficking” (see also Jeanse, 2007; Jobe, 2008; Ihme, 2008; Gregoriou, 2018).

Once entrapped, traffickers manipulate the victim’s lack of means to get themselves back home, limited ability to communicate in the language spoken in the place where the victim is dislocated, and isolation from friends and family to compel them to comply with the traffickers’ demands. The label of ‘illegality’ that is increasingly accompanying persons in ‘mixed migration’ trajectories, compounds the denial of their right to protection and inclusion in the place where the migrants find themselves.

Moreover, “while often thought to be largely comprised of sexual exploitation, people are also trafficked for the purpose of forced labour, i.e., working as domestic servants without pay or similar practices” (Finn, 2016, p. 2; see also Reianu, 2012). However, some, especially in Africa, are trafficked for ritual purposes. Markets for body parts in Africa are on the rise, with the number of missing women and girls shooting up, as some people believe that human body parts, especially those of women and girls, enhance profits in business (The Herald, 2007; United States, 2009; The Australian, 2004).

Studies on trafficking in the Southern Africa region (IOM, 2003; Katerere, 2007) estimate that 1,000 Mozambican women and children are trafficked to South Africa every year for slavery and sexual exploitation, while in Zimbabwe over 200 women were allegedly lured by Kuwait’s former ambassador to Zimbabwe, Ahmed Al-Jeeran, before being trafficked to Kuwait with the promise of lucrative jobs (All Africa, 2016). A report by the Daily News in Zimbabwe alleged that, “from February to August 2016, Zimbabwe has been affected by trafficking in persons at an unprecedented scale, with an estimated 200 victims trafficked to Kuwait, and just over 101 repatriated by August 2016” (Mananavire, 2016). Survivors of trafficking described themselves as socio-economically disadvantaged

people, impoverished by the faltering economy in Zimbabwe, who were lured by opportunistic predators who promised them lucrative jobs. Some of the women trafficked were sexually abused while others were subjected to forced labour and other forms of slavery. A report released by News Day in May 2016 spoke of 32 women who had returned home after escaping from their captors; one was pregnant from sexual abuse (News Day, 2016). The US State Department's Trafficking in Persons report states the following:

*South Africa is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. South Africans constitute the largest number of victims within the country. South African children are recruited from poor rural areas to urban centers, such as Johannesburg, Cape Town, Durban, and Bloemfontein, where girls are subjected to sex trafficking and domestic servitude and boys are forced to work in street vending, food service, begging, criminal activities, and agriculture. Many children, including those with disabilities, are exploited in forced begging. (United States, 2016, p. 2)*

In 2013, the US State Department's Trafficking in Persons report revealed that Kenya, Uganda, Tanzania, Rwanda and Burundi are among the nations that remain source and destination countries for men, women and children subjected to forced labour and sex trafficking (United States, 2013).

Given the exploitative nature of human trafficking, the worst form is equal to slavery. Without control over their body and mind, and in no way benefiting from the profits made from their exploitation, the victims of human trafficking are held as slaves. The Global Slavery Index (Walk Free Foundation, 2014) estimated that 106,000 people were enslaved in South Africa, while Nigeria and the Democratic Republic of Congo had 762,900 and 834,200 enslaved people, respectively.

### **Deliberate poverty**

The process of human trafficking can be divided into three main phases: recruitment, transfer from the country (or place) of origin,

and exploitation. Of interest here is the third phase, where it becomes clear that the victim has been trafficked. Trafficking is made possible by the deliberate impoverishment and control of the victim. This is explicitly captured by Van Reisen, Estefanos and Reim (2017) in relation to human trafficking in Eritrea; these authors argue that, through its state officials, Eritrea has been engaging in the trafficking of its own people for ransom since the end of 2010 or even earlier. As the authors note, “a deliberate policy of impoverishment [in Eritrea] is at the basis of the system, which promotes the black-market economy and creates dependency” (Van Reisen *et al.*, p. 22). The authors emphasise the deliberate creation of a poverty-based society as prey for the human traffickers, made possible by complicity between officials and human trafficking networks.

In Southern Africa, especially Zimbabwe, the black-market economy has dominated since the dawn of the new millennium, forcing many into unemployment and poverty. A former teacher previously employed in the Zimbabwean Ministry of Education, who is now a black market money changer in Masvingo City, commented as follows:

*With the current inflation in Zimbabwe, working in the formal sector has become useless. Basic commodities have become scarce in the formal market. You go to the black market, everything you want is found in excess, but at an exorbitantly high price. What pains most is that the black market is sustained by the government bigwigs-cum-business people, who create artificial shortages so that they [can] channel the basic commodities to [the] black market where they fetch more. The situation is difficult to control because those who should control it are government officials (or highly connected people linked to government officials), who happen to own the black market. It's difficult, but who suffers is us the ordinary people. This is why many people, especially the young and unemployed, go out of the country, others ending up in the hands of human traffickers. (Anon., personal communication, 30 October 2018)*

What the government officials in Zimbabwe and Eritrea have been allegedly involved in may be regarded as a deliberate attempt not only to impoverish, but to dehumanise and control their people. This, the

officials do by making sure that everyone focuses on survival. This is a form of manipulation aimed at stifling people's self-respect and limiting their potential to influence events. In this way, the officials keep a tight grip on both political and economic power.

Also, important to note is that trafficking does not only occur across borders, but also happens inside a country. There are cases of under-aged forced marriages. In addition, many young girls are brought from rural areas and exploited as maids in domestic servitude after being promised a good salary; young boys are brought to farms and exploited as farm labourers after being promised good working conditions. All are forms of internal trafficking. Furthermore, indefinite conscription in the military, such as in Eritrea (United Nations, 2016), which qualifies as slavery according to the United Nations, is another form of deliberate impoverishment and servitude.

Human trafficking is described by many scholars and organisations as modern-day slavery (Fayomi, 2009; US Department of State, 2009). The suffering involved in human trafficking makes it one of the most despicable, degrading and inhumane forms of abuse and exploitation, one that fragments communities, distorts victims' personalities, disrupts their family institutions, and leaves them broken and impoverished. The cost of human trafficking to its victims is incalculable and the ill-treatment suffered ranks among the most abusive and damaging atrocities in human history. What also remains clear is that there is a cyclical element to trafficking that involves being trapped in a cycle of poverty and vulnerability on which human trafficking networks prey, rendering communities and people even more vulnerable as the cycle goes on (see also, Van Reisen, Estefanos & Rijken, 2013).

### **Trafficking in a digital age**

With the spread of digital technology, human trafficking and mixed migration have become even more common and complex. Technology has made trafficking easier. It has made people more mobile and opened up new ways of communication, facilitating the

transfer of money and information beyond borders. Global communities (diasporas, family and friends in the country of origin and fellow migrants) support each other, increasing the access of migrants to economic and social capital (De Haas, 2010; Ong'ayo, 2019). However, such technology has also affected the social fabric of communities (Van Stam, 2017) and undermined systems of social protection in local spaces, resulting in new forms of vulnerability and insecurity.

What is even more worrying is that technology continues to transform in a manner that outpaces current trends in human security. The differentiated access of people to technology is exploited, resulting in new and extensive intercontinental human trafficking operations supported by digital technologies (Van Reisen & Mawere, 2017; Van Reisen *et al.*, 2017). In a recent study, Van Reisen and Rijken (2015) elaborated a new form of human trafficking – human trafficking for ransom – which they say is specifically related to digitalisation. The authors point out that trafficking for ransom emerged more or less at the same time as mobile connectivity became a global phenomenon and is now common at the border between Eritrea and Sudan, as well as in countries like Mexico, Malaysia, and the United States of America.

Digital technologies have allowed those at the top of the human trafficking networks to remain invisible, directing global networks of handlers to do the dirty work, while they enjoy the profits, enabling them to invest in new routes in order to traffic even more victims. Remittances through mobile money transfers facilitate such journeys, while further impoverishing communities and relatives in the diaspora and enriching the global criminal human trafficking networks, which continue to operate largely with impunity.

### **Slavery and trafficking for ransom: A profitable industry**

Adepoju (2005) identifies different forms of human trafficking within Africa, including the trafficking of women and children from rural areas to capital cities for bonded labour, as well as onwards journeys



to Europe (Veil, 1998), pointing to the global connectedness and organisation of such trade. Worldwide, human trafficking has resulted in an estimated 27 million victims, with at least 14,000 people being trafficked annually into the United States (ILO, 2012; Gutow, 2010). Victims are reduced to commodities and traded on the international market. The ‘industry’ brings in annual profits of about USD 32 billion worldwide to perpetrators and is the third largest illicit economy in the world, after drugs and arms smuggling (Chiweshe, 2017). As Ludwig Fairberg, a convicted trafficker, revealed: “You can buy a woman for USD 10,000 and make your money back in a week if she is pretty, healthy and young. Then everything else is profit.” (Fairberg, cited in Lehnardt, 2016, p. 2)

Lehnardt goes on to say that:

*A human trafficker can earn 20 times what he or she paid for a girl. Provided the girl was not physically brutalised to the point of ruining her beauty, the pimp could sell her again for a greater price because he had trained her and broken her spirit, which saves future buyers the hassle. A 2003 study in the Netherlands found that, on average, a single sex slave earned her pimp at least USD 250,000 a year. (Lehnardt, 2016., p. 3)*

Shifman (2003) shows that human trafficking is increasing each year, as its lucrative nature continues to attract more traffickers. While human trafficking is historically a recurrent phenomenon, more people are currently living in bondage than at any other time in human history (Gutow, 2010). Although reportedly concentrated in South Asia, Northern Africa, East Asia, and Latin America, human trafficking, as with mixed migration, affects every country in the world, either as countries of origin, transit or destination.

Regrettably, although there is ample evidence that human trafficking occurs in Africa, there has been no systematic study on how the

practice is carried out. A study by the Swedish International Development Cooperation found that:

*Although data for other areas in Africa are sparse in the extreme, there is evidence that the trafficking in persons does occur. Women and children are transported from different parts of Africa to the Arabian Peninsula, Europe and other African countries. The victims are usually exploited for sexual purposes, domestic work or as cheap labour. For example, South Africa has now become a destination country, reflecting the rapidly expanding sex trade there. Crime syndicates from Central and Eastern Europe, South Asia and West Africa are thought to be involved in the trafficking. (SIDC, 2003, p. 13)*

In a study on human trafficking for ransom in the Sinai, Van Reisen *et al.* (2013) estimated that 35,000 persons had been trafficked between 2006 and 2012 for a total estimated value of USD 600 million. These ransom payments are nearly all profit, once the cost of transport and protection money to pay off officials and handlers have been subtracted. This makes trafficking a profitable business, with the possibility of expansion in countries with large informal economies and people with a high level of vulnerability and limited protection (Van Reisen & Mawere, 2017). Trafficking operations are spread across continents (Van Reisen & Mawere, 2017). In fact, human trafficking is one of the fastest growing criminal enterprises in the world, because it carries relatively low risk and has high profit potential. Criminal organisations are increasingly attracted to human trafficking because, unlike drugs, humans can be sold repeatedly (Lehnardt, 2016).

Kidane and Van Reisen (2017) point to the extractive nature of human trafficking, countering the argument that mixed migration can be a source of development on the continent. Having extensively researched the individual and collective trauma resulting from people's experiences while on mixed migration journeys, they identify the state of hopelessness of many migrants as a motivating factor in their choice to take risky onward journeys. They identify the unscrupulous extraction of resources (including financial resources) of entire communities as a factor that helps sustain mixed migration

pathways, seriously undermining the resilience of communities at home and in the diaspora. This affects the mental health of all those involved and generates a cycle of hopelessness, which feeds into their engagement with risky migration trajectories. The vicious negative spiral of mixed migration, based on increased fear and lack of hope, provides fertile ground for human traffickers.

### **An African perspective on combatting human trafficking through the eradication of poverty**

Human trafficking is a cross-cutting problem: it respects no boundaries, whether national or continental. With increased globalisation, the problem crosses national borders and, therefore, requires cooperation between countries. The political and socio-economic nature of human trafficking, thus, necessitates a sustained, comprehensive continental and global strategy to address it. As Karlsson (2003, p. 5) notes, “combating human trafficking as combating mixed migration is no simple task”. A wide range of collaborative action is needed in several policy areas and sectors across the whole of society.

However, research demonstrates that there is reason for hope, despite factors that conspire against social protection and those living in poverty, the powerless, the dispossessed, and the vulnerable (Mameli, 2002). There are a number of strategies that Africa (and the world) can adopt to successfully combat this deliberate and calculated exploitation of the powerless. The need to monitor trends related to poverty, particularly in areas vulnerable to disasters, climate change, and political instability and that lack rule of law, is one such strategy. As Mameli (2002) suggests, transnational police organisations can play a significant role with respect to preventing and investigating the activities of the global sex industry. This resonates with Naim’s (2003) argument that strengthening existing multilateral institutions, revising our universal conception of sovereignty when it comes to allowing states to pursue traffickers in other countries, and devising new mechanisms and institutions with which to enforce laws would go a long way to combatting human trafficking.

I would like to add that awareness campaigns on human trafficking in migrant source areas, especially among local communities and governments, can also help prevent human trafficking. This can be facilitated by training community leaders, holding community meetings, and making drama shows, posters, and video documentaries that highlight the dangers of human trafficking. At the national and international levels, the International Organization for Migration (IOM) emphasises the following action as vital:

*...counter trafficking orientation for police, military and local government officers in partnership with the Office of the United Nations High Commissioner for Refugees and the Protection Cluster; and co-organising capacity-building trainings for government and non-governmental organisation partners on victim identification, referral and assistance with UN partners and other relevant stakeholders. (IOM, 2016, p. 10)*

Another effective way of dealing with human trafficking is by ensuring equality, especially gender equality. The United Nations Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, explains the predominance of women as victims of human trafficking as follows:

*The lack of rights afforded to women serves as the primary causative factor at the root of both women's migrations and trafficking in women. The failure of existing economic, political and social structures to provide equal and just opportunities for women to work has contributed to the feminisation of poverty, which in turn has led to the feminisation of migration as women leave their homes in search of viable economic options. Further, instability, militarism, civil unrest, internal armed conflicts and natural disasters also exacerbate women's vulnerabilities and may result in [an] increase in trafficking. (Fayomi, 2009, pp. 75–76)*

This observation by Coomaraswamy is a cause of concern. In view of this observation, I argue that progressive strengthening of the role and status of women and girls, while promoting gender equality in all aspects of development cooperation work, is more urgently needed now than ever to put an end to women's subordination and to guarantee them equal opportunities. This is critical if we are to

provide women and girls with a life free from violence and discrimination, which in itself “reinforces and magnifies poverty, powerlessness and vulnerability of women” (Fayomi, 2009, p. 76).

In addition, building the capacity of governmental and non-governmental institutions to effectively respond to the challenges posed by human trafficking can also be of great help. All governments of the world, under the terms of the human rights instruments currently in force, are responsible for protecting people against human trafficking and abuse of their rights. This means that “the governments of the countries of origin, all transit countries and final destination countries respectively are directly responsible for implementing the necessary measures to prevent and fight human trafficking, protect the victims and provide adequate support” (SIDC, 2003, p. 7). Thus, collaboration between countries and with the assistance of the international community is critical to combat human trafficking. This can be facilitated by ensuring that perpetrators are prosecuted and that there are measures for protection, not only for prevention, in place at the national level. This means that governments should protect, through legislation and policies, those who are vulnerable to trafficking. Law and policy, if effectively enforced, can constrain the demand for the services of smugglers and reliance on trafficking. The first step is to ensure that all countries are signatories to important conventions and regulatory frameworks for human trafficking.<sup>4</sup>

Furthermore, monitoring the outflow of vulnerable populations by setting up screening desks at strategic exit points such as border posts, while linking these populations to preventive, rescue and support

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<sup>4</sup> These include the 2000 United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; 1979 United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); 1989 United Nations Convention on the Rights of the Child (CRC); and 1999 Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, among other instruments. The adoption and effective implementation of these legally-binding documents would make all countries stakeholders in the global struggle against human trafficking.

programmes and international networks can also help address human trafficking. This would help establish a registration database for all displaced persons in camps, with camps established according to updated guidelines for a secure environment. In addition, such monitoring would ensure that information on trafficking in persons reaches the grass-roots level, as it connects the victims (and potential victims) with organisations involved in the prevention (of human trafficking), prosecution (of perpetrators), and protection (of victims of human trafficking) and that partner (with victims and potential victims) to help them change their lives for the better.<sup>5</sup>

Lastly, I think addressing poverty at all levels is the most effective way of addressing human trafficking. In this chapter I have argued that poverty is the main cause of human trafficking in Sub-Saharan Africa, yet more often than not, efforts are made to address the symptoms, without tackling the root causes, of human trafficking. It is always better to promote durable solutions to a problem than short-lived ones. In fact, for Africa to effectively deal with the human trafficking crisis requires both political and economic commitments. While those culpable for committing human trafficking can be directly blamed for the practice, blame should also be apportioned to national governments that are either reluctant to vigorously pursue cases of human trafficking or fail to implement an action package that would address the transformational needs of vulnerable people. Unfortunately, the current politico-economic responses to human trafficking in Africa fail to address the socio-economic causes that make people vulnerable to traffickers and human smugglers. We should remember that the unchanging status of the marginalised – the impoverished, the powerless, women and children – in Africa, as elsewhere, is reflected the rise of human trafficking in society at large.

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<sup>5</sup> Prominent among such organisations and international networks which rescue and support victims of trafficking include Anti-Slavery International; Cooperative for Assistance and Relief Everywhere (CARE); End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes (ECPAT); Human Rights Watch; Plan International; Save the Children Alliance; World Vision; Coalition Against Trafficking in Women (CATW); and Global Alliance Against Trafficking in Women (GAATW).

What Africa needs to do in the face of such an overwhelming reality is to ensure that poverty (and its cause, inequality) is eradicated from the face of the continent. Such a grass-root remedy would help ensure that the basic economic, social, political, and cultural rights of the powerless, the stigmatised and the devalued are promoted. This proactive approach, however, is often overlooked in research and work on human trafficking. Unfortunately, human trafficking will forever remain a problem for Africa and the world as long as we live in an unequal society marred by poverty. For the eradication of human trafficking, those in poverty and the powerless need to have a 'place in the world' – a place where their status is improved and their rights fully recognised and respected by others. There is an urgent need for Africa and the world to promote sustainable development and for the deeper cooperation of the wealthy with those living in poverty for the betterment of all. I am convinced that progress in these areas can greatly advance efforts to eliminate human trafficking from the face of the Earth.

## **Conclusion**

Addressing human trafficking, is both a worthy and honourable challenge to our *being*, our humanity. The academic world can play its part in addressing this challenge by answering the question 'what needs to be done?'. It is in this light that I have examined the political economy of mixed migration and human trafficking, which expose millions to abuse, exploitation and servitude. I have underlined the lack of systematic research, especially in Africa, on the link between poverty and human trafficking. I have also highlighted the little understood link with digital technology. I have described human trafficking and poverty as bound together, noting that in Africa (as in many other parts of the world) poverty is both a cause and a consequence of human trafficking. Human trafficking constitutes a crime against humanity. Hence, I am calling on all governments, institutions, researchers and individuals to do what is necessary to ameliorate poverty and prevent the continuation of this demeaning and destructive act against humankind.

I argue that poverty, rooted in inequality and lack of protection of rights, is intricately linked to mixed migration and human trafficking. Due to poverty, people are motivated to migrate, and it is during their migration journeys that they fall victim to human trafficking. Hence, to a great extent, poverty motivates migration, while migration forms a centre point between poverty and human trafficking.

This chapter, thus, argues that developing countries and people living in poverty have a greater disposition to human trafficking. As such, human trafficking feeds off poverty, inequality, scarcity of resources and external extracting economic forces. Similarly, human trafficking, as evidenced in Eritrea, Sudan, Zimbabwe, Mozambique and South Africa, result in poverty. I argue that, in Africa (as in many parts of the world), poverty is the principal driver of human trafficking. In this analysis, human trafficking is seen as a symptom of poverty.

In light of this understanding, I advance that as long as we live in a poverty-stricken society where inequality runs deep, human trafficking (and mixed migration) will remain a global problem. Deliberate poverty traps communities in a vicious cycle of poverty and human trafficking, from which human trafficking networks and the officials who maintain the state of deliberate poverty are profiting. Outside actors may strengthen the policies that advance deliberate poverty by rewarding officials who keep their people in a state of oppression, sustaining mixed migration and human trafficking.

Human trafficking can only be eliminated if governments and the people of Africa, and the world at large, fully commit to eradicating poverty. We need to recognise that everyone needs 'a-place-to-be' and those trapped in the downward spiral of mixed migration and human trafficking are most of all in need of a safe place where they can live in dignity. Victims of Human Trafficking deserve to be recognised as rights holders and it is an international responsibility to protect them.



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# Tortured on Camera: The Use of ICTs in Trafficking for Ransom

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### Introduction

In recent times, migration and human trafficking have evolved, together with the use of digital technology, which has become an inherent part of the modus operandi of traffickers. In 2009, a new form of human trafficking emerged, called ‘Sinai trafficking’ (Van Reisen & Rijken, 2015). In this new form of trafficking, migrants and refugees<sup>6</sup> were kidnapped and kept in torture houses in the Sinai, where they were forced to make calls to their relatives while being tortured to extract ransom. The sound they made when tortured was the mechanism of Sinai trafficking, because hearing this sound via the phone is what motivated relatives to pay the ransom – they wanted the torture to stop (Van Reisen & Rijken, 2015).

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*ICTs, such as mobile phones, are being used by human traffickers to facilitate a new form of human trafficking – trafficking for ransom – which is causing primary, secondary and collective trauma. The use of ICTs in this way is evolving, from the sound of torture transmitted through a mobile phone to video footage – all to motivate family and friends to pay the ransom. However, ICTs are also used to enhance the wellbeing of refugees and migrants, who use phones and social media to stay in touch with relatives, receive vital information about their journey and store photos and memories.*

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<sup>6</sup> The term ‘refugees’ is understood here as referring to persons who have had to flee from their home country (due to war, violence or prosecution, for example) and cannot return home safely (UNHCR, n.d.).

Information and communication technology (ICT) – mobile phones, mobile money transfers, and computers – are essential to the modus operandi of Sinai trafficking. Mobile phones are the traffickers’ way of communicating with those who pay the ransom and with each other about the routes on which to take hostages. Mobile phones are also used by the victims as a lifeline, to contact family members and other avenues of support. The role of ICTs in human trafficking has continued to develop over the years, as well as in migration generally. Although Sinai trafficking reported ended in 2014, it has emerged in similar forms in other places as ‘human trafficking for ransom’ (Van Reisen *et al.*, 2018). These new forms of migration and human trafficking have been documented in various ways, including in traditional news reports on television, news websites and social media. They have also been recorded in documentaries, which offer a deeper and more personal way of presenting the issue than a two-minute news broadcast.

In this chapter, I analyse three documentaries: *Sound of Torture* (Shayo, Trabelsi & Cahlon, 2013), *Under the Skin* (Deloget & Allegra, 2015) and *It Will Be Chaos* (Luciana & Piscopo, 2018), focusing on how ICTs have influenced the new modus operandi of human trafficking that has emerged due to digitalisation, as well as their influence on personal processes such as trauma and healing. Usually, we think of the positive impact of technology. However, there are also unintended negative impacts, such as the facilitation of the activities of traffickers, who use ICTs to help them extort ransom (Van Reisen, 2017b, p. 10). As well as facilitating refugees journeys and supporting their wellbeing by helping them remaining in touch with family and friends, ICTs can also spread the impact of trauma, which expands from primary trauma (among the victims of trafficking and their families who hear the torture over the phone) to secondary trauma (someone who learns about what happened to his/her friend) and collective trauma (the entire community, even generations later) (Kidane & Van Reisen, 2017). ICTs can amplify the effects of trauma, which can reach much further because of ICTs such as mobile phones, which transcend both time and space. This impact is shown clearly in these documentaries.



## Research questions

This chapter sheds light on the overall development of migration and human trafficking in the digital era, looking at three distinct periods, which are visualised in the documentaries *Sound of Torture* (2013), *Under the Skin* (2014) and *It Will Be Chaos* (2018). The main research question is: *How are refugees and their communities affected by the availability and use of ICTs, including in the context of traumatic events, both in terms of wellbeing and harm, and how has this evolved over time?* I will look at whether mobile phones contribute to overall wellbeing (e.g., by helping to maintain family connections) or have unintended negative effects. Three sub-questions follow the main research question:

- *In what ways are ICTs used by refugees to facilitate their journeys and enhance their wellbeing?*
- *How do ICTs enable the new modus operandi of human trafficking for ransom?*
- *How do ICTs help inflict and spread trauma (distinguished as primary, secondary and collective trauma), among refugees, their families and their communities?*

## Research method

To answer these research questions, this chapter looks at three documentaries: *Sound of Torture*, *Under the Skin* and *It Will be Chaos*. The documentaries are analysed to determine how ICTs are used in migration and human trafficking and the development of this use over time, as well as the impact that ICTs have on refugees. The analysis is based on the visual images used in the documentaries, as well as the narratives/protagonists that are followed. In addition to these two aspects, the themes of the documentaries are also of importance, as these themes represent a particular development (in migration and human trafficking and ICTs) in a particular period of time.

As well as the analysis of these documentaries, literature is used to deepen our understanding of what the documentaries show. In addition, new digital communication material, such as videos shared

on Facebook by refugees (as explored in lectures at Tilburg University), is also used. Interviews with resource persons (Meron Estefanos, Selam Kidane, Rick Schoenmaeckers, Ali Fegan and Klara Smits), which were conducted in lectures at Tilburg University in October and November of 2018, are also used to understand the new forms of human trafficking, their modus operandi and how they have evolved. However, the interviews themselves are not directly referred to in this chapter, but rather form the background information that enabled the author to understand the documentaries. In the next section, the documentaries are introduced.

## **Documentaries**

### ***Sound of Torture***

Following the emergence of Sinai trafficking in 2009, *Sound of Torture* (Shayo *et al.*, 2013) follows three main storylines that all have a connection to this practice. First, we meet the main protagonist, Meron Estefanos, a journalist-human rights activist from Sweden, originally from Eritrea. Meron hosts a radio programme in Sweden, Radio Erena, in which she has a weekly segment called *Voices of Eritrean Refugees*. In this segment, she has contact with Sinai trafficking hostages and their family members, witnessing their cries for help and trying to bring the issue to the attention of the authorities and the public.

Through Meron, the connection is made to the second storyline of a man called Amaniël from Eritrea. In the documentary, he is living in Tel Aviv by himself, as his pregnant wife was kidnapped while fleeing from Eritrea. She delivered their baby chained in captivity in the Sinai while being tortured. Amaniël is trying to collect the ransom money in order to free his family.

The last storyline follows Dessala, who is looking for his sister. After having freed her from Sinai traffickers, he lost track of her while she was crossing the Egyptian-Israeli border. Meron tries to help Dessala find his sister, as she herself also travels to these border areas and other places close to where the Sinai trafficking is happening. Meron also meets up with some survivors and relatives who she initially

contacted on her radio programme. This leads to many beautiful meetings, but also shows the long-lasting trauma of the survivors.

### ***Under the Skin***

In *Under the Skin* (Deloget & Allegra, 2015), we are again confronted with the phenomenon of Sinai trafficking, but this time the focus lies on the aftermath for the survivors. The documentary follows five men, Filmon, Daniel and Robel, who are living in Sweden and Germay, Halefom and Merih, who are living in Cairo. These men are the protagonists of the story. Each is a survivor of Sinai trafficking. We also meet Meron again, but this time in a side role.

The documentary shows the personal experiences of the men, as well as the effect of the trauma that Sinai trafficking has left behind, not only on their skin through the scars they bear, but also ‘under their skin’ through the effect of the trauma on their minds. Insomnia, depression and reactions to unknown sounds are some examples of the impact of the trauma that the victims of Sinai trafficking are left to deal with.

### ***It Will Be Chaos***

In *It Will Be Chaos* (Luciano & Piscopo, 2018), we follow two main storylines. First, we meet Aregai, a refugee from Eritrea who decided to flee indefinite military service. He survived the Lampedusa disaster in 2013, but lost relatives. The impact of the disaster is still very present in his life and we follow him on his journey trying to find a place in Italy. The second story is that of the Orfahli family from Syria, who were forced to leave their home due to war. We follow them on their journey to Germany, the country in which they hope to start a new life. During their journeys, both Aregai and the Orfahli family are constantly confronted with obstacles, which are difficult to overcome. The documentary takes a look at how Italy (the government and its inhabitants) reacts to the flow of refugees coming to ‘their’ country.

## **Time periods**

In analysing these documentaries and from the interviews with resource persons, three different periods emerged in relation to the development of migration and human trafficking and the role of ICTs. The first period, 2009–2014, is connected to the documentaries *Sound of Torture* and *Under the Skin*, as they both show Sinai trafficking. This first period is very specific, isolated, contained and raw; there is a strong focus solely on Sinai trafficking. Ransoms were at their highest during this period, and there was little public awareness of this horrendous practice. This period is at the very start of the use of ICTs in migration and human trafficking.

The second period is 2014–2015, which is defined by the pervasive use of digital means to facilitate migration. This period is shown in the documentary *It Will Be Chaos*, which shows how digitalisation leads to the broad sharing of everything that is going on, which is not always a positive thing. The term ‘collective trauma’ is discussed, with a specific connection to the use of ICTs, which make it possible to share everything that is going on in real time, including traumatic and horrible incidents, which can lead to secondary and collective trauma.

There is also a new, third period, in which the phenomena seen in the first and second period are intensified. This period started in 2016 and is ongoing. The extortion for ransom is still happening, but the modus operandi has changed: from only hearing the torture happen, to direct visualisation (Elbagir, Razek, Sirgany, & Tawfeeq 2018). Relatives receive live videos of their son or daughter, for example, being tortured. In addition, there is also the constant development of new technology for smartphones, as well as increased access to this technology.

## **Theoretical framework**

Linking ICTs to the refugees as users leads us to the theoretical framework for this chapter, which is provided by Linda Leung (2010) and her research on the use of technology by refugees during displacement. In her article, Leung describes how: “...technology is

key to sustaining emotional wellbeing and precarious connections with family members when displaced. In particular, the telephone is the most critical technology for refugees in terms of availability and familiarity” (Leung, 2010, p. 58.1). She also mentions how the participants in her research acknowledged communication as “...a driving need as important as basic shelter, food and water”, as well as usually the only way to receive financial assistance (Leung, 2010, pp. 58.5–58.6). ICTs are, thus, extremely important for the wellbeing of refugees, as they are a vital lifeline with many purposes. However, ICTs can also become an unintended initiator of negative effects, such as secondary and collective trauma.

When looking at ICTs and trauma, it appears that traumatic information is shared within the community, which is both intensifying the push-factors and creating information loops in which trauma is intensified (Kidane, S., lecture at Tilburg University, 25 October 2018). In her lecture, Kidane explained that most of the information that refugees receive about the events that happen in, for example, Sinai trafficking, is through other refugees. However, the refugees who are providing the information are also traumatised and have a high level of fear, transferring this to the receivers; sometimes very traumatic information is shared. This then causes secondary trauma, which can traumatise people who are indirectly exposed to the trauma of others, for example, through a video shared by refugees. Primary and secondary trauma are explained by Kidane and Van Reisen in the following:

*Primary victims included those trafficked and their family and friends who witnessed their torture by phone. Secondary trauma is trauma that occurs indirectly and is defined as: Learning about unexpected or violent death, serious harm, or threat of death or injury experienced by a family member or other close associate’. (Kidane & Van Reisen, 2017, p. 320)*

Thus, ICTs can intensify existing trauma, or create new primary trauma. Secondary trauma then emerges when, for example, someone learns about what happened to their friend or family member, but he/she is not directly exposed to the incident. Directly connected to

this theory of primary and secondary trauma, is ‘collective trauma’. “Collective trauma emerges when people who have a sense of belonging to one another perceive fearful and painful events together, which affects their collective consciousness and memory” (Van Reisen, 2017a, p. 7). It is further explained by Van Reisen *et al.*:

*Collective trauma is the impact of an experience, which becomes a keystone in a group’s narrative, set of beliefs, and identity, both for the current generation and across generations. Collective trauma involves a socially constructed process with an impact on the past and future identity of the group and its individual members. The impact on the narrative and on the identity of the group can be present even when individual members do not have (or no longer have) signs of physical or psychological damage. Unlike individual trauma, which can be experienced by a small percentage of people, with most recovering within a given period of time, collective trauma does not refer to symptoms of traumatic stress but is an outcome that includes the response to the traumatic event as well as the way it is constructed into the beliefs, decisions, behaviours, and narratives of the collective. (Van Reisen et al., 2018)*

In addition, collective trauma “impairs rational decision-making” (Van Reisen, 2017a, p. 7) and:

*...may lead to structural and individual violence. People lose their ability to react to patterns of threats and opportunities leading to poor decision making at all levels [...] This can lead to cycles of fragmentation in society, exacerbating previous issues [...]. (Kidane & Van Reisen, 2017, p. 329)*

This effect of the trauma on the decision-making of refugees can stay around for a long time after the initial trauma. The entire community is affected, which reduces the community’s ability to provide support to each other. Collective trauma can make everybody anxious, and traditional roles are lost or the people playing such roles are less effective (e.g., the role of a priest) (Kidane, S., lecture at Tilburg University, 25 October 2018) (Kidane & Van Reisen, 2017). Trauma nests itself in the heart of the community, pushing everybody out in a different direction.

Thus, trauma can influence the decision making of refugees. To explain this, the theory ‘feelings-as-information’ by Norbert Schwarz (2010) is used. Schwarz explains how we treat feelings as information in our mind and how this affects our decisions. If, for example, a teacher arrives in class after having a very bad night’s sleep and the students sit very quietly, the brain may interpret this as the students not being interested. In comparison, if the teacher feels good, the quietness of the students may be interpreted as the students being interested and focused, resulting in positive information.

This example shows how our mind treats feelings as information. The traumatic feelings/mindset that some refugees have is, therefore, very important in their decision-making process, as these traumatic feelings become information in their minds. Emotion has the upper hand instead of rationality. A question that drives their decision, as mentioned by Kidane (Kidane, S., lecture at Tilburg University, 25 October 2018), is: ‘What feels scarier?’ In the Lampedusa disaster, for example, a pregnant woman died together with her baby, who was born in the ocean. This seems strange: why would you risk both your own and your baby’s life? If we then look at the question ‘what feels scarier?’, the mother decided that staying in her home, or any place on her journey, was scarier than getting on the boat and risking her life to cross the Mediterranean Sea, illustrating the severity of the situation in her places of origin and transit. Rational thinking is, thus, overshadowed by the information derived from negative feelings and fear. The brain then only uses these emotions and feelings, which are strongly present as the motivation behind a decision. If these emotions and feelings are mainly traumatic ones, the decisions that are made by the refugee are driven by this trauma, which can cause them to make decisions that are extremely dangerous.

Thus, while ICTs can be vital to the wellbeing of refugees, they can also have negative effects, such as through the sharing of traumatic information. Trauma affects many aspects of our cognition, including decision making. Collective trauma affects the societal bonds that govern decision making. This can lead refugees to decide to migrate further, even though this may put their lives at risk: the traumatic

situation they are in is considered much scarier than boarding a crowded, unsafe boat and heading for the high seas, even when expecting a baby. Feelings become the information source for the brain and emotional decisions take the lead instead of rational ones.

## **Results**

This section presents the results of the analysis of the three documentaries, for the three defined periods. These documentaries represent a visual timeline of the developments in the use of ICTs in migration and human trafficking. The importance of ICTs is highly visible in the documentaries, which show how they are used in practice, first-hand. ICTs are used differently in the three periods examined. In the first period, there is the presence of mobile phones and radio, with just sound as the means to communicate. The second period features phones and more direct contact due to the expansion of the journeys of the refugees. As their journeys expand to, for example, Europe, it becomes more important to stay in touch with vital contacts such as family members. In addition, the digitalisation of the world, continues and this makes contact much easier and much more direct than in the first period. The third period is connected to the smartphone, with much less direct contact.

### ***Period 1: 2009–2014***

In 2009, a new form of human trafficking for ransom emerged called ‘Sinai trafficking’ (Van Reisen & Rijken, 2015). This new modus operandi of human trafficking is clearly presented in *Sound of Torture* (Shayo *et al.*, 2013). The documentary commences with Meron Estefanos, who provides us with general information about this new form of human trafficking, but from an outsiders’ perspective. Then we follow Amanuel, whose wife has been kidnapped, as he is trying to gather the ransom money for her release, and Dessala, who is searching for his sister who has been released. These narrations are used to show the modus operandi of this form of trafficking in real life. During the documentary, the use of ICTs is constantly visible. Starting with Meron, who uses Skype to communicate with the hostages and with Amanuel and Dessala. Amanuel is also in contact with his wife through his mobile phone, both for the ransom calls as



well as for ‘normal’ calls from his wife. There are barely any scenes where ICTs are not present, which shows how important they are both to the modus operandi, as well as to the other actors connected to Sinai trafficking.

*Under the Skin* also deals with Sinai trafficking, but through the stories of some of the survivors: Filmon, Daniel, Robel, Gernay and Halefom. The documentary shows how deep the impact of these traumatic experiences is, and how the survivors will carry these experiences with them for the rest of their lives. ICTs are not as present in this documentary as they were in *Sound of Torture*, but there are still several important moments in which they are present. The first example involves Meron and Robel, who are talking to a hostage by phone on Meron’s radio programme. This shows how the hostages, besides being forced to use their mobile phones to beg for ransom, can also use them to their benefit. A second example is when Gernay is talking about his experience and uses a lighter as a prop to demonstrate making a phone call. It is a very quick and short moment in the documentary, but very important: it reflects on both the modus operandi as well as the use of ICTs in Sinai trafficking. In addition, it also shows how the use of a mobile phone has become second nature to victims like Gernay, as he uses the lighter to illustrate a phone call without really thinking about it. Thus, ICTs are inseparable from Sinai trafficking, which would not exist without them. But ICTs are not only a tool for the torturers, there is a positive side to their use as well, as hostages can use them to contact people like Meron or hear motivating words from a survivor like Robel.

While both of these documentaries touch upon Sinai trafficking, they each show a different side: while it is happening (*Sounds of Torture*) and the aftermath (*Under the Skin*). However, they are both very specific and narrow in their focus, as they only deal with Sinai trafficking. Nonetheless, this does not detract from the fact that the documentaries address the use of new technologies in migration and human trafficking.

In this first period, starting in 2009 and ending in 2014 (Van Reisen *et al.*, 2018), ICTs are mostly used by the smugglers and traffickers. Van Reisen *et al.* (2018) identify several of the most important reasons why smugglers and traffickers use ICTs:

- To coordinate and carry out their work effectively (e.g., facilitate intelligence gathering, transportation and other logistics, and the collection of ransom)
- To keep their identity hidden
- To network with each other (smugglers and traffickers) to identify safe routes and secure times for unhindered operations, and so forth
- To coordinate the collection of ransom by victims (including to contact relatives of victims to demand payment as well as to facilitate the transfer of ransom to the traffickers)

In *Sound of Torture*, the emphasis is on the extensive use of ICTs by smugglers and traffickers, as we see the protagonists use their mobile phones and computers to collect the ransom, talk to their captured relative or search for news on a missing relative. However, ICTs are used by both ‘sides’ in Sinai trafficking: by the refugees and by the traffickers/smugglers. As the latter are in a more powerful position, they are better able to exploit these new ICTs, exacerbating the power imbalance (Van Reisen *et al.*, 2018). The documentaries also show how ICTs can contribute to collective trauma in refugee communities that have connections to Sinai trafficking. Firstly, not only the hostages themselves are traumatised, but also their relatives, as the hostages are forced to call a family member while being tortured. Entire communities are brought in touch with what is happening in the Sinai through these phone calls and, thus, are exposed to trauma. For example, Amanuel is calling his captured wife Hiriti. As can be seen in the still below, the phone calls with her are very hard for him and he asks his friend to take over the phone call.



*Figure 4.1. Sound of Torture*  
Source: Shayo *et al.* (2013, 14:19)

Thus, the use of ICTs not only results in primary trauma for the relatives, but also in secondary and collective trauma, as families, friends and whole communities are indirectly exposed to the trauma of the hostage. Hence, while ICTs are the perfect means to transcend time and space, they can also intensify and spread trauma.

*The use of ICTs by traffickers, as well as by desperate families trying to mobilise finances, and equally desperate activists trying to raise awareness using radio and social media, has exposed communities to traumatic events, which turn into collective trauma and which impact negatively on the community.* (Van Reisen *et al.*, 2018)

This first period is characterised by the use of first generation mobile phones and radio and, therefore, the emphasis lies on sound. This emphasis can be found in the modus operandi of human traffickers and is reflected in the title of the documentary, 'Sound of Torture'. This title emphasises the importance of sound in this form of human trafficking. In addition, the use of the lighter by Germay to represent a phone shows how intertwined digital means like the mobile phones are in these human trafficking practices, so much so that their use is second nature to people.

### ***Period 2: 2014–2015***

As established, ICTs play an important role in human trafficking practices, such as Sinai trafficking, where mobile phones are used to collect ransom by calling relatives while torturing the hostages. However, ICTs also play an important role during migration and after trauma, both intensifying it and helping victims to heal. In the third documentary, *It Will be Chaos*, the use of ICTs during migration is clearly shown when the father Wael is calling a smuggler to get out of Turkey. He emphasises the importance of his mobile phone, as the lives of his family members depend on it: it is their only way out. The documentary shows how his phone acts as a vital lifeline for the family (Leung, 2010, p. 58.5). Aregai also uses his phone to contact smugglers and another ‘illegal helper’ who is going to help him get a fake ID. As the image below shows, this moment in the documentary combines both ICTs and social media, as he uses his phone to call the ID maker and then sends a photo to him through Facebook.



*Figure 4.2. It Will be Chaos*

Source: Luciana & Piscopo (2018, 01:13:59)

A second way in which ICTs play an important role during migrating is by providing contact with family members. This aspect is most clearly shown through the story of the Orfahli family, as they receive phone calls and messages from relatives while they are on their way

to Germany. Wael's brother and sister contact him to give advice about travelling on the boat, warning them, and also letting them know what will come next. Their family also messages them about the importance of the quality of the life vests that they will use on the boat, as this is crucial in order to survive at sea, as the image below shows. Leung's theory (2010) is again applicable here, as we see that their mobile phone allows them to stay connected with their family while being displaced, enhancing their emotional wellbeing.



*Figure 4.3. It Will be Chaos*

Source: Luciana & Piscopo (2018, 20:49)

ICTs also function as a 'digital photo album' for the refugees, as images and videos are all they have left of their past. Throughout the documentary, we see how the Orfahli family has mobile-made videos of their life before they fled Syria, showing their happiness and the apartment where they lived. Eventually, they receive pictures and images on their phone of their apartment as it is now, after it has been completely destroyed by the war. With Aregai we also see this memory-storing function of ICTs, when at the beginning of the documentary he shows pictures of his relatives who died in the Lampedusa disaster. Phones, thus, help to keep memories alive. They provide a way of going back home, e.g., to Syria, by watching photos, videos, listening to music, and so on. In the documentary, phones

also show the audience how the refugees' lives have changed, emphasising the fact that they are not fleeing with no reason, they are escaping life-threatening conflict and political violence.



*Figure 4.4. It Will be Chaos*

Source: Luciana & Piscopo (2018, 04:39 & 25:12)

The speed of secondary and collective trauma through ICTs is also represented, as we constantly see the connections that are made by the Orfahli family through phone calls and by sharing first-hand video footage of their journey with relatives. Going through these experiences creates primary trauma for the family, but sharing the video footage and phone calls with their relatives can also cause secondary trauma for those people. This can eventually lead to collective trauma within their community, both in their new country as well as in their country of origin. Another example of the different forms of trauma presented in the documentary is the fact that Aregai is a primary victim of the Lampedusa disaster, but so are the fisherman who saw the boat capsizing and helped save the refugees from the water. Secondary trauma is strongly visible in the Mayor of Lampedusa, as she is confronted with the refugees and their stories, becoming aware of the horrific things that have happened to them. She is also a primary victim, as she is confronted directly with death through the Lampedusa disaster and seeing all the coffins of the people who have died there. Besides the Mayor, the fishermen have also been confronted with primary trauma as they were rescuing the refugees from the sea. One of the fishermen is seen in the documentary, looking out to sea with a sad look in his eyes, as he mentions (translated from Dutch subtitles): “It was such a shocking experience. I just can’t seem to forget it” (Luciana & Piscopo, 2018, 11:27).

In this second period, ICTs are about the broad sharing of everything that is going on. This is not only done through phone calls, but also by video/photo sharing apps and social media. This development from the first period, in which awareness of the practice was still very isolated, follows the digitalisation of the entire world. Because of this fast developing digitalisation, collective trauma keeps growing and also changes from only particular communities being traumatised, to ‘outsiders’ being traumatised as well. You don’t need to be in the place where something happens, as news broadcasts also show footage, sometimes first-hand video recordings. In addition, there is the immense popularity of social media platforms such as Facebook. Through these platforms, images and videos are shared and can reach millions of people within several hours. If a person happens to stumble upon a traumatising video, he/she may become a victim of primary trauma. Within the refugee communities, many traumatising videos and images are constantly shared and re-shared, creating a loop of negative information. Therefore, ICTs are the perfect means to keep in contact with relatives while migrating, but also increase the spread and impact of traumatic information, intensifying the trauma and leading to more secondary and collective trauma.

### ***Period 3: 2016-ongoing***

Starting from 2016, a new ‘period’ of digitalisation in migration and human trafficking practices started, which is still going on today. Within this period, there has been an intensification of what was seen in periods 1 and 2. As previously mentioned, Sinai trafficking reportedly stopped in 2014 (Van Reisen *et al.*, 2018, p. 147). However, these practices have been transferred to Libya, where Libyan militants have started to use the same techniques to extort ransom. An exclusive report by CNN International (Elbagir, Razek, Platt & Jones, 2017) shows a video of a slave auction in Libya, where several men are being sold. There are also stories of the captured refugees being beaten and mistreated, as well as the hostages being forced to beg for ransom from their family by phone (Elbagir, Razek, Platt & Jones, 2017), which is similar to human trafficking for ransom in the Sinai. However, the modus operandi of this form of human trafficking in Libya has one significant difference: instead of calling relatives for

ransom money, video footage is now sent to them. The traffickers take videos on their phones while they are torturing the hostages and of the hostages begging their relative to send the ransom money. On the website of CNN International, videos were shared of hostages being whipped while begging their family for money (Elbagir, Razek, Sirgany & Tawfeeq, 2018). These direct images from their smartphones bridge the distance and make everybody part of the traumatic experience.

We can see the resemblance with period 1, in which the practice of Sinai trafficking was very isolated, as it is now in Libya. The big difference here is that even though the practice is still very isolated, the images are shared more broadly. This opens up the situation slightly more than the phone calls did. The availability of these videos can be spread on social media platforms, shared and picked up more easily. This third period, thus, shows both the isolation of the practice, as well as its development and the use of new technologies, resulting in the spreading of trauma. Unfortunately, no documentaries have been made yet on this phenomenon in Libya.

## **Conclusion**

From the analysis of the documentaries and the literature, a distinction can be made between the three periods, in terms of the development of migration and human trafficking, as well as the development of the ICTs used in these practices. Period 1, from 2009–2014, was a very isolated and raw period, with Sinai trafficking emerging as a new human trafficking phenomenon. The documentaries *Sound of Torture* and *Under the Skin* give their audience two sides of the story, as we see how the relatives of the hostages are trying to free them or find them after their release, as well as the aftermath of the trauma from the perspective of some of the survivors. *Sound of Torture* gives us a look into the use of ICTs, mainly by the smugglers and traffickers, and shows how mobile phones in particular are the mechanism of Sinai trafficking. In addition, *Sound of Torture* shows how ICTs can be used to find a relative who has disappeared in the Sinai desert. In *Under the Skin*, the use of ICTs is



less present, but the documentary does show several new uses. One of the most interesting uses of ICTs shown in this documentary is for the support and motivation of hostages. Through the radio programme by Meron Estefanos, Radio Erena, survivors show how they can be of help to new victims through a phone call, as they give them tips, advice and motivation to resist and keep fighting.

The second period (2014–2015) shows how the use of ICTs covers other forms of migration, such as the migration of the Orfahli family from Syria. ICTs, such as the mobile phone, are extremely important in these situations, as they provide a connection not only with family members, but also to smugglers who can help them proceed with their journey to a safe place to restart their lives. Mobile phone can also store photos and videos of family members and their former way of life, thus becoming a digital photo album for refugees and the only connection to their past.

Periods 1 and 2 show the connection that ICTs have with collective trauma, as images, videos, information and many more things can be shared through ICTs, which is often traumatising for members of the refugee community. In this way, ICTs can become unintended initiators of negative effects. The information shared (photos, videos) forms a negative loop of information and makes community members connected to Sinai trafficking secondary victims, as they receive traumatising information. Eventually, an entire community can feel this effect, and collective trauma emerges. The theory of feelings as information by Schwarz (2010) is applicable here, as traumatised refugees tend to let their emotions and feelings be the driving force behind their decisions, resulting in dangerous endeavours.

The last period (2016–ongoing) has been only briefly discussed, as no documentaries have yet been made about the emergence of this new form of human trafficking in Libya. Human trafficking in Libya seems to follow the same practices as Sinai trafficking, but uses video footage of hostages being tortured instead of phone calls to collect ransom from relatives of the hostages. This period is a combination

of periods 1 and 2, as the practice is isolated, but the use of ICTs has developed, deepening and spreading the trauma.

In summary, ICTs, particularly mobile phones, have been used as the mechanism for a new form of human trafficking called Sinai trafficking or human trafficking for ransom, which emerged in 2009 (Van Reisen *et al.*, 2018). They continue to be used by the traffickers, but also by the hostages and refugees themselves – with both positive and negative effects. We can conclude that the support-seeking behaviour of refugees leads to new forms of human trafficking with an increasingly aggravating impact on family members, as the invasiveness of technology increases. Rather than supporting refugees, the technology seems to be inflicting a new form of trauma through the sharing of photos and video footage through apps and on social media. Primary, secondary and collective trauma are intensified and spread, deepening the vulnerability of the refugee communities, as also described by Kidane and Van Reisen (2017). However, besides initiating negative effects, ICTs can also be of tremendous importance to the wellbeing of displaced refugees, as their mobile phones act as a ‘vital lifeline’ and storehouse of memories of their former life (Leung, 2010, p. 58.5). Through their phones, connections with their family are made and financial support received. Mobile phones are, thus, also used by refugees to enhance wellbeing, which supports Leung’s theory (2010), sustaining emotional wellbeing and precarious connections with family members, thereby serving as a source of wellbeing for refugee communities.

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**Part II.**  
**Traumatising**  
**Trajectories**



# ‘Sons of Isaias’: Slavery and Indefinite National Service in Eritrea<sup>7</sup>

*Mirjam Van Reisen, Makeda Saba & Klara Smits*

### Introduction

*“God surveys the world one day, seeing the mountains, valleys, seas and all there is. Suddenly God stops and exclaims: ‘Why is Eritrea so green? I specifically made that country dry and yellow!’” The angel Gabriel leans over and whispers: ‘My Lord, those are army uniforms.’” (Kimball, 2008)*

In an article for Reuters in 2008, Jack Kimball, picked up this black humour on the obligatory and indefinite National Service in Eritrea (Kimball, 2008; also cited in Bozzini, 2011). National Service, which was

introduced in 1994, dominates all aspects of life in Eritrea. It is made

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*In Eritrea, anyone over 18 is conscripted into indefinite National Service, where they are assigned to forced labour programmes in construction, teaching, health and administration. This is tantamount to slavery. Conscripts have no freedom to communicate, their movement is restricted, and they live in inhumane conditions. Under constant surveillance, feelings of hopelessness and fear propel the mass exodus of refugees from Eritrea, despite the shoot-to-kill policy at the border. This exodus is feeding human trafficking for ransom, as people desperately search for ways to flee the country.*

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<sup>7</sup> The term ‘Sons of Isaias’ is used by interviewee 21 to refer to those in National Service who are under the direct control of the President. The term was popularised by Papa Abdu, an Eritrean elder who used the term in reference to his own son, Ali Abdu, who was Minister of Information, but defected. The term compares the President to a patriarch who decides the fate of his children and favours some while expelling others because they do not tow the ‘family-line’. Others associate the term with a mafia-style organisation, in which the patriarch decides who is protected and who is punished, and threatens or terminates the life of those who are not considered loyal or useful (see also Saba, 2019).

up of military training (6 months) as well civil service (12 months). National Service conscripts are required to work for little or no pay, under conditions that the United Nations Commission of Inquiry on Human Rights in Eritrea found to constitute forced labour (UN Human Rights Council, 2016). The conscripts also work in non-military activities, such as agriculture, road construction, house and building construction, mining, teaching, health and government administration, among other things. In 2002, the Warsay Yikaalo National Development Programme was introduced, under which education is militarised by requiring that all students complete their final year of high school at Sawa Military Camp (Kibreab, 2017b).

Eritrea is a one-party dictatorship ruled by the Peoples Front for Democracy and Justice (PFDJ). It is a country without political parties or rule of law (Human Rights Concern Eritrea, 2018); where the Constitution, which was ratified in 1997, has never been implemented. There have never been any national leadership elections. The PFDJ itself has not had a party congress to elect officials and decide a strategy since 1994. It is a state where to even think about opposing the government is considered a crime by the government (UN Human Rights Council, 2015).

Eritrea is also one of the most closed countries in the world, with freedom of press the lowest in the world (Reporters Without Borders, 2019) and access to digital technology very limited (International Telecommunication Union, 2018). The World Bank estimates that in 2017, only 1% of the Eritrean population had access to the Internet (World Bank, 2017). Internet cafes are available in places such as the capital, Asmara, but access is restricted by the knowledge that the government is watching and controlling all communication, as the only provider.

Eritrea has long been one of the largest refugees producing countries in the world and, based on data and population estimates by the United Nations High Commissioner for Refugees (UNHCR), it is estimated that around 15% of the population have fled (Human Rights Watch, 2018). Eritrean's also make up the largest group of



refugees and asylum seekers registered in detention in Libya (UNHCR, 2019) and are estimated to be one of the largest groups of victims of human trafficking in Libya. Despite the end of hostilities between Eritrea and Ethiopia with the peace agreement in 2018, the number of refugees fleeing Eritrea is still on the rise (Melicherová, 2019). Among those fleeing, the majority indicate that it is because of National Service. This chapter looks at how National Service contributes to this exodus from Eritrea.

## Escaping slavery

*‘They Are Making Us into Slaves, Not Educating Us’: How Indefinite Conscription Restricts Young People’s Rights, Access to Education in Eritrea*, is the heading of report by Human Rights Watch (2019). The organisation investigated National Service in Eritrea as the starting point for undertaking the dangerous journey to flee Eritrea through neighbouring countries, to Libya and Europe. A young 19-year old told Human Rights Watch: “They were making us into slaves, not educating us”. The conclusion of the researchers is that National Service is the root cause of the exodus from Eritrea by youth, despite the considerable risks involved in fleeing: “Young Eritreans would rather risk death at sea than let their leaders take their freedom” (Human Rights Watch, 2019).

It is difficult to imagine what the benefits of fleeing Eritrea are, an action that is severely discouraged. First, travel inside the country is restricted and it is illegal to cross the border. People require an exit visa to leave and those who do so illegally risk falling foul of the shoot-to-kill policy at the border. Those who flee are considered ‘traitors’ and ‘defectors’ by the state, and risk being imprisoned if they are caught. Relatives left behind are fined 50,000 Eritrean nakfa (ERN) (USD 3,333)<sup>8</sup> if they cannot account for members of their family. Family members are punished by association and are

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<sup>8</sup> We have used the official exchange rate for the conversion, which has been 1 USD = 15 ERN (nakfa) since 2005. Up to 2015 the parallel market rate was 1 USD = 40 ERN, but since 2016 and the restriction on the circulation of the nakfa, the parallel market rate and official market rate are similar (parallel market rate 1 USD = 17 to 20 ERN).

imprisoned or penalised in other ways. The attitude of the Eritrean Government towards the youth who leaving the country is that they are lazy and inadequate and ‘good riddance to bad rubbish’. In an interview on Eri-TV, President Isaias Afwerki made this sentiment clear: “Do not think that this country is missing out because these people have left. There is no way that our world will be disrupted because of them... [People] like that are just burdens” (Eri-TV, 2014).

For Eritreans to return, a ‘regret form’ must be signed and payments made, including the fine of 50,000 nakfa for leaving and the 2% tax (Buyse, Van Reisen, & Van Soomeren, 2017). Opportunities for Eritreans in neighbouring countries (i.e., Sudan, Ethiopia, and Kenya) are limited, and Eritrean security operates in these areas as an extension of the regime to harass and intimidate Eritreans (Amnesty International, 2019; Buyse *et al.*, 2017). The chances of being captured by traffickers and detained for ransom are real and the situation for Eritrean refugees in Libya is hopeless and dangerous (Van Reisen & Mawere, 2017; see also Chapter 10, *Lawless Libya: Unprotected Refugees Kept Powerless and Silent*, by Mirjam Van Reisen, Klara Smits & Morgane Wirtz). The crossing to Europe is risky and many Eritreans have died at sea on these journeys. The information on these dangers is shared among Eritreans on social media leading to collective trauma (Kidane & Van Reisen, 2017). The question is, why do Eritreans continue to flee their country when the opportunities elsewhere are so few?

According to the push-pull theory, migration is a result of the rational consideration of positive factors in countries of destination and negative factors in countries of origin. But is this framework adequate to explain the large number of Eritreans fleeing their country? According to Van Reisen and Mawere (2017), the deliberate impoverishment of the Eritrean people is pushing them out of the country. The concept of a ‘black hole’ in digital connectivity is also used to explain the attraction of youth from Eritrea to places across borders (Chapter 6, *Journeys of Youth in Digital Africa: Pulled by Connectivity*, by Rick Schoenmaeckers), where they can digitally

connect with their friends and family members, who are scattered around the globe (Berends, 2019; Barzilai-Nahon, 2008; see also Chapter 1, *Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent*, by Mirjam Van Reisen, Munyaradzi Mawere, Mia Stokmans, Primrose Nakazibwe, Gertjan Van Stam, & Antony Otieno Ong'ayo and Chapter 10, *Lawless Libya*, Van Reisen, *et al.*). The research question in this study is: *Does National Service in Eritrea constitute forced labour and does it explain the exodus from Eritrea, despite the considerable risks involved.*

## **Methodology**

This study is based on empirical data collected in an exploratory ethnographic field study. It is based on: the field experience of the second author (1998–2012), interviews from earlier research (2012), two focus group meetings with five and six respondents (2019), and interviews by all three authors carried out from 2016–2019. Twenty-seven individual interviews were conducted in Eritrea, Ethiopia, Egypt, Uganda, Kenya, the Netherlands, Norway and Belgium using a free interview format. The interviews were in-depth interviews, carried out over three to four hours, allowing the respondents to feel at ease and speak about experiences that triggered painful memories. After the interviews, the interviewees contacted the respondents, to check that they were coping with the aftermath of the interviews. Notes were taken during the interviews and transcribed into interview reports, which were compared. Follow up interviews were carried out to further clarify the content provided. For reasons of security, quotes from the interviews have been anonymised and depersonalised. The respondents are known to the authors.

## **National Service in Eritrea**

The National Service Proclamation (No. 82/1995; State of Eritrea, 1995) obliges all citizens between 18 and 50 years to participate in active National Service for a maximum of 18 months and in the

Reserve Military Service after they reach the age of 50.<sup>9</sup> Hence, the working population of Eritrea are all drafted into National Service, with few exceptions:

*You are not in the National Service, if you are: unfit (due to disability); classified as 'Board' (based on a decision by the Medical Board of Directors); overaged (for those overaged a special militia has been set up); or a housewife, this is why Eritrean ladies get married. (Interview 21, face-to-face, the Netherlands, 2 June 2019)*

As young women and girls who have children are exempt, many opt for early pregnancy, which is encouraged by their mothers. Women and girls in the National Service are particularly vulnerable, as they are expected to serve the military hierarchy and are available for sexual services and subjected to sexual violence and rape (Kibreab, 2017a).

Although the legislation specifies that National Service is 18 months, in practice it is indefinite (Human Rights Watch, 2019). Interviewee 14 explained that he served in the National Service for 17 years (1998 to 2015). After the border war with Ethiopia finished, the troops expected to be demobilised. However, to their surprise, they were ordered to work building roads:

*One day in 2002 we were given an order. We were in Massawa. The order was given to our division and six other divisions, approximately 500 men. There were no women present. At the time I was 28 years. We were given the following order: 'From today you will stop using the gun; you will be demobilised and you will be free. But before you are demobilised you will start work. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

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<sup>9</sup> The legal basis for National Service in Eritrea relies on the National Service Proclamation No. 82/1995 (State of Eritrea, 1995); Legal Notice 27/1996 on National Service as a Work Force (State of Eritrea, 1996a); Proclamation 89/1996 to Provide Jobs and Modalities of Re-Engagement Concerning Nationals who have properly Participated in the Active National Service (State of Eritrea, 1996b) and the Labour Proclamation No. 118/2001 (Eritrea, 2001).

The troops opposed the order, which came from the highest level of the military apparatus in Eritrea:

*We protested against this order. We refused to work in construction, as we were military and not civilians. Moreover, we had not been demobilised. The order that we received was given by General Haile Samuel. His nickname is 'China'. He is a General in the Eritrean army. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

He says the protesters explained to their commanders why they felt that it was not acceptable for them to be forced to work for a construction company:

*As military, we immediately agreed that we would not work without pay. [...] We did not think that we should be forced to work as civilian labourers and without salary or payment. We told the commanders that we refused to work as construction workers. We told them, we are military and not civilians. We told them that if we are a construction company, we cannot work as a normal employee, without payment. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Following their protest, the President spoke on TV (Human Rights Watch, 2009). However, the information provided was confusing; the President said that the troops would be demobilised and paid.

*The General told us that this is an order. You have to stop the protest. We refused to give our guns and they stop everything for one month. They were scared of us because we still have guns. Because we were commandos. Then they brought us other information. They told us, you will be demobilised and we thought that then we could go home. I was married and I had my wife and children at home. The President also gave a speech on TV. He said that those who were demobilised would be paid. This was like an incentive to demobilise. He said, don't worry, you will go to the construction company and you will be paid. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Subsequently, the troops were persuaded to disarm. But, as soon as they disarmed, they realised they had been deceived:

*We were told this by Colonel Habtu, the Commander of the 13th Division. But he said that the General and the President were lying. That they cheated us. That they demanded that the military work for free. He said that he would give us the release for demobilisation. So, we put down our guns. We thought we were demobilised. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Once the troops no longer had access to weapons, they were forced to work for the construction companies:

*Then Major Merge Mir replaced Colonel Habtu and he was sent to the Corporation where you work with the military. He said: "Whether you like it or not, you will have to do it." He forced all of us to work for free. So, we had no choice. We had no more guns. We had to work for free. We worked for the Construction Company Musa Ali Corporation. [...] After six months, he [Major Merge Mir] was replaced by Colonel Debessai. He is also the leader of the Corporation Musa Ali. They are all Hegdef [PFDJ]. He tells us: "You are National Service. You are part of the military. You are not demobilised. You have to do this work". (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

The information the troops received came through military channels. It was limited and did not give them any options, moreover, they later realised that the information was false. This disinformation prevented them from considering any alternatives. The disinformation coerced the troops to disarm, after which they had no choice, but to participate in the road construction. They were clearly of the belief they were forced to carry out the work:

*We were wearing military clothes all that time. [...] There was no right to do anything without approval. I think of myself as military, not as a civilian. We were forced to do the work for the Musa Ali Corporation. We built houses for the Military commanders. We built other houses and schools. We do road construction. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Interviewee 9 was a liberation fighter since 1988, before the independence of Eritrea in 1991. He was then in National Service until 2015, when he fled. He states:

*I have been in active military service for all this time. You cannot distinguish between military and non-military activities; as everyone is part of the National Service, and some are allocated to military action and others to other activities.* (Interview 9, face-to-face, the Netherlands, 31 July 2019)

Interviewee 16 showed a photograph of himself working in road construction as part of National Service. Pointing to the military clothes he and his colleagues were wearing in the photo, he confirmed: “In the National Service we are part of the military. We wear military uniforms. We report to the higher ranks who are our military supervisors” (Interview 16, face-to-face, Belgium, 9 December 2018).

The perception is that National Service is part of the military structure, as explained by interviewee 14:

*How I see myself? I was in National Service, I was part of the military. I was not demobilised. I was forced to work and I had no free decision or free choice in the matter. I was forced to work in construction from 2002 until 2015 as part of military service. I had to do this until 2015, when I fled the country. [...] Everything is owned by the military. There are no civilian workers. The military leaders only have more money. That is all.* (Interview 14, face-to-face, the Netherlands, 26 May 2019)

National Service creates a community that is tightly controlled by the top officials of the PFDJ (referred to as Hegdef<sup>10</sup> in Tigrinya), the only political party in Eritrea: “They have military clothes in the National Service for each Zoba [administrative zone]. They have also overalls for government garage people” (Interview 21, face-to-face, the Netherlands, 2 June 2019).

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<sup>10</sup> Hezbawi Genbar naDamokrasen Fetehen (HEGDEF)

National Service is indefinite, which means that the date of completion is arbitrary. Therefore, it is impossible to know when a person will be discharged. Without having completed National Service, it is not possible to do anything formally or legally.

*I worked in the Ministry of Information. I planned my exit for a long time. One-by-one I collected the signatures of approval from various superiors. Then I went to the Minister and he signed. I was never sure if I would succeed! Then I got out! Finally, I was free!* (Interview 20, face-to-face, Kampala, 20 January 2016)

As the PFDJ has total control, the legal stipulations governing National Service (Proclamation on National Service No. 82/1995, see State of Eritrea, 1995) are easily disregarded. Interviewee 9 observed: “The starting date of National Service is officially 18 years, that is what the dictator says, but.... I was 14 when I was recruited for National Service, against my will” (Interview 9, face-to-face, the Netherlands, 31 July 2019). Interviewee 11 says that he was 16-years old when he was recruited into National Service and interviewee 12 remembers his sister being recruited at age 16 (Interviews 11 and 12, face-to-face, the Netherlands, 31 July 2019). Interviewee 13 explained: “They search home to home, and they take all the young people they find” (Interview 13, face-to-face, the Netherlands, 31 July 2019). Interviewee 9 describes when he was taken by the soldiers: “I was goat herding. When I came home the soldiers took me while my parents cried and screamed. Actually, they took a lot of youth from the village” (Interview 9, face-to-face, the Netherlands, 31 July 2019).

The pay received in National Service is very low:

*In the army military you receive 700 nakfa [USD 47]. But for us, there is no salary. There is 200 nakfa [USD 13] for the family directly from the government in cash, but since 2013 family only gets food (only if you are not in prison then they stop it and when you escape, they stop it). They give us 90 nakfa [USD 6], but they deduct 45 nakfa [USD 3] for camp and food, which leaves 50 nakfa [USD 3.3] as pocket money.* (Interview 14, face-to-face, the Netherlands, 26 May 2019)



Stipends under National Services differ. Except for the salary paid to those working close to the highest-ranking officials (such as the President), all National Service remuneration is perceived to be inadequate to live off and support a family (see also Landinfo, 2016). Such payments are not a living wage, which thus limit the autonomy of those serving in National Service, who struggle to meet the needs of their families:

*In 1999 I earned 1,790 nakfa [USD 221]<sup>11</sup> as a teacher. In 2001, the teachers were moved into National Service, taken as military government workers. Then the salary became 100 nakfa [USD 7].<sup>12</sup> The rent for a house for a family is 150 nakfa and you need 250 nakfa for other things. I got 150 nakfa as a teacher, less deductions of 5 nakfa for the sons of the martyrs and 4 nakfa for sports contribution. So, I got 141 nakfa [USD 10] in the hand, which is a few dollars a month. That is why I blocked my brother from becoming a teacher. My (other) brother, who is the director of the school and administrator of the subzone receives only 500 nakfa [USD 36]. (Interview 18, face-to-face, the Netherlands, 5 May 2019)*

Van Reisen, Estefanos & Reim (2017) call this strategy ‘deliberate impoverishment’, as it keeps people powerless, in a state of suspension:

*No one goes voluntarily [to National Service], there is no choice, you are taken away violently. This also happened to me, without any choice at all, my fate was also the same as [name redacted]. (Interview 10, face-to-face, the Netherlands, 31 July 2019)*

There is no alternative to National Service in Eritrea.

## **Warsay Yikaalo**

The PFDJ also controls education in Eritrea, which feeds into National Service. In 2002, a comprehensive national development policy was announced called the Warsay Yikaalo National

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<sup>11</sup> In 1999, the official exchange rate was 1 USD = 8.1 ERN (April to October 1999) and 1 USD = 9.6 ERN (October 1999 to November 2000).

<sup>12</sup> In 2001, the official exchange rate dropped to 1 USD = 7.25 ERN.

Development Programme, which merges military and civil labour for development. This was supplemented in 2003 by the integration of the education system into the programme. Students now do their final year of school (grade 12) at Sawa Military Camp, before entering indefinite National Service (Bozzini, 2011; Kibreab, 2014). The respondents said that in Sawa Military Camp, they spend three months doing military training, followed by six months of academic work (Interview 1, face-to-face, Kenya, 19 May 2018; Interview 2, face-to-face, Kenya, 24 May 2018). Before they can graduate, the students are required to undertake a further three months of military training. Then, depending on their results, they are deployed to either a National Service destination or one of the vocational training or higher education colleges.

National Service, Warsay Yikaalo and secondary, tertiary and vocational education programmes are all under the umbrella of the Ministry of Defence, which is directly controlled by the PFDJ, the ruling party in Eritrea. This creates a situation in which the PFDJ controls the entire labour market and productive sectors and what people can do: “Everyone between 18 and 60 is restricted by law to engage in any employment, trade, or other activities, to travel within or outside the country” (Hosabay, 2016).

### **Control of labour and the economy**

The PFDJ, through the integration of education, National Service and the Warsay Yikaalo National Development Programme, controls the labour provided to enterprises operating in Eritrea, which are owned by individual PFDJ top officials or by PFDJ-controlled entities such as the Ministry of Defence and Red Sea Trading Corporation, which are all directly overseen by the President. The owners of such enterprises report to Hagos Gebrehiwot (Head of PFDJ Economic Affairs, also known as Hagos Kisha) and Yemane Gebreab (Head of PFDJ Political Affairs, also known as ‘Monkey’) who are trusted by the President. All financial streams and operations are directly handled by the party’s top officials under private names and private accounts (Buisse *et al.*, 2017). As Schröder explains:

*At some stage the EPLF [Eritrean People's Liberation Front] leadership must have taken the decision not to pass legislation to make the economic assets of the Front officially state-property but rather to keep ownership and control of most of them. [...] the starting point seems to have been the transformation of Section 09 of the former Department of Economics of the EPLF into the Red Sea Trading Corporation (RSTC) probably already in 1992 or in early 1993. The RSTC rapidly became the major importer and exporter of Eritrea as it received many of the lucrative government contracts without proper tender procedures. (Schröder, 2004)*

In relation to the control of labour in Eritrea through the National Service, the respondents refer to private companies controlled by the top officials close to the President:

*All the corporations are under Hegdef [PFDJ]. I checked all the names. There are no civilian companies. Sometimes they change the name, to ask for funding from outside. Segen Corp. Asbeco Corp, Debab Corp, all these are owned by Hegdef, and they have branch offices in Juba. They are working under the office of the President, everything is controlled. On the road construction, for instance, the Selambesi Dekambare Road, it comes under the President's office. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Economic activities fall under what is referred to as '09', run by high officials in the PFDJ, with President Isaias Afwerki at the top. Former Deputy Minister of Finance Kubrom Dafla Hosabay states:

*The PFDJ has 33 enterprises. These enterprises are working openly. Trade has been shifting to 09, which is the Red Sea Corporation. The commercial sector has been increasingly taken over by the Red Sea Corporation.<sup>13</sup> The PFDJ enterprises operate legally with bank accounts in Eritrea. The black market is illegal, and this is purposefully ignored. 09 [Red Sea Corporation] comes in to decide who gets the revenue from the PFDJ-mafia. The work in the illegal black market is individual, it is 'personal', but it is available as part of the overall system. It can also end up going to members of Isaias' [President Afwerki's] family, ambassadors and other*

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<sup>13</sup> The Red Sea Corporation and the Red Sea Trading Corporation are the same entity. The term '09' is used to refer to both.

*individuals. It is unaccounted for.* (Kubrom Dafla Hosabay, interview, face-to-face, 18 December 2016)

The near-complete control over the economy and economic actors by the PFDJ, without any accountability, creates deep corruption and fungibility:

*It looks as if it is legal, you get receipts and all that, but it is used for personal benefit. It is not to generate income for the PFDJ at the party level, but it benefits the individuals in the PFDJ directly. It is a system of the winner takes all. There is no law, it is divide and rule. Because there is no law, two generals will not agree. Without the law, there is just corruption. Anybody who can do it, will go and do it.* (Kubrom Dafla Hosabay, interview, face-to-face, 18 December 2016)

The various companies coming under the Red Sea Trading Corporation, governed by the PFDJ, include Segen Construction, Asbeco Construction, Rodab Construction, Badme Construction, Gedem Construction, Des Sea Construction, Mereb Construction, Musa Ali Construction (Shabait.com, 2014) and Sawa Construction (Interview 18, face-to-face, the Netherlands, 5 May 2019). All the labour used by these companies is provided by National Service recruits (see also Human Rights Concern Eritrea, 2018). Interviewee 18 shared that: “Workers who worked for these companies in 2000 would be paid 1,200–1,400 nakfa [USD 125–146].<sup>14</sup> In 2005, construction workers in the National Service would earn 500 nakfa [USD 33]<sup>15</sup>” (Interview 18, face-to-face, the Netherlands, 5 May 2019).

Foreign corporations also make use of labour from National Service (Interview 19, face-to-face, the Netherlands, 17 October 2016), such as the Canadian company Nevsun for Bisha Mine:

*By the end of 2007 and beginning of 2008, I was assigned by Segen Construction to work in Bisha Mine. This was at the very start of the mining project. [...] To my*

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<sup>14</sup> In 2000, the official exchange rate was 1 USD = 9.6 ERN.

<sup>15</sup> In 2005, the official exchange rate was 1 USD = 15 ERN.

*knowledge, all work in the site was undertaken and supervised by SENET in collaboration with Segen. My understanding is that the main mining work was contracted to SENET by the Canadian mining company Newsun. SENET in turn sub-contracted Segen for the provision of manpower. Since there were no other privately-owned construction companies in the country, it was a must for SENET to sub-contract Segen. There was no other option. As I will explain later, the working conditions for Eritreans was extreme and unbearable.* (Tesfagorgis, Hagos, Zere & Mekonnen, 2018, p. 67)

The total control by those in power not only concerns labour, but also assets and companies, which are held as the private property of those in charge (Hosabay, 2016). The Red Sea Trading Corporation, a PFDJ-owned company and formerly section '09' of the Economic Department of the Eritrean People's Liberation Front (now the PFDJ), has the exclusive right to engage in import and export activities in Eritrea. This company is part of the PFDJ-controlled informal economy, identified by the Somalia and Eritrea Monitoring Group (UN Security Council, 2014). This is the entity of the PFDJ which holds a monopoly on imports and exports and is involved in often illegal trading arrangements in the region (UN Security Council, 2011; 2012). There is no government budget or public budgeting process in Eritrea, and all public or private finances are collected and handled by PFDJ individuals through private accounts (Kubrom Dafla Hosabay, interview, face-to-face, 18 December 2016; Van Reisen & Mawere, 2017; Buysse *et al.*, 2018).

All of the companies privately owned by PFDJ officials make free use of labour from National Service. Agriculture, the main economic activity in Eritrea, is also controlled by the government:

*If you have cows, you have to get the animal feed from the government, and you have to get the milk to the municipality controller. So farming is a big topic, for example, you can only be in that village where you belong. But who lives there? Everyone is in the National Service; so, there is no labour. If you are not in the right place, they stop you and take the land. The Crop and Livestock Corporation, they take the yield. So, for instance, I have 200 hectares, then they forced me to sell to a group from Hegdef [PFDJ]. My friend is in prison in Gully – they imprisoned 300 because*

*they sold the crops from their own farm. But the Hegdef says that it will sell the crops.* (Interview 21, face-to-face, the Netherlands, 2 June 2019)

Due to the fact that nearly everyone of working age is part of National Service, farmlands and crops are often seized: “The PFDJ sold the crops of the farmers. When they protested, they were sent to prison” (Interview 18, face-to-face, the Netherlands, 5 May 2019)

In July 2019, the PFDJ-owned Crop and Livestock Corporation introduced a new version of control over herders. The head is an active member of the Defence Force, Major Kibreab Abraham (who is not a pastoralist). The following information was received on price-fixing by the corporation:

*Recently I had received reliable communication from Asmara that the Government of Eritrea was attempting to fix prices for livestock. And that, in the process, was confiscating animals on the way to market. I have also been told that confiscation of livestock has happened at border crossings.* (Interview 27, email, 30 July 2019)

In other informal sector jobs, people also depend on goods being made available by the PFDJ through the Red Sea Trading Corporation, which controls the flows of good (e.g., goods such as flour, sugar, or animal feed) and any other issue critical to small entrepreneurs (Interview 18, face-to-face, the Netherlands, 5 May 2019). In 2002, the bakers who used to produce bread and cakes had to choose to do one or the other. Many chose to produce cakes, as with bread they would be forced to apply prices as per Government directives; bread is rationed (personal observation by author). This dependency on goods being made available by the PFDJ has also resulted in growing levels of systemic corruption, institutionalised forced labour, and the mass exodus of Eritreans (Bertelsmann Stiftung, 2018):

*[By] pursuing a policy of forced labour while simultaneously strangling any private sector economic initiative, the Government of Eritrea has not only failed to achieve its goal of development but has manoeuvred the country into deep economic and social crisis.* (Bertelsmann Stiftung 2018, p. 28)

Hence, in summary, the PFDJ has total control over the production and distribution of labour, related to economic activity, both in the public and private sector.

### **Control of information**

The PFDJ has also total control over the production and distribution of information, which is directly overseen by the President and his office (Interview 11, face-to-face, the Netherlands, 31 July 2019). Access to phones, both landlines and mobile phones, is severely restricted in Eritrea. Phone calls are tapped and sim cards difficult to obtain; obtaining a sim card requires extensive documentation, including an ID card and property ownership papers or a house rental contract. One respondent shared how landlines are also controlled: “We also cannot phone. All the landlines are controlled by the government. They listen so you can’t say anything. You have to talk in code” (Interview 14, face-to-face, the Netherlands, 26 May 2019).

Those deployed in National Service are not allowed to have a mobile phone: “We are not allowed to have a sim card. No mobile phones” (Interview 14, face-to-face, the Netherlands, 26 May 2019). Another respondent shared: “He [my brother] has no access to mobile. They do not accept anyone to use it in the workplace. Last November we had a family emergency and there was no way to reach him” (Interview 21, face-to-face, the Netherlands, 2 June 2019).

Since 1998, communication has been subject to mass surveillance:

*At the beginning of the war [Ethiopia/Eritrea border war], the day after the Israeli embassy was evacuated from Asmara, many Israelis with suitcases arrived, all working in telecommunication. They arrived with suitcases to renew the whole telephone network. Since that time, all phone lines are tapped. (Personal observation by Makeda Saba, 1998)*

For National Service members, information exchange with family members is difficult, due to the lack of access to phones, as well as the limited freedom they have to visit their families:

*At one point, I did not see my own parents for five years. Now I can call her [my mother], but there is no mobile phone there. There is no family, because everyone belongs to the dictator. My brother works in road construction and gets at most three or four days every now and then to visit his family. (Interview 12, face-to-face, the Netherlands, 31 July 2019)*

Family visits are irregular and often depend on arbitrary circumstance. Some may be able to go home to visit family every few months for a few days, others can only visit for a short time over a period of multiple years. This severely restricts the possibility of a family life and for fathers to support to their families.

The lack of free media in the country, especially since 2001, was mentioned by interviewees as restricting access to alternative information. It is also an obstacle to the production and distribution of information by people in National Service. Foreign journalists occasionally obtain access to a report from inside the country, but the information journalists have access to is strictly controlled:

*Sometimes journalists came to visit, and we were told to change from our military clothes into civilian clothes. They gave us normal clothes for construction workers. We were not able to answer any question. Sometimes we thought maybe we could talk to them and tell them the truth, but we had no chance. [...] One time we wanted to tell them we are military, we are not civilians, we have nothing, we are slaves. But then the translator in English tells them, we are okay. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Foreign media are not able to travel freely and are reliant on government-issued translators who, as the previous quote shows, may mistranslate what the Eritreans in the National Service say (see, for example, Hakim, 2015).



As well as it being difficult for Eritreans to produce and distribute information, information is also collected from them without their consent through the system of widespread surveillance and spies. This was documented in detail by the Commission of Inquiry on Eritrea (UN Human Rights Council, 2015). The report of the Commission notes that:

*The Commission gathered testimony from victims and witnesses as well as former spies. They informed the Commission that the Eritrean Government systematically recruits individuals to spy and conduct surveillance activities on individuals and entities within and outside the country. (UN Human Rights Council, 2015, p. 91)*

A witness speaking to the Commission of Inquiry on Eritrea noted that spies are everywhere and can be anyone, not only constituting a system of information collection on a mass scale, but also fostering widespread mistrust within communities: “In Eritrea everyone is a spy – local housewives, farmers, etc. So, they know when you arrive and when you leave. Your own neighbours report you to the authorities” (UN Human Rights Council, 2015, p. 91).

The main task of the spies is to report on deviant behaviour. This includes behaviour by those in National Service or when a person is fleeing or avoiding National Service. When people flee Eritrea, this system of surveillance continues. One of the main instruments used is the 2% diaspora tax, which is used to establish whether or not an individual supports the government (Buisse *et al.*, 2017). News and images about what is going on in Eritrea have to be secretly smuggled out of the country (Brummelman, 2017). However, recently, limited information, including photographs of graffiti protesting against National Service (Kidane, 2019), have been leaked out of the country by groups such as Arbi Harnet (which translates as ‘Freedom Friday’, referring to a movement to stay home on Fridays as a protest against the dictatorship).

Producing misinformation (referred to as ‘03’) is part of the government’s strategy to create confusion and to keep citizens

paralysed (Buysse *et al.*, 2017). Finally, UN Human Rights bodies, such as the Special Rapporteur on Eritrea, have been denied permission to enter Eritrea, and UN organisations operating in the country are denied freedom of movement. They are not able to operate under the umbrella of the United Nations Development Framework (UNDAF), but have to operate under a Strategic Partnership Cooperation Framework (UNDP, 2017), which is limited in scope.

Access to alternative information sources about Eritrea is limited and suppressed. One interviewee explained how the government has systematically limited access to alternative information:

*They first started by closing the University [of Asmara] and taking all the choices from people. It is a brainwashing strategy. You get no chance to do something yourself, everything is decided by the government. But the government also tries to close off social media, even if you have the Internet, there is no Facebook or anything. You are obliged to follow government propaganda. There is only one television source. (Interview 11, face-to-face, the Netherlands, 31 July 2019)*

One way in which alternative information sources have been limited in Eritrea is by strict control of the press, which escalated after a crackdown in 2001, during which the Eritrean government arrested not only political opposition, but also journalists:

*I was a writer. There were still private magazines, but the censorship was very strong. In 2001, the private media sector was closed down. [...] There are journalists who have been in prison since September 2001. Now, there is only one FM-radio channel and one television channel. (Interview 12, face-to-face, the Netherlands, 31 July 2019).*

The information distributed by the government is perceived by the respondents as propaganda to maintain control, but also to cultivate mistrust, fear, and confusion among the population (Buysse *et al.*, 2017). One respondent shared: “If you have a family, there is so much propaganda that you are even afraid of your own father. The

propaganda scares people” (Interview 13, face-to-face, the Netherlands, 31 July 2019).

The possibility of protesting to improve the situation in Eritrea is perceived as extremely limited: “Nobody can gather together, there is no freedom of opinion and no ability to speak together, everything is controlled, there is no private existence in Eritrea” (Interview 12, face-to-face, the Netherlands, 31 July 2019).

The Commission of Inquiry on Eritrea found that there were severe restrictions on freedom of assembly in Eritrea, including the right to protest, and political parties and trade unions are prohibited (UN Human Rights Council, 2015). Civil society is also severely restricted, including the activities of foreign non-governmental organisations (NGOs) (Chapter 21, *Uncomfortable Aid: INGOs in Eritrea*, by Makeda Saba). Therefore, it can be concluded that Eritreans have none or very limited ways to exert control over their circumstances. Power is firmly in the hands of those at the top of the PFDJ and attempts at dialogue or protests usually result in imprisonment. In September 2018, the former Minister of Finance, Berhane Abrehe, who had written a book to open up discussion on the situation, was taken to prison (Solomon, 2018).

In summary, the PFDJ heavily controls the information flows in and out of the country. Through the extensive surveillance system it has put in place, it actively collects information from the general public, including those serving in National Service, while at the same time generating an atmosphere of fear and mistrust.

### **Disruption of social relationships**

The PFDJ ensures that Eritreans are not able to form strong relationships by destroying trust between people and separating families:

*Anyone with an education, and anyone without an education, all are always ruled together under the system of the dictator. They have destroyed our families and the*

*common trust. We have only built up trust since we left there. (Interview 12, face-to-face, the Netherlands, 31 July 2019)*

Interviewees often refer to the separation of their families as a big source of anxiety, which happens because National Service recruits are placed far away from their families:

*You can even see your own wife only one month per year if you are lucky, else only one month per two or three years. My own nephew was married and went on vacation to meet his wife after four years of military service – you cannot build a family like that. (Interview 12, face-to-face, the Netherlands, 31 July 2019)*

In addition, families are separated when people flee due to the political situation:

*Life isn't easy for me. I've been in Norway for 3 years and I still am not legal. I left my country after I couldn't find my husband, who used to be in the National Service and whose whereabouts still isn't known to me. I don't know where he is, and they [government forces] came and arrested me asking me where he is. I was released on bail – and they came again to arrest me, and I had to flee my country [She starts sobbing]. I had to leave my country, I left my children with the neighbours [...] And here, a life of destitution. My little sister is also in Sudan, she's in a refugee camp. She used to be in National Service. The lives of the members of my family have been wrecked because of me. (Interview 22, face-to-face, Norway, 12 September 2012)*

The militarily structured control of National Service, its invasion of the private sphere, the separation of families through National Service and the lack of control over family life are all sources of deep anxiety. This anxiety is instilled during training at Sawa Military Camp, where the students finish their school and are introduced to National Service. Specifically referring to Sawa Military Camp, Amnesty International noted the military style of punishment: “Although students are purportedly there for education as well as military training, the whole ethos of Sawa is militarised. The students are subjected to military style discipline, presided over by military

commanders” (Statement made by Simon, a 23-year-old former conscript, cited in Amnesty International, 2015, p. 20).

The situation of military command lacks accountability, and no independent courts are available. Punishments are often severe and arbitrary, as reported by this respondent, who was working in National Service: “I was sent to prison, a very bad prison, Adi Abeito. I was asking a question, I was disagreeing with the commander, Captain Wedi Zemzem [Idris] about his order. Then they put me in prison” (Interview 14, face-to-face, the Netherlands, 26 May 2019).

The combination of being unable to form relationships with family members and friends, as well as the low payment and high degree of control over their lives in National Service, puts pressure on Eritreans. As they do not earn enough money to support their families; some try to escape from National Service to find work, but this is also punished:

*Then again, they put me in prison in 2014. It is called Mai Aidaga. This is an underground prison. We were there with 70 people. You can hear the road over your head, when there are trucks everything is very bad. They put me in prison because I tried to escape for my family and my children. I was not able to look after them. There was no money. I earned the same pay as at the beginning and my family had no money. I tried to go home so that I could work for myself to support my family. But they captured me and put me in this prison. Then when I came out, I escaped from Eritrea. (Interview 14, face-to-face, the Netherlands, 26 May 2019)*

Going to prison is not unusual for Eritreans. One respondent shared that: “Ending up in prison is normal in Eritrea” (Interview 13, face-to-face, the Netherlands, 31 July 2019). Imprisonment can be the result of petty incidents and can depend on the whim of a superior: “You can be asked to make a cup of coffee by a higher officer, but if you refuse, you can end up in prison” (Interview 10, face-to-face, the Netherlands, 31 July 2019). And there is no trial: “They do what they want: there is no justice system” (Interview 12, face-to-face, the Netherlands, 31 July 2019).

Both imprisonment as well as its duration are arbitrary, and families are not informed as to the reason for imprisonment or the location of their family member. Just asking about this can lead to family members being imprisoned (personal observation by author). When people escape from National Service without permission or fail to return in time after leave, if captured, they are usually locked up for double the time they have been away. If they were absent for two months, their prison term will be four months (personal observation by author). In National Service and in the prisons, torture is used as a punishment:

*There are different ways of punishing in National Service. I was punished once; they put me in Otto [a torture method where someone is tied at the wrists and ankles and banged] and they put water and sugar all over me and put me in the sun – then flies come all over your body. I also heard about the container of water, that the prisoner has to move the water from one big container to another by mouthful. They tie you for a long time and they beat you with sticks. Those who have been in Adi Abeito, near Asmara, Adesom, Mazrab, and Wia can tell you a lot about what happens when you are there. (Interview 21, face-to-face, 2 June 2019)*

Another torture method that was mentioned is forcing recruits to stand in the sun for long periods of time, which is a standard procedure:

*This kind of tying up of hands twisted back to your back and your legs and laying on the ground for 12 or 24 hours as a punishment in the military National Service of Eritrea has already been for about 25 years. Although it has been a daily practice as punishment in the Eritrean military service, it also applied in other civilian punishments just as we see the under-age young people have been tied up the whole day in the hot sun. This kind of punishment is just one the severe punishments, which has been carried out for years. During the whole hot day and the cold night to stay tied up like this is not only painful and intolerable punishment, but also depending on a person's body resistance, it can cause paralysis of part of your hand, trauma, disillusionment, psychological crisis, anger, instability and so on. That is why unlike many countries young refugees in many European countries, it's been said that by far and large, the Eritrean refugees have been victims of psychological instability and*

*trauma.* (Interview with Herman Aregoi [translated from Tigrinya], from AAN Media Network, 2019)

One of the respondents was allocated through the National Service to Bisha mine where he ended up being imprisoned, alleged for something he had not done:

*I was a translator in the Bisha mine in Eritrea. I was payed 2,500 nakfa per month. There was a lady who complained, but I had not done anything wrong. I then spent one year and six months in an underground prison, six months of which was in solitary confinement. I then changed prison; I was four years in prison in total. After four years I went back to the office in Bisha mine. I never had a lawyer. I had not done anything wrong.* (Interview 19, face-to-face, the Netherlands, 17 October 2019)

The conditions in prison are atrocious:

*I was tortured for six months. I spent my time in the Barentu underground prison. We were allowed out once a day. We had a shower and washed our clothes once a month. I had no information from my family. Then I went to the prison in Karen. It was overcrowded.* (Interview 19, face-to-face, the Netherlands, 17 October 2019)

Interviewee 19 describes being tortured:

*My family came to see me there. In the underground prisons we were in chains, both legs and hands. I was on my own, alone in one prison room. We received one small piece of bread in the morning and sometimes food in the evening, but not always. We were very hungry. We received one small bottle of water. They beat me during those six months. They wanted information I did not have. They beat me, they electrocuted me, they gave me electric shocks, they hit me with plastic sticks. I walked to escape – I walked for seven days.* (Interview 19, face-to-face, the Netherlands, 17 October 2019)

While escaping Eritrea, Interview 19 was sold to human traffickers who extorted him. His wife also attempted to escape. He has not heard from her since.

*Friends from Israel paid for me to go from Sudan to Libya. I paid EUR 1,600 to go from Sudan to Libya and EUR 2,400 to go to Italy and EUR 300 to go from Italy to Holland through Paris by train. When I escaped my wife was put in prison. She was put in prison for two weeks when I escaped. They came again and they asked her where I was. So, she escaped. She said maybe I will escape to Sudan. I have not heard from her. I don't know where she is. (Interview 19, face-to-face, the Netherlands, 17 October 2019)*

As the Office of the President is fully in control of all ministries responsible for the National Service, Eritreans do not have a direct platform or way to complain or exchange information about their situation. Interviewee 10 remembers how he ended up fleeing the country alone and leaving his wife and children behind:

*In 2010 my child was ill. I was in Massawa. I asked permission to bring my daughter to the hospital, but I did not get it. I went home without permission and brought my daughter to the hospital. Two military personnel came to get me, and I was put in an underground prison, a hole dug in the ground. We could hear the cars driving over our heads. In 2014, I fled with 80 people during a toilet break, we ran even though we did not have shoes. (Interview 10, face-to-face, the Netherlands, 31 July 2019)*

In summary, social relationships and relationships with family are actively broken down, destroying the social structure in Eritrea,<sup>16</sup> which maintains the power of the ruling party. The full control that the PFDJ have over the Eritrean people involves regular

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<sup>16</sup> The Catholic Bishops in Eritrea in their Pastoral Letters (Catholic Church Eritrea, 2001; 2014; 2019) consistently lament the breakdown of social and family relationships in the country as a result of the Eritrean government's policy of integrating National Service, the Warsay Yikaalo National Development Programme and education. They also lament the government's lack of consultation with the people or community leaders and their top-down approach (see also Saba, 2019).



imprisonment and severe torture to control people and seriously undermine their relationship with their families.

### **Choosing to flee**

Proclamation 82/1995 (Eritrea, 1995) stipulates that those who have not completed National Service are restricted from leaving the country. However, as mentioned previously, National Service is indefinite. This pushes people to leave the country illegally, resulting in situations of human trafficking and severe human rights abuses:

*I'm 22, and I'm from Elaberid. I left with someone who was crossing the border in Keren. He promised me that he'd take me all the way there for free. His name is Yonas, I don't know his last name, but we met during my National Service. He was a soldier with me. (Interview 23, telephone, Egypt, 17 September 2012)*

Those who leave the country are often not in control of the journey, as illustrated by the story of interviewee 24, who was abducted after serving 15 years in National Service:

*My name is [redacted], I'm 35, I was in the National Service for 15 years. I was kidnapped while I was working in the fields of Ali Gidir. I don't know, those people are heartless. They brought us all here, and we just informed our families and they are scared. I have the papers issued for me by the Eritrean Army here. I can't tell you what's happened to me here, I have three kids back home and I was in the National Service for 15 years. [...] My family cried and wailed and couldn't do anything besides collecting 2,000 dollars. [...]*

*We took our travel papers when we were going for a break [...]. Me and this friend of mine, we went to Aligidir, because it was planting season, they came to us at night while we were resting after a busy day at work and they brandished their knives and guns and took us. They took us all the way to Sudan, we thought we were being taken to the police station in Tesenei, but they said we're in Sudan and we've been sold to slavery. They took every paper we had, those pirates. I can't take this anymore; I can't pay more as my family don't have a single cent left. I'm praying for death. (Interview 24, telephone, Egypt, 17 September 2012)*

Interviewee 25 explains how, after 18 years of National Service his bad health prompted him to leave the country, after which he was trafficked on to the Sinai.

*I was a soldier in Eritrea, I'm a member of the 1<sup>st</sup> round of National Service. I've been a soldier for 18 years, during which time I was afflicted by fistula and was operated on. [...] after the surgery, I was told that a slight infection or heavy work would bring back the infection, I tried explaining this to my superiors, but they would not understand or let me go, as a result, I decided to leave my country.* (Interview 25, telephone, Egypt, 21 November 2012)

While fleeing Eritrea, interviewee 25 was abducted by human traffickers who then, through extortion, forced him to beg for USD 25,000 from his family, who are extremely poor (Interview 24, telephone, Egypt, 21 November 2012; see also Van Reisen, Rijken, & Estefanos, 2014).

The control by the Eritrean government is still maintained even after people have fled Eritrea. This control is exerted through their relatives, among other ways. By WhatsApp, interviewee 26 sent the following message:

*My wife is taken to prison. I need to send money to my children. They are on their own. She is taken because of my writing on Facebook. They say it is best she says she does not know me; she can divorce me. I need to send EUR 1,500 to bribe someone to arrange her release.* (Interview 26, WhatsApp, 2 July 2019)

In order to send the money to bribe the official to release his wife, interviewee 26 will need to use the hawala system, which is privately-owned by PFDJ top officials and overseen by Hagos Gebrihiwot (Head of Economic Affairs, PFDJ, aka Hagos Kisha) (personal observation by author; Buysse *et al.*, 2017; Interview, Kubrom Dafla Hosabay, face-to-face, 18 December 2016).

## **Institutionalised forced labour**

The UN Commission of Inquiry on Human Rights in Eritrea documented grave human rights violations, including in National Service (UN Human Rights Council, 2015; 2016). It specifically highlighted concerns about its “prolonged and indefinite duration”, the “abusive conditions” and “use of conscripts as forced labour” (UN Human Rights Council, 2016, p. 20). The Commission also identified that “Indefinite military/National Service is frequently cited by Eritreans as the prime reason for leaving Eritrea” (UN Human Rights Council, 2016, p. 20).

The view of the Commission is that National Service per se is not a human rights violation, but that the Eritrean programme has three major problems under international law:

- (a) its open-ended and arbitrary duration, which routinely exceeds the 18 months provided for in a decree issued in 1995, frequently by more than a decade;*
- (b) the use of conscripts as forced labour in a wide range of economic activities, including private enterprises;*
- (c) the rape and torture perpetrated in military camps, and other conditions that are often inhumane. (UN Human Rights Council, 2016, p. 22)*

The UN Committee on the Elimination of Discrimination against Women considered Eritrea’s National Service in its 2015 meeting, classifying it as forced labour and expressing serious concerns about:

- The negative impact of the indefinite period of National Service on women’s rights and at the insufficient measures taken by the State party to remedy the situation. It is particularly concerned about:*
- (a) Women and girls being forcibly recruited into National Service for an indefinite period and without formal pay, under conditions amounting to forced labour;*
  - (b) Reports that women performing National Service are frequently victims of sexual violence, including rape, committed by officers and male recruits and that women who refuse sexual advances are often severely punished;*
  - (c) The large and increasing number of Eritrean women and girls, including unaccompanied children, who flee the country and become refugees to avoid National*

*Service and who frequently become victims of violence, human trafficking and smuggling;*

*(d) Reports that many girls drop out of school, become pregnant and/or are forced to enter into child marriages to avoid enrolment at the Sawa Military Training Centre and National Service;*

*(e) The proliferation of small arms and the accessibility of firearms by individuals in the framework of National Service and the impact of that situation on the security of women. (UN Committee on the Elimination of Discrimination against Women, 2015)*

During deliberations by the International Labour Organization (ILO), concerns were expressed that:

*Some of the reasons for the desperate and dangerous decisions taken by Eritrean migrants were forced labour, prolonged military conscription, arbitrary arrests, torture, appalling detention conditions, disappearances and severe restrictions on freedom of movement in the country. (The representative) recalled that many victims of the Lampedusa disaster had been Eritreans who had run away from servitude-like conditions. (ILO, 2015)*

In the UN report of the Special Rapporteur, National Service was described as: “arbitrary, extended, and involuntary in nature, amounting to enslavement” (OHCHR, 2017).

Although the Presidential Adviser to the Government of Eritrea, Yemane Gebreab, had publicly announced in 2015 that: “Eritrea would limit its military and National Service programmes to the 18 months provided for in the 1995 decree” (Bruno Kreisky Forum, 8 April 2015, cited in UN Human Rights Council, 2016, pp. 20–21), in February 2016, Information Minister Yemane Gebremeskel said that there were no plans to limit military/National Service programmes. He said: “demobilization is predicated on removal of the main threat... You are talking about prolongation of National Service in response to...continued belligerence by Ethiopia” (Reuters, 2016, cited in UN Human Rights Council, 2016, p. 21).

The Commission of Inquiry on Eritrea states that it observed that the Eritrean President's Office was framing the discussion in a way that did not match the reality on the ground:

*... [We have] received reliable information indicating that the Office of the President has instructed Eritrean officials meeting with foreign delegations to make the following assertions regarding Eritrea's military/National Service programmes should the issue arise: i) the programme is a National Service programme, and conscripts are only required to work in civil service positions; ii) there are no military courts or prisons; and iii) there is an amnesty for draft evaders. The Commission has received no evidence supporting these Government assertions. (UN Human Rights Council, 2016, p. 21)*

After the 2018 Ethiopia-Eritrea peace agreement, there was an expectation that the period of National Service would be limited, but public statements by Minister Luul Gebreab (Minister of Labour and Human Welfare) and Minister Woldemichael Abraha (Minister of Local Government) indicate that the government intends to continue with the current policy of an integrated National Service system through the Warsay Yikaalo National Development Programme and the deployment of National Service recruits in it. During an interview with Bloomberg in September 2018, Minister Luul Gebreab appears to say that most of the army will be demobilised, but, in reality, she actually confirms the use of youth in the Warsay Yikaalo National Development Programme: “Definitely a small army will remain, and the others will concentrate on the developmental work as planned...” (Manek, 2018, emphasis added). Despite the lack of reform of National Service, pressure remains, including from the United Kingdom Minister of State for Africa, Harriet Baldwin, who stated that:

*[...] we are clear that the general human rights situation in Eritrea, including the terms of National Service, remains a substantial concern. [...] Sustainable reform of the National Service needs to happen in tandem with an improved economic situation and job creation that the international community can support. (Eritrea Hub, 2019)*

Instead, peace is expected to translate into increased large-scale projects and the Minister of Local Government, Woldemichael Abraha, confirmed the government's plan to implement large national development projects. Analysing the announcement, it also appears that there are no plans to change the coercive nature of National Service or its inhumane conditions and practices. In fact, ILO made the following observations about the institutionalisation of forced labour:

*The institutionalization of forced labour was evidenced by the serious penalties incurred by Eritreans who sought to avoid the obligation, including prison sentences, suspension of rights, reprisals against family members, and non-renewal of trading licences. Forced or compulsory labour was defined in Article 2(1) of the Convention as all work or service which was exacted from any person under the menace of any penalty and for which the said person had not offered himself voluntarily. The Worker members reiterated their concern with regard to the impact of the Warsay Yikaalo National Development Programme on women and children. Although the law stated that National Service was to be performed from the age of 18, various reports indicated that almost one third of new conscripts in military training centres were below that age. (ILO, 2018)*

In response to this report, a representative of the Eritrean Government stated that he: "...hardly agreed with the conclusions as they were mainly the result of unrealistic information that did not reflect reality" (ILO, 2018). As the Eritrean authorities do not accept that National Service corresponds to forced labour, this weakens the likelihood of its reform.

### **No change with peace: The exodus continues**

Presently, Eritreans are lamenting the lack of inclusiveness in the Ethiopia/Eritrea peace process as well as the failure of the Eritrean Government to implement any internal reforms. To the contrary, a wide range of sources in the country are reporting that the authorities have intensified round-ups (called *'giffas'*) for National Service all over the country:

*Independent sources with contacts in Eritrea confirm that giffas to round up children for National Service have greatly increased – in these raids, people whose papers are not in order are also arrested. Another source in the Netherlands explained that the Eritrean government has started to kidnap children from their neighbourhoods in these giffas in order to draft them into military training at the SAWA Defence Training Centre. (Melicherová, 2019)*

In July 2019, Eritrea Hub reported (based on BBC Tigrinya) that *giffas* were increasing:

*A new wave of round-ups of youth, so called ‘Giffas’, is under way in Eritrea. The round-ups are organised to take young Eritreans to Sawa for National Service training. [...] the round-ups [...] are particularly focused on the Western Lowlands area. The round-ups in Hgazz – South of Keren – were reported to be particularly intense. Reports of Giffas are also coming from Asmara and the Debub-region. (Plaut, 2019)*

Referring to rare protests inside Eritrea against the latest round of recruitment to Sawa, the article observes that *giffas* are a preparation for the next wave of National Service recruitments:

*September is usually the month that Eritrean youth are required to report for National Service training and completion of high school in Sawa, but, despite warnings by local administrations of consequences to their families as a result of failure to report for National Service, the youth is increasingly unwilling to do so. (Plaut, 2019)*

The article observes that the intensified round-ups are contributing to the increased exodus from Eritrea to Ethiopia: “Recently, Ethiopian authorities confirmed that 250–300 Eritreans continue to register in Ethiopian refugee camps every day” (Plaut, 2019)

According to the BBC, the places where the Eritrean defence forces are focusing *giffas* on are Akurdet, Keren, Hgazz, and Asmara. During *giffas* they take youth from their homes or from the streets. In Hgazz, hundreds of military were engaged in the *giffas*. In Keren and Akurdet, many posters had been secretly put up saying ‘*Yiak!*’, which means

‘Enough’ (photograph held by authors). This suggests the *giffas* have been implemented in response to these protests. In various places, students are refusing to go to Sawa and have also put up placards to protest (photograph held by authors). Local administrations have started to instruct parents that they will be fined if their children do not turn up for recruitment to Sawa (BBC Tigrinya Service, 2019).

The most recent information from the Eritrean-Ethiopian border area is that:

*...25 percent of the new arrivals are unaccompanied and separated children. The reason given for them fleeing the country is that the Eritrean Government has started to “kidnap the children to go to SAWA military training,” said one source. SAWA is a military academy in the Gash-Barka region of Eritrea. (Melicherová, 2019)*

Melicherová (2019) reports an increased number of refugees are crossing the border as a result of the *giffas*:

*A senior official from the Ethiopian refugee agency has reported that Eritrean refugees continue to arrive in Ethiopia in large numbers, 250 to 300 persons a day. [...] ‘We have challenges of shelter, Core Relief Items (CRI), water and energy alternatives,’ states the senior official. Earlier reports indicate that many young Eritreans currently flee due to the increase of raids, Giffas, to force them into the indefinite National Service. (Melicherová, 2019)*

Meanwhile, various international partners have started to provide aid, in the hope that the peace agreement will lead to a change. For the first time, the European Union (EU) has decided to provide assistance directly to those in power, including the PFDJ-owned enterprises. Yet, despite the EU’s good intentions, the number of refugees has increased. Interviewee 11 explains how he sees the situation:

*The European Union has given a grant of 20 million euro to the Eritrean government, but you have to understand that this money shows to our people that we have no choice but to flee. I was in Ethiopia in December last year, where I was met*



*by an 80-year old father who had come there from Eritrea. He told me that he had been recruited for the road construction without any payment. The road construction had already started, and my village is just next to the road, and they recruited the elderly because all the young people have fled.* (Interview 11, face-to-face, the Netherlands, 31 July 2019)

Interviewee 12 explains that he does not think that the EU aid for road construction will help the people in his country; he refers to an Eritrean national TV documentary of the road construction: “They create work with that money, and so more people are recruited under National Service. The documentary showed the foreman on the building sites. We know them, they are all military with high positions” (Interview 11, face-to-face, the Netherlands, 31 July 2019).

According to interviewee 10, it is not possible to reform the system: “The military we get to see can’t do anything either, they are scared to talk. The apparatus and its security is the problem” (Interview 10, face-to-face, the Netherlands, 31 July 2019).

Without fundamental reform, the focus group predicted, that there will not be a decrease in the number of refugees fleeing Eritrea.

## **Conclusion**

Although the Government of Eritrea presents National Service as a duty that is necessary to protect the country, international experts have concluded that it constitutes forced labour and is coercive in nature, because it is indefinite, and because of the harsh and arbitrary punishments that are meted out to recruits and the inhumane conditions they forced to live and work in. National Service is controlled by the military-based hierarchy, in a context in which there is no rule of law. National Service severely undermines family life and its indefinite nature, forced those serving to be away from the family home. In addition, the insufficient pay received by recruits for assigned labour undermines their ability to support their families.

National Service starts with the last year of school, when education is combined with military training in Sawa Military Camp. After their year in Sawa is completed, students are assigned to vocational schools or higher education under military command under the Ministry of Defence, or to military service. These assignments include work as teachers, in health care, administration, or for the companies that come under '09', the Red Sea (Trading) Corporation. The public and private sector are overseen by top-ranking officials in the PFDJ and the President, as private persons and through private accounts. There is no public budgeting process in Eritrea. Those in National Service experience their situation as slavery in which the labour they are forced to carry out benefits those who are in control of their situation and who can amass private wealth based on this power structure.

There are serious restrictions on the flow of information (both in and out of Eritrea) and communication. Those in National Service do not have access to a phone or sim cards and they are unable to communicate with others about their situation. Very little information can be sent from Eritrea, given the strict controls by the government and the supervision of all communication. Independent monitoring visits are complicated by restrictions imposed by the government on where monitors may go and who they may talk to. Those in National Service are afraid to speak freely for fear of punishment. Very little information and communication enters Eritrea, and there is no freedom of press, freedom of expression, freedom of assembly or independent media. The Eritrean leadership controls ingoing and outgoing information through what is called '03'.

National Service creates desperate situations, which are a fertile ground for smugglers and human traffickers, who offer their services under the protection of those in leadership in Eritrea. Those in National Service have no bargaining power and usually have little possibility to negotiate their situation. Imprisonment for the smallest infraction or for what is considered disobedience happens frequently; the punishments are arbitrary, severe and inhumane. There are frequent reports of torture and there is no independent justice system.

Those in National Service are entirely dependent on the military commanders and high-ranking PFDJ officials.

National Service has become the main reason for Eritreans to flee the country, seeking ways to escape and willing to pay to cross the border, despite the shoot-to-kill policy at the border and the dangerous onward journeys to Ethiopia, Sudan, Libya and beyond. An estimated 15% of Eritreans have fled the country (Human Rights Watch, 2018), and the number of refugees fleeing has *increased* since the signing of the peace agreement between Eritrea and Ethiopia in July 2018. Unfortunately, many Eritreans have end up in human trafficking camps in Egypt, Sudan and Libya.

Eritrean officials have not indicated any plan to reform National Service. To the contrary, National Service round-ups, *giffas*, have intensified of late. The fact that the peace agreement has not resulted in any meaningful changes in Eritrea, and specifically for National Service, has created a sense of despair among the people. Despite the considerable risks, hundreds continue to leave the country daily. With the limited information available, those who flee run the risk of being abducted by human trafficking networks. However, by leaving the country, they feel that there is a chance to taste a little freedom, the hope of reconnecting with family and community, and the possibility of making some decisions about their life. Therefore, based on the empirical evidence presented in this chapter, it is concluded that National Service in Eritrea can be considered forced labour and is directly contributing to the exodus of Eritreans, making them vulnerable to being trafficked. Unfortunately, it is likely that this situation will continue while President Afwerki continues his tight grip on power and control over the ‘sons of Isaias’.

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# Journeys of Youth in Digital Africa: Pulled by Connectivity

*Rick Schoenmaeckers*

### Introduction

Why, and how, do refugee children and youth leave Eritrea on their own and arrive in a refugee camp? This chapter presents the results of research conducted among unaccompanied children and youth in a refugee camp in northern Ethiopia. The data is based on a three-month period of fieldwork in Hitsats Eritrean Refugee Camp in Tigray province. During this period, the researcher lived in the refugee camp and followed the daily routines and habits of the residents. The data collected was analysed in the

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*With limited access to the Internet and mobile phones, young people in Eritrea are living in a 'black hole' of digital connectivity. This, together with other factors (fear of recruitment into National Service, lack of educational opportunities and social fragmentation), explains why youth are drawn to migration, despite the serious risks involved. As they flee the country, they prioritise getting connected. Adapting to the low connectivity context in refugee camps, their interest in digital connectivity leads to creative digital innovation.*

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context of a world that is becoming more and more digitalised. The research zoomed in on the use of mobile phones by unaccompanied refugee children and youth in their migratory trajectories.

Nowadays, the possession of a mobile phone is no longer a luxury. In many places, it is essential equipment, even for the poorest. Technological devices such as mobile phones are important tools for refugees during their migratory trajectory. Mobile phones and the Internet are important means of staying connected with others and

staying informed about developments that might have an effect on people and their movement. Leung (2010) describes technology as key to the emotional wellbeing of refugees, as it allows them to maintain contact with family members in situations of conflict, displacement, or resettlement. During migration trajectories, technology enables migrants to develop and consolidate social relationships and gives them a sense of security (Harney, 2013). The possession of a mobile phone is also becoming a common and important tool for Eritrean refugee children and youth (Schoenmaeckers, 2018; see also Chapter 4, *Tortured on Camera: The Use of ICTs in Trafficking for Ransom*, by Amber Van Esseveld). These findings seem incompatible with the fact that although the availability of connectivity and Internet connections is increasing across the continent, only a limited part of Africa is fully connected (Porter, 2012).

Children and youth arrive every day in Hitsats, without the accompaniment of parents or guardians. They cross the Eritrean border into Ethiopia, where they arrive into a new world full of challenges and difficulties. The province in northern Ethiopia that borders Eritrea is called Tigray. In 2018, the population of Eritrean under-aged refugee children in Tigray was 10,533, out of a total of 72,772 Eritrean refugees in the province. The majority of Eritreans who leave their country and arrive in Tigray are young men. In 2018, a total of 29,373 were men under the age of 24 (UNHCR, 2018). These refugees are mainly fleeing Eritrea to avoid indefinite National Service, in which all adult men and women have to serve. While women who have children are exempt from National Service, this is not the case for men. Children grow up in families in which their father is often missing, as the military camps or places where National Service is executed are often in faraway places. National service creates fragmented families, which drives young children out of the country, causing a dramatic exodus of unaccompanied minors from Eritrea (Van Reisen & Al-Qasim, 2017; see also Chapter 5, *Sons of Isaias: Slavery and Indefinite National Service in Eritrea*, by Mirjam Van Reisen, Makeda Saba & Klara Smits). Additionally, the Eritrean authorities have specifically targeted youth to encourage or force

them to leave the country since 2001, when a crackdown took place including student arrests and mass detentions (Van Reisen & Estefanos, 2017).

Most children and youth in this research come from towns and villages near the Eritrean-Ethiopian border. Here, as in most of Eritrea, information and communication technology (ICT) is largely absent and the use of technological devices limited (Centre for Human Rights & University for Peace, 2015). These areas form so-called 'black holes' in digital Africa, where technological limitations mean that people are partly unconnected to the rest of the world. Bigger towns and cities are better connected and attract people from places that are less connected. Technological hubs and economic centres can be found in important and big cities. Such cities attract people from everywhere and are densely populated. In order to negotiate a way out of a black hole, facilitators are required, to find out what the situation is outside and to communicate. If you are from a black hole, usually the only way to connect with a connected place is face-to-face (Chapter 1, *Black Holes in the Global Digital Landscape: The Fuelling of Human Trafficking on the African Continent*, by Mirjam Van Reisen, Munyaradzi Mawere, Mia Stokmans, Primrose Nakazibwe, Gertjan Van Stam & Antony Otieno Ong'ayo).

This chapter looks at the extent to which children and youth are sensitive to technological developments in ICTs and attracted to technological (better equipped) hubs.

## **Black holes**

Interactions in Western knowledge societies contribute to explanations of digital exclusion on the African continent. According to Van Reisen *et al.* (Chapter 1, *Black Holes in the Global Digital Landscape*), "the architecture of the digital knowledge society is constructed on, and a reiteration of, the network of sea-routes and nodes that supported information gathering and examination as a basis of which colonial exploitation and imperial economies were constructed". From this perspective, the authors state that the

direction of the knowledge society is in favour of former colonial powers – and not directed to, or benefiting, excluded areas. Contemporary worldwide digital networks are informed by and constructed using these networks, which ensures the imbalanced distribution of data and information in, and about, the African continent, to the benefit of knowledge produced in Western centres, largely ignoring African cultures and habits – and certainly diminishing African voices in the production of knowledge.

In the contemporary Western world, knowledge societies are seen as societies that have a strong link to the accumulation and expansion of ICT, technological development and knowledge. A feature of imperialistic, colonial and Orientalist thinking is the belief that the Western world is the producer of real knowledge (Chapter 1, *Black Holes in the Global Digital Landscape*, by Van Reisen *et al.*), although, if you analyse knowledge from a broader perspective, it encompasses much more than that. Mawere and Van Stam (2017) claim that in the African context, knowledge can also exist in the embodied form, as knowledge that communities interact with and talk about. Buskens and Van Reisen (2017) argue that understanding epistemological sovereignty is required to study the social processes that ICTs generate in a specific place. Epistemological sovereignty means that all human beings have their own agentic ability to interpret their world within their own context and act upon that understanding.

In Chapter 1, Van Reisen *et al.* identify spaces in Africa where communities reside that are unconnected, or connected in a limited way, to digital information networks. Such spaces are called ‘black holes’. Black hole communities are communities that are unconnected to the global digital architecture because of their geographic location. People who live in such areas can be seen as subjects from which information can only be extracted (not shared) and which are subject to foreign interventions and specific social interactions in which facilitators or gatekeepers have power over the information that flows between the connected and unconnected places. Essentially, these spaces are vulnerable areas, due to lack of

unfiltered information within the overpowering digital world. In these spaces, access to (digital) information enhances power and prestige.

Many Eritrean journalists have been driven into exile. They have set up networks in which news and information from and about Eritrea is widely spread. This has resulted in suppression by the Eritrean government and led to the blocking of several diaspora radio stations from airing in Eritrea. The Government of Eritrea carefully analyses diaspora information and news in general, and filters everything it deems inappropriate (Centre for Human Rights & University for Peace, 2015). Nevertheless, modern technological devices make it easy to stay in contact with each other – but only outside Eritrea. Inside Eritrea technology and connections are weak and ICT is limited, which makes interacting by mobile phone or over the Internet more complicated.

Nodes and connecting points where information and technology is available attract youth from black hole communities seeking to increase their ability to access information from the digital world directly (as opposed to indirectly through facilitators or gatekeepers). It is also the case that many people on the African continent (and elsewhere in the world) are forced out of their homes for political, environmental or economic reasons. Information nodes appear to be destinations for people, as they can benefit from the information and technology that is available in these places. This includes important information about routes for further migratory trajectories, as well as the possibility of contacting relatives elsewhere (Chapter 1, *Black Holes in the Global Digital Landscape*, by Van Reizen *et al.*). Certain tendencies can also be recognised in, for example, worldwide urbanisation patterns from rural areas to cities. Although urban mass-migration has been evident throughout history and mainly motivated by economic reasons (Bahns, 2005), the appearance of, and migration to, technological nodes and hubs is relative and not fixed. Moreover, the magnitude of such nodes and hubs can differ widely; for some it might be a mega-city and for others it can be a refugee camp with limited connectivity.

Due to enhanced technology, information about the world is more easily spread and accessible than ever before. Even in small, unconnected villages, knowledge about possibilities elsewhere are communicated. When youngsters arrive in Ethiopia or elsewhere outside Eritrea, it becomes easier for them to access such (digital) information, which might be a trigger for them to move on, as they hear stories of better opportunities elsewhere. However, attraction to technology is not the only reason for people to leave black holes. People are also sensitive to others' behaviour. Hence, the attraction to information nodes should be analysed in the context of social conformation and what is known as 'nudging'.

## **Nudging**

People are social animals and highly sensitive to the behaviour of others. Conforming to others makes people feel confident and accepted by a community or reference group. This is explained and analysed by Sunstein and Thaler (2008), who talk about 'nudging' and how it creates herd behaviour and can bring people to make certain decisions. The word 'nudging' refers to poking or pushing someone gently in a certain direction. People are strongly influenced by the deeds and statements of others. This is an automatic reaction to avoid the things that you do being received as socially unaccepted. This reaction is strongly linked to social learning. Learning from others is the basis for individual and social development. Even small social 'nudges' can lead to massive social changes in societies. Two basic categories of social influence are information and peer pressure. Other people's actions and thoughts convey information about what might be best for us – and we conform to other people's behaviour, values and attitudes in order to avoid disapproval.

Nudging, herd behaviour and peer pressure in the situation of Eritrean children and youth was brought forward by the journalist Westerhoff (2019). She interviewed two boys who left Eritrea at the age of 12. One boy said: "All our friends have left, there is no one there anymore. Who are we going to play with or spend time with? So we decided to leave too". The other boy added: "Every day, I had



friends calling me and asking me: what the hell are you doing? When do you come to Ethiopia? So we came” (translation by author). Every day children are leaving Eritrea alone or with friends. Some leave for the first time and others had already left and returned before, arriving in Ethiopia for the second or third time. They arrive in Ethiopia hoping for a better life and better opportunities (Schoenmaeckers, 2018; Westerhoff, 2019; Gebreyesus & Schoenmaeckers, 2019).

## Methodology

The overarching question in this research is: *To what extent can the concept of a black hole explain why children and youth leave their hometowns in Eritrea without the company of their parents or caregivers, with a focus on ‘nudging’?* This question is answered by a literature review on black hole theory and on the situation in Eritrea. The empirical data gathered during this research is used to respond to this question. By examining the following sub questions, the theoretical lacuna is narrowed:

- *What forces unaccompanied children and youth to leave their hometowns?*
- *What role do mobile phones play in the trajectories of unaccompanied children and youth?*
- *How do communication and (digital) information influence unaccompanied minors and youths’ decisions to leaving their hometowns?*

The research includes a literature review and qualitative ethnographic research. The data includes transcripts of in-depth interviews, observations, surveys, focus group discussions and workshops. The respondents in this research (12–23 years old) were approached with the support of the Ethiopian Administration for Refugee and Returnee Affairs (ARRA) and the Norwegian Refugee Council (NRC). Access to the refugee camp was granted after ARRA gave clearance for the research. The NRC takes care of the unaccompanied minors in refugee camps in Ethiopia and is responsible for the implementation of several education and livelihood programmes, which were visited and studied during the fieldwork. Therefore,

clearance was also needed from the NRC and the details of the study were thoroughly discussed.

In consideration of the ethical issues, all methods and techniques were discussed with the respondents themselves and the legal guardians of the (youngest) respondents to ensure informed consent. By doing so, the autonomy and safety of all children and youth who participated in the research was ensured and fully respected (Bryman, 2012; Ellis, Kia-Keating, Yusuf, Lincoln & Nur, 2007). The term 'children' in this research is used for all respondents younger than 18-years (UNICEF, 1989). The term 'youth' is used for all people between 18 and 23 years (adapted from State Adolescent Health Resource Center, 2013).

The first respondents were introduced by the case-manager of the NRC. After this first interview, children and youth were randomly approached and introduced by other respondents creating a snowball effect. In order to obtain a clear overview of the situation, 32 semi-structured, in-depth interviews were conducted with children and youth between 12 and 23 years old. Half of the respondents were female and half male. The focus group discussions and workshops were held with the same respondents as the interviews, because of the relationship of trust and confidence established during the interview sessions. All in-depth interviews started with questions on demographic issues and the possession and use of mobile phones. The interviews and focus group discussions were held in the shelters of the respondents or in the children-areas of the refugee camp. The research was conducted with the help of interpreters who were residents of the camp themselves. This created a more equal situation and engendered trust among the participants. In further consideration of ethical issues, the interpreters received training and were informed in detail about the purpose and practices of the study.

The data was collected between June 2017 and August 2017. During the time inside the refugee camp, crucial observations were made about the programmes of United Nations High Commissioner for Refugees (UNHCR) and NGOs. Such programmes included ration

days, in which food is distributed among the refugees, and education and professional skill-training programmes, which are offered by the different NGOs. Beside these formal activities, many informal activities were attended with the residents of Hitsats, ranging from birthday and graduation parties to football games or food and coffee ceremonies. At the end of the data-collection period, all respondents were invited to attend a certificate-of-participation celebration.

### **Eritrea: Understanding children and youth**

The Eritrean government started a systematic campaign against its own people after the war between Eritrea and Ethiopia, which ended in 2000. After this war, the government implemented a policy of mandatory National Service. Although National Service is theoretically 18 months, in practice it is indefinite (Van Reisen & Estefanos, 2017; Kibreab, 2014). According to Kibreab, the Eritrean government introduced National Service “as a means of transmitting the social capital produced during the war, and maintaining the high level of vigilance and sense of insecurity – the siege mentality – that characterised the war” (2009, p. 42). This tactic was used by the government to create a national identity and to avert perceived threats. Before entering National Service, Eritrean citizens attend one year at Sawa Military Training Camp. This training was introduced in 2003 and is mandatory for all grade 12 students before they are redirected to National Service or one of the nine colleges. These colleges appeared after the closure of Asmara University in 2007 and only the very best students can attend. As soon as students finish one of the nine colleges, they can only officially graduate upon completion of National Service. The result is that students practically never graduate (European Asylum Support Office, 2015).

Mekonnen and Van Reisen (2012) have outlined that under-aged children are forcefully recruited to National Service as well. They based their findings on a leaked report from Eritrea’s Office of the State President in February 2009. According to this report, a total of 3,510 under-aged children had enlisted for military training in Eritrea (Chapter 5, *Sons of Isaias*, by Van Reisen, *et al.*). Van Reisen and Al-

Qasim (2017) point out that conscription to National Service and the dire human rights situation in Eritrea make even the youngest children want to leave.

Oppression, the violation of human rights and fear has pushed many out of the country. The Eritrean diaspora is vast and widespread around the world. Eritreans maintain strong and interconnected ties with each other through which information, money, values and tastes are exchanged. These are powerful networks through which hopes, aspirations, expectations and goals are shared (Kibreab, 2007; Hepner, 2015).

### **Technology and connectivity in Eritrea**

Eritrea has one state-owned telecom provider, called EriTel. This network covers 85% of the country, but has low mobile and Internet penetration. The average mobile penetration rate of African countries is 46%, but in Eritrea it is only 7%. Furthermore, Eritrea has only 1% Internet penetration. This low Internet penetration rate is mainly attributed to the lack of 3G and 4G mobile broadband networks (Mutafungwa *et al.*, 2017). This low rate means that the flow of information that goes via the Internet is not perceived as a serious threat to the government's monopoly on information, resulting in no laws that address Internet use in Eritrea (Centre for Human Rights & University for Peace, 2015).

As such, mobile services in Eritrea are basic and in most parts of the country rely on phone calls and text messages. Additionally, it is complicated to obtain a sim-card, as clearance from the local authorities is needed. Technically, one must complete National Service in order to obtain a sim-card; however, most youth obtain mobile phone access through friends and relatives. The Internet is mainly available in the urban centres, in, for example, Internet cafes. WiFi can be accessed from cyber cafes where people usually go to

access Facebook and other social media in order to contact friends and family (Saba<sup>17</sup>, personal communication, email, 4 March 2019).

Most children and youth from remote areas in Eritrea do not have a mobile phone. If children and youth have a phone, they use it mainly to share photographs with each other and to listen to music or the radio. For a small amount of money, they can buy songs in shops in the small villages. The way people share photos or songs with each other is via share applications – such as Share.It, C-Share, All Share and Xender – which convert the phones in mobile hotspots so that they can connect with other phones. When connected to other phones, as well as images and music, applications and other files can also be shared freely without the use of the Internet. This method of sharing applications or documents through phones is also used in Hitsats camp (Schoenmaeckers, 2018).

## **Upon arrival in Ethiopia: Hitsats camp**

### ***The conditions in camp***

This researcher found the situation in Hitsats refugee camp to be alarming; there is a lack of almost all basic resources and the environmental circumstances are making life in the camp difficult. In 2018, Hitsats had 20,526 Eritrean refugees (UNHCR, 2018). The camp is located near the city of Shire in a region where temperatures can reach up to 50 degrees Celsius in the dry season. The main issues in Hitsats are shortages of drinking water, food, electricity, and firewood; lack of hygiene facilities; and malaria epidemics, which hits people on a regular base. Additionally, there is a lack of secondary education, which impacts on the large proportion of the children in the camp. Once a day, people can fill jerry cans with water; this is organised per community at fixed times. Furthermore, there is a monthly food distribution programme. One week a month, people can pick up their rations at the World Food Programme distribution point. The rations per person include 10 kg of wheat and 60

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<sup>17</sup> Saba is an active member of the Horn of Africa Civil Society Forum who has lived in Eritrea for years.

Ethiopian birr, which is about EUR 2.50 (Schoenmaeckers, 2018; Gebreyesus & Schoenmaeckers, 2019).

### ***Connectivity and mobile phone use***

In Ethiopia, only 15.3% of the population use the Internet and the country has a penetration of only 4.2%. There is one telecom provider: Ethio Telecom. The country has a restrictive telecom architecture that relies on excessive government control. The sale or resale of telecommunication services on a private basis is forbidden and telecommunication technology that bypasses the local network is also illegal. Although the government announced that it will liberalise the sector, civil society and the private sector are not allowed to be involved in the telecommunication sector. Various international calling applications are forbidden and the government blocks and filters the media and social media platforms to prevent the mobilisation of people. Internet shutdowns have become the norm in recent years. These blocks are accompanied by the violation of human rights, including freedom of information (Zelege, 2019).

As such, connectivity in Hitsats camp is weak. Mobile phone and Internet connections do not reach the refugee camp and ARRA is hesitant about the Internet and social media services. During a visit by the researchers' team to the camp, a conversation with the camp coordinator about the possibility of a Facebook page for camp residents was rejected immediately. The coordinator replied with suspicion in an intimidating voice that if such a Facebook page were introduced by one of the researchers, access to the camp would be denied immediately.

Most of the youngest children in Hitsats did not have a mobile phone, the older ones (15 years and older) did have a phone. People mainly obtained mobile phones from others who had left the camp and gave their phone to them. Occasionally, people bought a phone with money that was sent to them by relatives. The most common brands of phones were Tecno and Huawei. Brands like Samsung or Apple were rare and never seen among children and youth. Even if they had a phone, in many cases they could not afford to put credit on

their phone to communicate or make use of the Internet. Children in the camp used their phones mainly for games, reading the Bible (a free app) and listening to music. The amount of money that was put on the phones was usually small, Ethiopian birr 5–15 (EUR 0.15–0.45). With these small amounts, people could make a local phone call or send a couple of messages via Viber, IMO or Messenger, which were the platforms mainly used by people to communicate. Another difficulty the residents of Hitsats had to deal with was the limited power supply. Electricity was available for only a few hours a day via generators. This resulted in continuously uncharged phone batteries. The small stores and restaurants owned by the Hitsats residents offered the opportunity to charge mobile phones during the hours that electricity was allowed in the camp. If the owners of the stores had generators, they charged people a small amount of money to charge their phones in large multiple sockets (Schoenmaeckers, 2018).

Connectivity and mobile signal strength are low, which makes it difficult to reach online platforms or to communicate through mobile devices. If someone wants to make a phone call, the phones are switched to the 2G network. On this network, phone calls can be made more easily than on the other networks. If someone wants to reach an Internet page, the phones are switched to the 3G network for better connectivity. Text messages are sent and received relatively well on both networks. Only at night, between midnight and 7 am, the signal on the phones could be qualified as good. In order to grasp a weak signal during the day, the people in Hitsats use several tricks. The most common trick used to grasp the signal was by dialling 112 – the emergency number. By dialling this number continuously up to 15 times, a weak signal was established for a short period of time. Another option to get a weak Internet connection was to use the application Psiphon. This application is designed for people in oppressive regimes and ensures a free space to surf the Internet. In Hitsats the application was used because it reinforces the Internet connection and maintains the signal for a short time. Besides these tricks to get a signal, there were certain places in the camp where the connection was stronger. On top of a hill the connection improved, as well as in Hitsats town, which is the town of the host community

that is directly connected to the camp. In order to communicate with family back in Eritrea, the applications Tango and Nymgo were used. These applications establish a phone connection via the United States, which makes phone calls possible. These applications are necessary, as all regular lines between Ethiopia and Eritrea are blocked by the governments of both countries. However, these options were not used often because the US dollar needs to be uploaded on the application, which is not possible for most youngsters (Schoenmaeckers, 2018).

### ***Children and youth in Hitsats and mobile phones***

For many of the children and youth in Hitsats, it was the first time that they had had a mobile phone. In Hitsats the options on the phone expanded, compared to the options in Eritrea, and children and youth started to use more and different programmes on their cell phones. They used the phones mainly to communicate with friends and family inside and outside the camp. If one had Facebook, they could open their Facebook page and scroll through the posts. In the interview with M (16-year-old female) the different ways in which the phone was used emerged:

RS: *Do you have a smartphone?*

M: *Yes.*

RS: *How important is your phone?*

M: *Very important.*

RS: *What do you use your phone for?*

M: *My mother's sister is in Holland, I am communicating with her.*

RS: *So, you stay in touch with your family in Holland. Do you also use your phone to access news or other information?*

M: *Yes.*

RS: *And for entertainment?*

M: *Yes.*

RS: *What kind of entertainment?*

M: *I like to read the Bible on my phone.*

RS: *Do you learn any new skills with your phone? Reading other books or learning new languages?*

M: *No.*



RS: *Do you make calls via normal phone calls, or do you use other applications like Viber, IMO etcetera?*

M: *I am planning to use Facebook soon.*

RS: *And do you make normal phone calls?*

M: *Mainly with my friends here in the community.*

RS: *And normal text messages?*

M: *Yes, I also do that.*

(M., interview with Schoenmaeckers, face-to-face, Hitsats, 6 July 2017)

The way M uses her phone is common among youngsters. Stories about phone use in Hitsats varied from using them for entertainment, like games or applications that tell jokes, through to contacting relatives who live in different parts of the world. The importance of having a mobile phone was further highlighted during the interview with S (21-year-old male). When asked why he would like to have a smart phone, he answered: “For the applications that I can put on the phone, for example, Messenger or Facebook. With such applications I can try to find my family” (S., interview with Schoenmaeckers, face-to-face, Hitsats, 12 July 2017). In this quote, the importance of the phone in the search for missing family members is brought to the fore. As a modern way of finding family members, mobile phones are valuable. Additionally, mobile phones and connecting with people outside Eritrea are important, because relatives elsewhere can send remittances to people in Hitsats. When money is sent, people are notified through their phone and have to bring their phone with them to the bank in order to receive their remittances.

The interviews with M and S highlight the interconnectedness of the diaspora, as all people communicate directly or indirectly with relatives somewhere in the world. The direct communication by mobile phone is mainly between Eritrean people who are outside Eritrea or Eritrean people who are inside Eritrea. When Eritreans residing in Ethiopia want to contact relatives in Eritrea, different indirect communication links are used. Informing relatives in Eritrea about children arriving in Hitsats is done via relatives elsewhere.

Another way in which information streams flows between Ethiopia and Eritrea is between people leaving and returning to Eritrea.

Especially with the youngest children, it was noticed that to inform their families about their arrival in Hitsats, the information went via other children who were returning to Eritrea. F (12-year-old male) explained how his family knew where he was:

RS: *Does your family know that you are here?*

F: *Yes, they know because of the other children that came with me. We left Eritrea together, but they went back to Eritrea already. These children told my family that I am here.*

RS: *Why didn't you go back with them?*

F: *I didn't want to go back to Eritrea.*

RS: *Why did your friends want to go back?*

F: *Because they wanted to see their parents again.*

(F., interview with Schoenmaeckers, face-to-face, Hitsats, 5 July 2017)

The other common method of informing relatives was through relatives elsewhere in the world, which was brought out during the interview with E (14-year-old female) whose father lived in Israel:

RS: *Where is your mother? Is she still in Eritrea?*

E: *Yes, she is in Eritrea.*

RS: *Did she agree with the fact that you left?*

E: *She didn't know anything about that.*

RS: *When did your father leave?*

E: *Ten years ago.*

RS: *How did you stay in contact with your father?*

E: *By his mobile phone. He contacted me with his mobile phone.*

RS: *Did he ask you to go to Israel or did you decided yourself to go to there?*

E: *We never discussed it.*

RS: *Does your mother know that you are here now?*

E: *Yes.*

RS: *How does she know?*

E: *My father called her. But this is very common in my village; if a child is lost for one day, and the other day he is still not coming home, the people already know:*

*'Oh ok, he is going to Ethiopia'. This is the case because it is just one hour walk. But in my case, also my father called my mom.*

(E., interview with Schoenmaeckers, face-to-face, Hitsats, 7 July 2017)

The above indicates that the black hole of connectivity is bridged by personal communication between several individuals who feel bonded with the community in Eritrea, as also found by Van Reisen *et al.* (Chapter 1, *Black Holes in the Global Digital Landscape*). As highlighted in the stories above, the information about the children reaches their parents back in Eritrea and in the diaspora one way or another. It is alarming that E states that it is normal in her village for people to automatically assume that when children are missing they have left for Ethiopia.

### **Social media and secondary movement**

The expansion of social media also has undesirable consequences. As there is a lack of awareness raising about the content of platforms like Facebook, as well as ignorance and unfamiliarity, the content on these platforms is perceived as reality. During an interview with W (18-year-old female) the unawareness about the nature of information spread by Facebook was underscored:

RS: [...] *and how do you access news and information?*

W: *From Facebook, there I can access any news, and anything else I want to know.*

[...]

RS: *Do you use your phone to learn new skills? Language or something else?*

W: *Yes.*

RS: *What kind of skills?*

W: *I see... on Facebook for example... I see new things, and then I can answer the questions that people ask.*

RS: *Questions? What kind of questions?*

W: *Any questions. I can give comments [on Facebook] to everything.*

(W., interview with Schoenmaeckers, face-to-face, Hitsats, 11 July 2017)

Social media starts to play a more important role for children and youth, because on these platforms they are exposed to images of life abroad. This exposure, together with direct and indirect stimulation via phone calls or other messaging from relatives in Europe or elsewhere, make people want to leave for Europe.

The organisations that are active in the camp (various NGOs, ARRA and UNHCR) are familiar with this trend and they have launched several campaigns in which the dangers of secondary migration are highlighted in an attempt to stop the outflow of young migrants. One of these campaigns is the ‘Telling the Real Story’ campaign. Billboards and pamphlets promoting the messages of this campaign were found in many places in and around the refugee camp. The campaign is a community-based platform that disseminates stories about the extraordinary journeys made by Eritrean and Somali refugees seeking asylum in Europe (UNHCR, n.d.).



*Figure 6.1. Billboard of Telling the Real Story campaign in Tigray*  
Photograph: Rick Schoenmaeckers

When children were asked if they knew what the posters and pamphlets meant, different stories emerged. Some stories were related to the actual meaning of the campaign, others had little to do with it, or children simply did not know what the campaign meant.

Nevertheless, most children and youth in Hitsats are familiar with the dangers of the onward migration trajectories. Many have lost friends or family members due to migration. Additionally, a Hitsats Facebook page (Facebook, n.d.) on which, originally, news about Eritreans on the move and in Europe was published, has evolved into a page where people are warned and awareness is created about the dangers abroad and the humiliating and violent practices taking place in Libya and elsewhere on the migration routes.

These stories about the dangerous journeys resulted in most of the youngsters in this research preferring not to travel by themselves or with groups to Europe. They stated that they want to go via a legal route or via resettlement by the UNHCR. Nevertheless, when the decision to leave for Europe is made by children and youth, as well as by adults and older residents of Hitsats, there appears to be no risk that will stop them from going.

When people continue their journey, it seems that helpful applications on mobile phones during their migration trajectories are most of the time useless because connectivity is lacking and mobile phone functions that might help them are unknown. Web-mapping applications such as Google Maps were new to most people when these were demonstrated by the researcher. The functionality of such applications is also limited by lack of connectivity and the fact that demographic applications use lots of data, which is too expensive for most people.

Thus, as soon as cities are reached where connectivity and mobile phone strength is more functional, contact can be made with relatives and mobile functions used again. The downside of these mobile devices during migratory trajectories is their abuse by criminal organisations that target vulnerable refugees with few or no assets, especially along the route taken by most Eritreans. Kidane and Van Reisen (2017) have outlined how information about and from relatives abroad and extortion through mobile phones severely damages Eritrean people back home and in the diaspora. Young refugees are captured along their trajectories to Europe and tortured,

raped and killed, while their family members are extorted for ransom using mobile phones. This modus operandi of the human traffickers is not only highly traumatising for the victims of the torture, but also for the relatives involved, leading to secondary trauma among relatives of the victims, and contributing to collective trauma in Eritrean society as a whole. This collective trauma evolves and is aggravated by the detailed information about these practices that is spread among the diaspora via social media (Kidane & Van Reisen, 2017; see also Chapter 4, *Tortured on Camera*, by Amber Van Esseveld).

### **Reasons for leaving: Is it only (digital) information?**

During the research it emerged that mobile phones play an important role for children and youth from Eritrea. Whereas, for many, the phones were useless due to lack of connectivity, data, money and the functionality of the phone itself, they all wanted to have one and stated that it was important. Clearly, (digital) information is not the only reason for children and youth to leave Eritrea. The data in this research showed that peer pressure and herd behaviour were contributing reasons for children and youth to leave Eritrea.

During the interviews, the respondents highlighted that “all their friends had left Eritrea”, or were about to leave, and had persuaded them to join and to come with them. Most of the time, leaving was unplanned and unorganised. A clear example of this came forward during the interview with M (13-year-old female):

RS: [...] *and why did you leave Eritrea?*

M: *I had no plan to come here. I was going to collect fruit [...] while I was busy collecting them my friend took me by the arm, and together we crossed the border. I didn't have any plan...*

(M., interview with Schoenmaeckers, face-to-face, Hitsats, 6 July 2017)

Such answers were not unique, especially among the younger children (under 15-years old). They reported their reason for leaving as mainly to do with friends who had left and in order to earn money that they could send back home when arriving in Europe. The youth who were

older than 18 years had other reasons for leaving Eritrea. Most said that they left Eritrea to avoid Sawa military training or National Service. The main goal of these youngsters was to travel to Europe in order to work and send money back to their families in Eritrea. However, there were still older respondents who also left because friends persuaded them to leave. During the interview with N (18-year-old male), for example, this was clearly explained:

RS: [...] *were you happy in Eritrea?*

N: *Yes.*

RS: *Why did you leave?*

N: [*laughing*] ... *because my friend told me to go to Europe.*

RS: *Is there anything you miss in Eritrea?*

N: *No.*

RS: *Do you like Hitsats more than Eritrea?*

N: *No, I like Eritrea more.*

RS: *Are you planning to move to another place?*

N: *I want to go to Europe.*

(N., interview with Schoenmaeckers, face-to-face, Hitsats, 11 July 2017)

Other respondents mentioned other reasons for coming to Hitsats. Some left because of the educational opportunities that were available in the camp. These opportunities include mainly vocational education and training (VET) programmes, which are offered by NRC and Zuid Oost Azië (ZOA). The courses offered include tailoring, carpentering, metal work, electrician, beautician, computer skills, and cooking courses. This was the case with S (21-year-old male):

RS: *Do you have a plan for any future travels?*

S: *I don't have any plan.*

RS: *Did you only plan to come to Ethiopia and from here you will see?*

S: *I want to live here, because I want to complete my education.*

RS: *So you want to live in Ethiopia?*

S: *I want to complete my education here.*

[...]

S: *I am learning at the YEP [Youth Education Pack].*

RS: *Because there is no 9<sup>th</sup> grade right?*

S: *No, so I am learning tailoring.*

RS: *Are you planning to do the 9<sup>th</sup> grade as well?*

S: *I would like to do that, I want to learn, but there is no 9<sup>th</sup> grade. So, I learn at the YEP. When I finish my tailoring course, I will take the other courses at the YEP as well.*

(S., interview with Schoenmaeckers, face-to-face, Hitsats, 12 July 2017)

The Youth Education Pack (YEP) is the name of the vocational educational programme offered by the NRC. The programme is very popular in the camp. All residents in the camp had positive reactions to the different courses and said that certain courses in Eritrea were not available or very expensive. Such educational courses, as well as formal education are important in emergency situations. In situations where people have suffered war, oppression or other traumatising events, education can reduce existing inequalities, it can assist with psychosocial recovery and the readjustment of values and social skills, and restore hope and normalcy (Lopes Cardozo & Shah, 2016). Whereas the courses are popular and the intentions of the NGOs providing them good, there seemed to be a misunderstanding about the purpose of the courses. The courses create the illusion that after graduating the students are prepared for a life in Europe or the United States of America. In a focus group with youth aged between 18 and 20 years old, this was emphasised by one of the participants:

Participant: *I am graduated here [VET programme] as a cook, so I will work as a cook there [in Europe].*

RS: *But what if they don't need a cook?*

Participant: *If there is no work as a cook I will do anything else they have for me; like carrying things from one place to another.*

RS: *[...] how will you get money to learn the language?*

Participant: *First I will work with my graduate certificate.*

RS: *But how will you work there without knowing the language?*

Participant: *First I must learn the language. If not, I need an interpreter who has to live together with me.*

RS: *Who will pay for an interpreter?*



Participant: *All countries have agreed together that they will pay for an interpreter [for refugees].*

(Focus group discussion, Schoenmaeckers with 4 respondents, face-to-face, Hitsats, 2 August 2017)

During this focus group discussion, it was highlighted that the expectations the youth had regarding their certificates were high and unrealistic, as the three to six months courses do not provide the participants with full theoretical knowledge about the subject, nor with a legal certification with which they can apply for a job abroad. Additionally, the response of one of the participants to the question ‘what he will do if they don’t need a cook’ highlights the limited knowledge of refugees about employment possibilities abroad. This limited knowledge was prevalent among all children. In the interview with M (13-year-old female) this was also clear:

RS: *[...] and what kind of job would you like to have?*

M: *I don’t know... do you have a manual? [...] what kind of work is there available in the United States?*

*[job examples are given...]*

M: *I would like to be a doctor.*

(M., interview with Schoenmaeckers, face-to-face, Hitsats, 6 July 2017)

The ignorance and innocence of the girl is recognisable in her answers. At the same time, it is alarming and highlights the unawareness of the young children who are crossing the border on their own. Especially the younger children appeared not to be fleeing any danger, but had “just left with their friends”. This easiness about leaving among the younger children raised questions about their family situations back in Eritrea. Whenever asked about thoughts of families and relatives regarding their leaving, it emerged that almost nobody had told their parents about their intention to travel to Ethiopia. All of the children claimed that if they had told an adult, they would have never let them go. Additionally, the fathers of most children are far from home in the military, which leaves only the mother as guardian at the home. Most of the children said that they missed their mothers and siblings, but there was no thinking of

returning to Eritrea. The focus was on Europe and it seemed that there was nothing that could change this mindset.

Detailed information on how the children would get to Europe was missing, but roughly everybody knew the route. F (16-year-old female) shared what she knew about getting to Europe:

RS: *Do you have any idea about how to go to Europe?*

F: *Yes, I know. You have to go to Sudan, then Libya, and then the Mediterranean.*

RS: *Ok. And is this what you want to do?*

F: *No, I only know how I have to go.*

(F., interview with Schoenmaeckers, face-to-face, Hitsats, 6 July 2017)

The route described by F shows her ignorance and unawareness about what might happen on the journey. Other children gave similar responses, which is concerning.

## **Conclusion**

Technology, particularly mobile phones, is important for most Eritrean children and youth who have fled their country. They use mobile phones to communicate with each other and with relatives elsewhere and mobile phones are an important source of information and entertainment. It can be said that children and youth are enjoying the technological possibilities in the new environment – Hitsats.

Back in Eritrea, the only way for many of the children and youth to receive information and to get in contact with places outside Eritrea was via direct interaction with others. All children and youth in this research had lived in small border villages in Eritrea. They receive information from people leaving and returning to the villages who bring stories from abroad. Such stories included aspects of the life in Ethiopian refugee camps and, for example, the educational opportunities that are available in these camps. Other stories and information were received from people who have relatives elsewhere and got in contact with them via mobile phones. Such stories trigger

mobility among the children and youth, encouraging them to leave for Ethiopia.

Upon arrival in Ethiopia, most children and youth want to have a mobile phone, even if these phones have limited or no functionality, partly due to the limited connectivity. Creative tricks are used to make use of the limited connectivity in the camp, making it possible to contact people outside the camp and to use the Internet. When people leave black hole societies in Eritrea, it seems that they become more attracted and attached to mobile phones and more eager to arrive in Europe or the United States of America.

In relation to their reason for leaving, this research found that children and youth are leaving due to fear of recruitment into National Service, for educational opportunities outside Eritrea, and because of herd behaviour; as many left the country, social fragmentation led the children to follow parents, siblings or friends. Most of the children and youth in Hitsats said that they left Eritrea because their friends had already left or because of stories they had heard about life outside Eritrea.

The theory of nudging, by Sunstein and Thaler (2008) sheds light on how people are influenced by other people. The concept of a black hole partly explains why children and youth are heading to Ethiopia, and Hitsats in particular, for digital connectivity. More extensive research needs to be conducted in order to elaborate on the concept of a black hole and herd behaviour, and how this can lead even young children to make drastic and dangerous life decisions.

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# Not a People's Peace: Eritrean Refugees Fleeing from the Horn of African to Kenya

*Sophie Kamala Kuria & Merhawi Tesfatsion Araya*

### Introduction

The Joint Declaration of Peace and Friendship signed by the governments of Eritrea and Ethiopia in 2018 resulted in the reopening of two border points, Zalembessa and Burrie, on 11 September 2018 (Eri-platform, 2018). For Eritreans, the peace process is an opportunity to demobilise and re-engage with the democratic process. The expectation is for greater participation and a move away from the current one-party state. However, as comprehensive as the peace process appears, there are some areas of concern. So far, within Eritrea, there has been no indication that the Eritrean government intends to release political and religious prisoners, stop indefinite National Service, address the human rights situation, implement the Eritrean Constitution, or reinstate the National Assembly, which has not sat since 2002 (Irin News, 2002). Nor is there any indication that there will be freedom of speech and freedom of association any time soon. No steps have been taken by either the Eritrean government or the Ethiopian

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*The Peace Agreement between Eritrea and Ethiopia of July 2018 seems to have had no impact on the number of people fleeing Eritrea, many of whom end up in Kenya. The main reason given by refugees for leaving Eritrea is family reunification; the lack of documentation means that they have to move illegally. In Kenya, Eritrean refugees face many challenges, including a lack of legal protection as refugees, which is aggravated by the lack of legal documents. When asked what is needed to stop the exodus from Eritrea, the majority state that changes at home are needed before it will be safe to live in Eritrea again.*

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government to reconcile the Eritrean opposition with the Eritrean government. This is in stark contrast to events in Ethiopia, where the government has released political prisoners and welcomed back home the Ethiopian opposition, which is preparing to participate in the 2020 elections (Crisis Group, 2019).

However, the peace process between Ethiopia and Eritrea has not stopped the flow of Eritrean refugees, who continue to flee the country (UNHCR, 2018). The reopening of these borders, and the fact that there is presently no border control, together with the rumour that the border would only be open for 10 days, resulted in a number of new arrivals of Eritrean refugees in Ethiopia. According to the United Nations High Commissioner for Refugees (UNHCR) the average number of new arrivals increased from 50 people per day to approximately 180 between 12 September to 13 October 2018 (UNHCR, 2018). According to the UNHCR report, women and children under the age of 15 years make up 80% of the new arrivals. Although Ethiopia is presently the safest route for Eritrean refugees, because of the Eritrean government's history of spying, harassing, kidnapping and disappearing its citizens, many no longer feel safe in Ethiopia and are moving south to Kenya, according to the interviews done by Makeda Saba with Eritrean activists in Ethiopia in August 2018.<sup>18</sup> Kenya currently hosts thousands of Eritrean migrants in Nairobi and Mombasa, as well as in the refugee camps of Kakuma, Isiolo, and Moyale (Amnesty International, 2017).

### **Research question**

After the signing of the Peace Agreement between Eritrea and Ethiopia in July 2018, an increase in the number of Eritrean refugees seeking asylum in Kenya was noticed. Accordingly, it was decided to conduct a rapid assessment of new arrivals of Eritrean refugees in Kenya after the Eritrea-Ethiopia peace process to better understand

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<sup>18</sup> Makeda Saba (author of Chapter 21 and co-author of Chapter 5 in this book) conducted these interviews in order to assess the situation in Ethiopia and how much it was changing.



what was happening with refugees at the time, especially in relation to how the peace process has impact on their decision to flee Eritrea.

The main research question in this chapter is: *Has the Peace Agreement between Eritrean and Ethiopia impacted on the number of Eritreans fleeing their country and what are the issues they face as refugees in Kenya?* To answer this question, this chapter looks at the main reasons given by refugees for leaving Eritrea, the challenges they faced during their journey and in Kenya, any assistance they have received from the Government of Kenya and non-governmental organisations (NGOs), and the solutions they propose to the problems they face.

## **Methodology**

The rapid assessment was conducted as a sample survey of newly-arrived Eritrean refugees assisted by the Eritrean Diaspora in East Africa (EDEA)<sup>19</sup>, in person and over the phone, from 5 October 2018 to 13 December 2018. EDEA supports refugees in countries like Kenya (first asylum countries). As part of its activities, EDEA provides advice to refugees as to their options and rights in countries of first asylum like Kenya.

The key objectives of the rapid assessment were to:

- Document the rapidly growing number of Eritrean refugees newly arriving in Kenya, since the Eritrea/Ethiopia peace process
- Find out where they are coming from (which locations in Ethiopia or directly from Eritrea)
- Find out why they are moving
- Identify the challenges they face

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<sup>19</sup> This research was carried out by researchers from EDEA, a non-profit humanitarian organisation, founded in Kenya in 2014, whose mission is to provide support to the Eritrean community in East Africa. Its aim is to raise awareness about the rights of Eritreans in the diaspora. Its staff are individuals from different professional backgrounds who volunteer their time on a need basis. The authors of this chapter are employed by EDEA.

- Identify what assistance is being received by these refugees, and their perceptions of this assistance
- Identify permanent solutions to the exodus of refugees from Eritrea

The sample survey design considered all Eritrean migrants assisted by EDEA during the study period who were subsequently registered by UNHCR and evacuated to Nairobi, Isiolo, Kakuma or Moyale. The sample group for the interviews was selected from a group of over 640 Eritrean refugees who had been trafficked or smuggled into Kenya through various means since the reopening of the Ethiopia/Eritrea border. Some respondents were referred by key contacts during their rescue; others were randomly selected from among people referred by families in Europe, Sudan, or other places who informed EDEA of their stranded relatives.

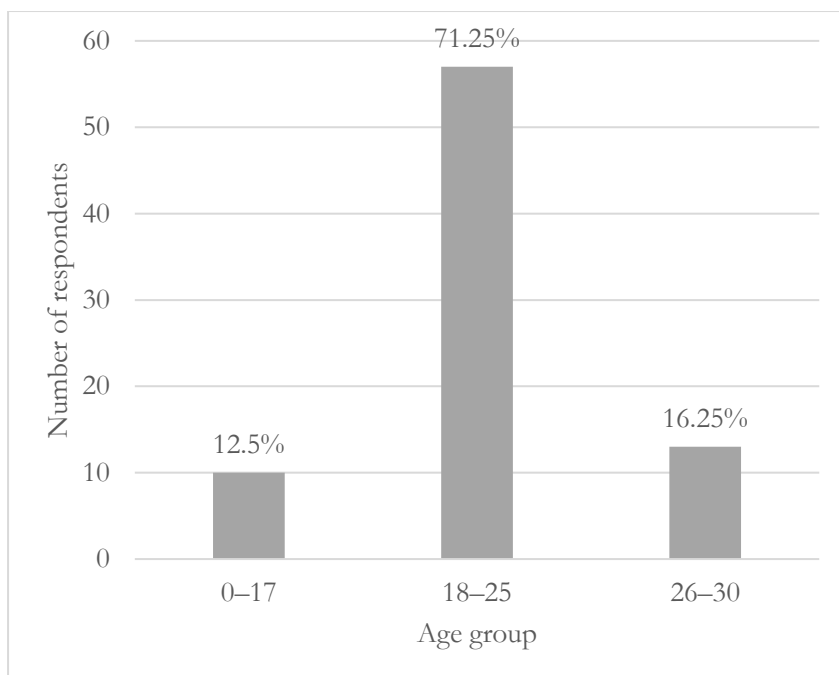
This survey used telephone and face-to-face interviews in Nairobi, Isiolo and Moyale and Kakuma. Telephone interviews offer several advantages over face-to-face interviews. Firstly, they are perceived as providing a greater level of anonymity and privacy than face-to-face encounters (Carr & Worth, 2001; Sturges & Hanrahan, 2004). Secondly, they allow people to talk freely and openly, so long as the interviewer guarantees and promises the interviewee absolute anonymity and confidentiality. Thirdly, telephone interviews may also encourage an open and honest discussion about intimate, sensitive and personal subjects, such as physical and emotional abuse and inhumane acts (Opdenakker, 2006; Sturges & Hanrahan, 2004). Fourthly, shy personalities may not be comfortable with face-to-face interactions; telephone interviews exert decreased social pressure on participants and provide them with a shield (Vogl, 2013). The personality of the respondents to the survey and their preferred mode of interview were considered prior to the administration of the survey. Telephone interviews allowed EDEA to include refugees who were afraid of participating in a face-to-face interview for fear identification or lack of trust.

A questionnaire was developed to help guide the interview process. Most of the refugees could only speak Tigrinya and some English. The questionnaire was, therefore, transcribed into Tigrinya to allow for the smooth flow of conversations. The responses to the survey questionnaires were first summarised into tabular format (comma separate files), encode into factor variables, and subsequently analysed. R programming was used for exploratory data analysis and visualisation.

### **Profile of respondents**

A total of 80 Eritrean refugees took part in the survey: 20 from Nairobi (25%), 10 from Isiolo (12.5%), 30 from Kakuma (37.5%), and 20 from Moyale 20 (25%). The respondents consisted of 59 women (56 married; 3 single) and 21 men (3 married; 18 single). There are significantly more female refugees from Eritrea than male refugees; therefore, more women than men were selected for this study to reflect this fact.

The ages of the respondents to the survey are given in Figure 7.1. Most of the participants were aged between 18 to 25 years. Age brackets were adopted in the questionnaire to encourage accurate responses.



*Figure 7.1. Age of respondents to survey*

### **Number of newly-arrived Eritrean refugees in Kenya**

During the study period (5 October to 13 December 2018), a total of 647 newly-arrived Eritrean refugees were recorded by EDEA (upon rescue and assistance from EDEA, the refugees were registered and transferred by UNHCR to designated refugee camps or holding areas in Nairobi, Isiolo, Kakuma and Moyale). Women represented a significant proportion of all refugees on a month-to-month basis relative to men and children (Figure 7.2). The gender of the children was not considered. On average, the arrival of men and children was stable in October and November, with inflows of about 62 and 28 per month, respectively. Nonetheless, the inflow of these groups in December might have been higher, as the study only collected figures up to mid-December.

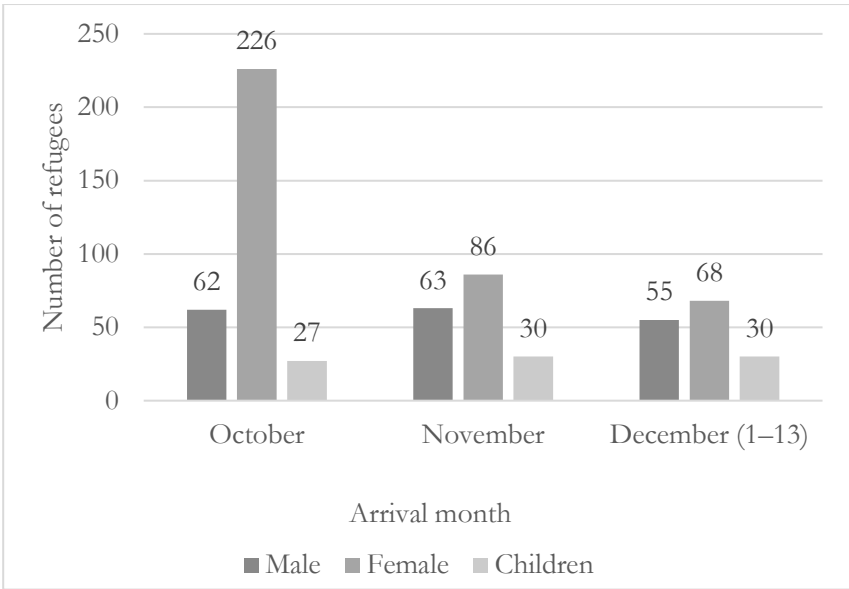


Figure 7.2. Number of Eritrean refugees arriving in Kenya in October, November and December 2018, disaggregated by male, female and children

Source: Authors' dataset

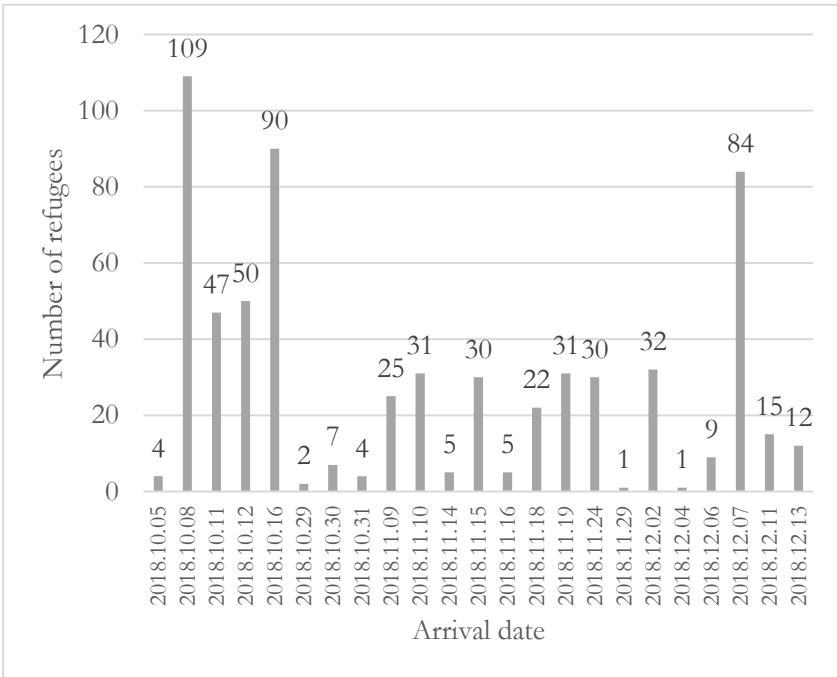


Figure 7.3. Arrival date of Eritrean refugees, October to December 2018

Source: Authors' dataset

Figure 7.3 shows the arrival date of Eritrean refugees assisted by EDEA within the study period. The largest number of refugees arrived in October (313). The ages of the migrants ranged from 6 months to 43 years.

There is no clear pattern in the arrival of Eritrean refugees during the study period (Figure 7.3). However, the arrivals into Kenya were significantly higher in October (313 migrants) compared to November (179 migrants) of the same year. The number of migrants recorded for the period 1 to 13 December 2018 was 153; it is, therefore, plausible that the total for December may exceed that of November 2018, if the trend continued.

### **Departure locations**

Over 99% of the Eritrean refugees into Kenya used the Moyale border point as the main entry point, with the exception of a deportee from Israel who was recorded at Malaba/Kampala, Uganda. The majority of refugees were originally domiciled in Eritrea. In particular, about 50% (319 migrants) explicitly stated that they had come directly from Eritrea, while the other 50% said that they came from refugee camps in Ethiopia with the key departure points being Hixax and Shimelba.

### **Reasons for fleeing**

When asked why they came to Kenya, many respondents indicated that they knew someone in Nairobi or were joining family members or friends. Two main factors emerged from the survey regarding reasons for leaving Eritrea: family re-unification; lack of documentation in their home-country Eritrea; and the reopening of the border between Eritrea and Ethiopia (Figure 7.4).

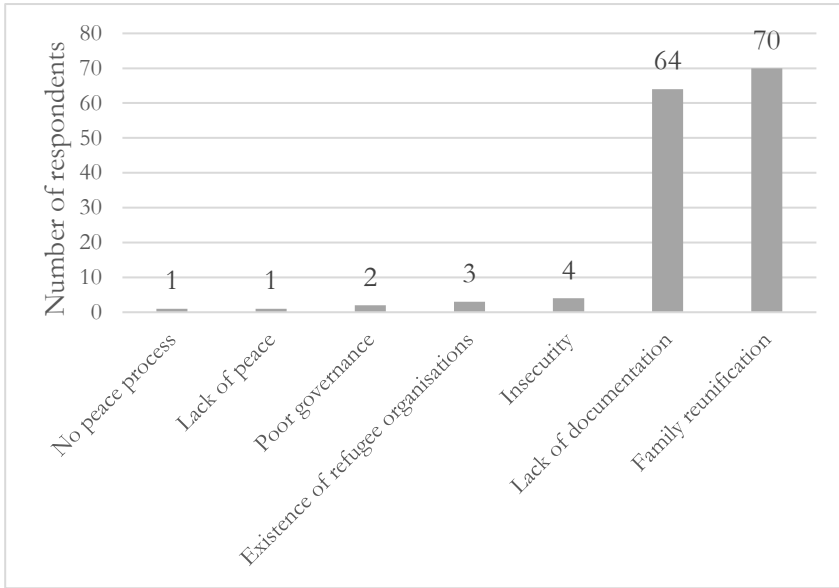


Figure 7.4. Factors motivating migration from Eritrea

Source: Authors' dataset

The other reasons that prompted migration included insecurity, lack of existence of refugee organisations, poor governance, lack of peace in Eritrea, no peace process between Eritrea and her neighbours, or fear that the peace initiative between Ethiopia and Eritrea will be short-lived.

EDEA has come to learn that most Eritreans use Kenya as a transit route to reunite with their families in Europe. However, there are some who opt to settle in Uganda, claiming that life in Uganda is much cheaper than Kenya.

### Challenges faced by Eritrean refugees transiting to Kenya

Since the reopening of the Eritrea-Ethiopia border, EDEA has received many calls from Eritreans in police stations and holding areas. The refugees reported having received contradictory information from smugglers, police, and EDEA. For example, smugglers often demand money (USD 1,600–4,000) for facilitating refugees' journeys, claiming that this is the only way refugees can move on, but EDEA advises them not to pay money and wait for

help from UNHCR. The refugees face many challenges. One of the main challenges faced by Eritrean refugees is the absence of legal protection of their rights as refugees, as provided under the Geneva Convention of 1951 and its Protocol of 1956. This matter is aggravated by the lack of valid travel documents for refugees, which would enable them to move about more freely, earn a living, and contribute productively to the host country.

In addition, refugees said that despite completing the family reunification process to a third country (i.e., Ethiopia), they are unable to leave Eritrea without an exit visa and, therefore, have been forced to leave Eritrea illegally. Once in Ethiopia, they are not able to obtain passports and other travel documents from the Eritrean Embassy in Ethiopia. In fact, EDEA has information that consular services, such as obtaining passports, are closed to new arrivals in Sudan (Khartoum), Ethiopia (Addis Ababa) and Kenya (Nairobi).

The main reason for the lack of travel and identification documents among Eritrean refugees is the complex issuing process for travel documents by the Eritrean government. In particular, the government does not allow youth and underage children to have travel documents. In addition, there is a long waiting period (often two to four years) demanded by UN and refugee-hosting countries in East Africa prior to issuing refugee/alien identification documents (UN Human Rights Council, 2016).

Eritrean refugees in East Africa lack support, knowledge of their rights as refugees under international conventions, and access to protection and legal advice. As mentioned by Horwood and Hooper (2016), such difficulties often mean that they are not able to obtain relevant documents for many years, leaving them vulnerable to police harassment and hindering their free movement to earn a living, support their families, and contribute productively to the host country. As a consequence, they remain vulnerable and many opt to continue on to Europe, despite the risk of physical abuse, rape, slavery and even death.



Another challenge is the changes to the Kenyan immigration policies on refugees, which include the closure of some refugee camps and disbandment of the Department of Refugee Affairs and the creation of the Refugee Affairs Secretariat (Amnesty International, 2017). These changes were made in response to the various terrorist attacks in Kenya over the years. With the massive influx of refugees from other parts of Africa to Kenya, this has resulted in a long process of recognition for refugees. Refugees need to go through a lengthy process to get refugees status and be considered legal residents. However, having a refugee status card does not guarantee employment. Kenya does not have a clear policy on refugee employment and other benefits. In comparison, in 2006, Uganda passed the Refugees Act, which officially allows refugees to settle in Kampala and other urban areas. However, if they are living in urban areas, they must forgo humanitarian assistance and, therefore, be able to provide for themselves. While some self-settled urban refugees are able to access education and employment opportunities, many end up living in slums with the Ugandan urban poor (Pavanello, Elhawary & Pantuliano, 2010).

The following excerpts are from telephone calls received by EDEA from Eritrean refugees in police stations and holding areas, and describe the challenges faced by the respondents.

### ***Respondent 1***

Migrants travel long distances to seek asylum in other countries and face many challenges in the course of their journey. Respondent 1 had this to say about the challenges faced:

*I was among the migrants who paid money to be smuggled from Ethiopia to Moyale-Kenya to seek asylum. Come the day, we were led by them [the smugglers] and the worst part of the journey we trekked. Which to me was not as expected, because I thought they were to offer transport. Unfortunately, each journey had its challenges, that day I slipped and I fell over a bridge. I survived, but with an injury to my back. I have not received any medication. (Respondent 1, interview, face-to-face, Moyale, 8 October 2018)*

## **Respondent 2**

Asylum seekers often suffer mistreatment from smugglers and others. Respondent 2 shared the following:

*I am a mother of four children. We were put in a safe house at a village in Moyale as we waited for the smugglers to transport us to Nairobi. After a while, one of them came and led us to the place where we were to be picked up by a vehicle. Reaching there, they started quarrelling that I had children and the road was not good for them. So they left us with other migrants. We got robbed and ran to the nearest police station to seek help. My children got sick at the station. (Respondent 2, interview, face-to-face, Isiolo, 29 November 2018)*

## **Respondent 3**

*We surrendered ourselves to Wajir police station after the smugglers dumped us. At that time we were 31 in number including men, women and children. We lived under poor conditions in terms of hygiene. This led to a diarrhoea outbreak which affected most of us. (Respondent 3, interview, face-to-face, Nairobi, 2 December 2018)*

## **Respondent 4**

Despite being under the protection of the Refugee Affairs Secretariat, Kenya and UNHCR, the asylum seekers still feel insecure and threatened by human traffickers, as this respondent narrated:

*Refugee Affairs Secretariat had sent us from Maralal to Nairobi-Shauri Moyo for registration as legal asylum seekers. After going through the process we were locked in Department of Refugee Affairs until 7:15 pm to be transported to the refugee camp. As we waited smugglers came from nowhere and kidnapped 10 people out of 22. Fortunately, the victims were rescued by the Kenyan Police. (Respondent 4, interview, face-to-face, Nairobi, 23 November 2018)*

## **Respondent 5**

On 23 November 2018, there was a group of 22 Eritrean asylum seekers, who, pursuant to a court order, were transferred from Moyale to Nairobi to have their documents processed by the Department of Refugee Affairs. When it was time to leave, they reported that there were two vehicles waiting to transport them with men in military uniforms. These men forced the asylum seekers into their vehicles

and demanding to be paid USD 4,000, stating that the fee was for the court order and transportation. They managed to force 10 people into the vehicles and the others escaped:

*After the registration at Nairobi-Shauri Moyo, we were taken to Kangemi, which is the transit point to Kakuma refugee camp, but we were kidnapped by Eritrean human traffickers on our way and taken to a place that we did not know. They wanted a ransom of [USD] 1,600 dollars which we did not have. (Respondent 5, interview, face-to-face, Nairobi, 1 December 2018)*

### **Respondent 6**

One of the Eritrean freedom fighters, who had been serving the regime till recently shared the following experience that he faced in Eritrea and on the way to Kenya:

*I am a 55-year old Eritrean freedom fighter who actively participated to liberate my country from Ethiopia. I suffered a lot of injuries during the period that I fought. We were able to liberate our country, but we felt that the government failed us because we had hope that we could work freely, our children would receive quality education, but that was not the case. Systematically we were subjected again to another border conflict with Ethiopia from 1998 to 2000. Because of this we could not be released by the government from the military. This war affected the development of the country in terms of infrastructure, education, culturally etc.*

*After the end of this war I had hoped to go back to my normal civilian life, but the government refused to release us. This led to my wife fleeing the country to Europe and leaving our three children behind. You can imagine the challenges I had to go through as a single parent without work. So I decided to run from my country to Kenya seeking asylum.*

*I faced a lot of difficulties in the course of my journey to Kenya in the hands of human smugglers. I was also intimidated by the police. Finally, I and my children managed to be registered under UNHCR and the Kenyan government. (Respondent 6, interview, face-to-face, Nairobi, 19 November 2018)*

### **Respondent 7**

Life in Eritrea can be described as slavery in the sense that everyone who works there is either getting nothing or very little. Here is what an Eritrean woman who served in the National Service and as a teacher had to say:

*I am a teacher by profession and also completed the obligatory National Service where I was getting paid peanuts. Surely, how can you be given less than USD 1 a day to survive? That is like working for free. After the National Service I got married to my husband in a lavish wedding in my country. We did not enjoy our married life after the wedding, because my husband fled to the USA to avoid the indefinite unlimited obligatory National Service. After he left I went through many problems including discrimination from government school administrators and loneliness. So I later on decided to flee from Eritrea via Sudan. Unfortunately I was caught by government officials. Since then I have been transferring from one detention centre to another.*

*I was fined 50,000 Eritrean nakfa (USD 3,333)<sup>20</sup> and posted back to the school that I was teaching at. Fortunately the border between Ethiopia and Eritrea was officially opened after the peace deal. I took advantage of that free movement and ran away via Ethiopia to Kenya. I was robbed by militias in Moyale-Kenya. Then taken to a police cell that was uninhabitable. I contracted pneumonia due to cold, but later on I was flown to Kakuma refugee camp for registration. (Respondent 7, interview, face-to-face, Kakuma, 16 October 2018)*

### **Respondent 8**

Lack of stability in any country affects everyone regardless of age or gender. The elderly and children are the most vulnerable part; here is what an unaccompanied child had to say:

*I was left alone in Eritrea without anybody to take care of me after my mother fled to Uganda. I am only 9 years old and during the border peace deal I was brave enough to cross to Ethiopia with the traders. Later we went to Kenya where we got arrested. We stayed in a police cell; I got sick from pneumonia. Later I was then taken to Kakuma where the UNHCR and the Kenyan government are trying to*

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<sup>20</sup> Official exchange rate 1 USD = 15 ERN (nakfa)

*provide me with proper documentation to travel to Uganda and meet my mother.*  
(Respondent 8, interview, face-to-face, Kakuma, 16 October 2018)

### **Respondent 9**

Education is crucial to society to achieve development and prosperity. A graduate student in Eritrea was given a scholarship to pursue further education in Germany. Unfortunately, the government would not issue him with valid documentation to go to abroad. This resulted in him leaving Eritrea illegally. Here is what he had to say:

*I am a graduate student from Eritrea Halhale Business College and I got a scholarship to study in Germany. The government denied me a passport so that I could go and study. Luckily enough, the border of Eritrea-Ethiopia was opened and I fled my home country. Despite all the assistance from the Kenyan government and UNHCR in terms of the provision of proper documentation, I was victimised by the human traffickers, robbed by the militias, fell sick in the prison and was delayed to attend my studies on time.* (Respondent 9, interview, face-to-face, Moyale, 12 October 2018)

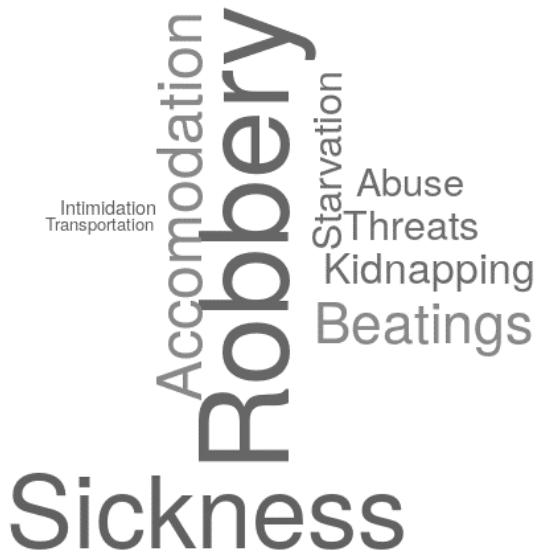
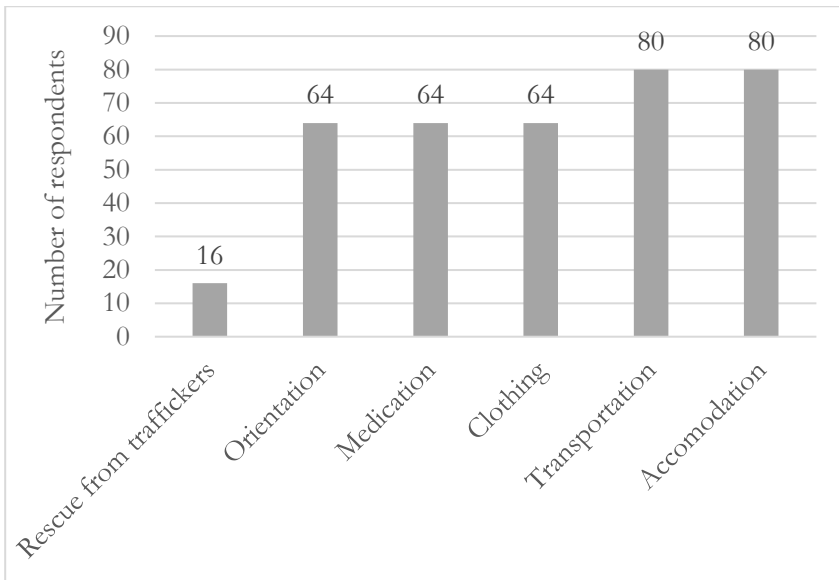


Figure 7.5. Word cloud showing the challenges faced by Eritrean refugees

Figure 7.5 provides a graphic illustration of the problems encountered by Eritrean refugees in the form of a ‘word cloud’. The size of the font indicates the seriousness of the challenges faced. For example, the three most significant problems encountered by refugees were robbery, sickness and lack of accommodation, in that order.

**Government and non-government assistance**

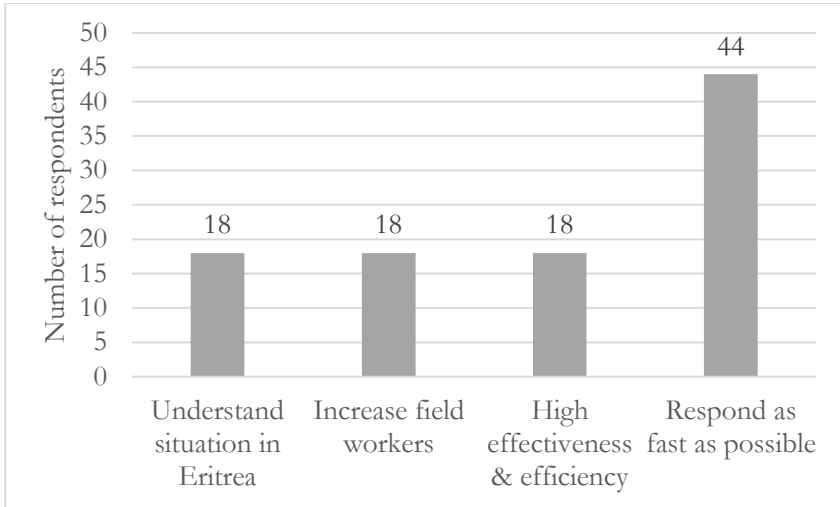
When asked if they had received any assistance from the Kenyan government or NGOs, the respondents reported having received accommodation, transportation, clothing, medication and orientation. A few also said they had been rescued from traffickers (Figure 7.6).



*Figure 7.6. Assistance provided by the government and NGOs to Eritrean refugees*  
 Source: Authors’ dataset

Refugees were also asked if they found the assistance relevant to their needs; 90% of respondents answered ‘no’. Their suggestions for assistance included provision of adequate shelter, health care and protection; employment; social and political inclusion; and community cohesion between refugees and host communities.

When asked how they would improve the assistance provided by the government and NGOs, the main suggestion from respondents was to respond faster (Figure 7.7).



*Figure 7.7. Suggested improvements to the assistance provided by the Kenyan government and NGOs*

Source: Authors' dataset

### **Solutions to refugee problems**

The respondents were asked what they believed would be a permanent solution to the exodus of refugees from Eritrea. Most (86%) said that there needed to be a change of regime in Eritrea for refugees to stop fleeing. Other solutions included good governance and freedom of movement, an end to the psychological warfare by the state against the citizens and democracy, as well as freedom of movement and good policy (see Figure 7.8).

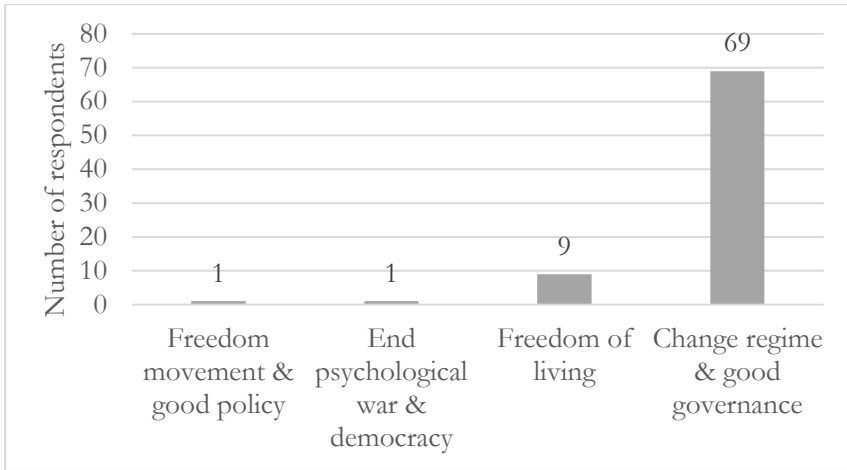


Figure 7.8. Suggested solutions to the exodus of refugees from Eritrea

Source: Authors' dataset

## Conclusion and recommendations

The results of the study indicate that the peace process between Eritrea and Ethiopia has had no impact on the exodus of Eritreans from the country. Many Eritrean refugees continue to come to Kenya as they consider it a safe place in which to settle. Some come to seek resettlement in Western countries such as the USA, Canada, Australia and Europe, as most of these embassies are not present in Eritrea to help provide visas. In addition, the largest branch of the UNHCR office is based in Nairobi. This has resulted in a massive influx of Eritrean refugees to Kenya, even after the Eritrea-Ethiopia peace process.

This study shows the suffering that asylum seekers go through when they arrive in Kenya. They are not certain as to whether the information they are given is correct, be it from the smugglers, police or EDEA. They do not trust anyone. During the study period (5 October to 13 December 2018) 647 calls for assistance were received by EDEA from newly-arrived Eritrean refugees. Women represented the highest number of calls (74%). Most of the refugees reported coming directly from Eritrea, via the border crossing at Moyale, although some also reported coming from refugee camps in Ethiopia. The main challenge faced by refugees was the absence of legal



protection of their rights as refugees. This was aggravated by the lack of legal documents from Eritrea (passport, exit visa) and the inability to obtain such documents from the Eritrean Embassy in Ethiopia. In addition, Kenya does not have a refugee policy, so they were unable to obtain legal documents evidencing their refugee status or allowing them to work in Kenya, leaving them without a way to earn a living.

In relation to the assistance provided by Kenyan government agencies and NGOs, 90% of refugees said that this assistance was not relevant to their needs. In addition, they complained of considerable delays in the response when seeking help from organisations such as UNHCR and the Department of Refugee Affairs. These delays exacerbated the poor conditions they found themselves in and increased their chances of falling into the hands of smugglers and being taken advantage of because of their vulnerable and desperate state. When asked about their views on a permanent solution to the exodus of refugees from Eritrea, the respondents said that a regime change was necessary.

Based on these findings, EDEA makes the following recommendations:

- Funding for refugee service providers (such as government agencies, NGOs and UNHCR) should be increased to strengthen their services and enable them to provide timely support to refugees in all areas so that the refugees are assisted when they arrive.
- Humanitarian programmes should focus on enabling refugees to secure job opportunities and training refugees on how to generate income by taking advantage of existing skills and learning new ones.
- Refugees should be informed of their rights and enabled to follow the right channels in seeking help in accordance with the law.

## Limitations of the study

The main limitation on this study was the time frame in which it was implemented. The study was conducted over a 70-day period from 5 October to 13 December 2018. It also pertains only to Eritrean refugees. Therefore, the findings cannot be generalised to other refugees of non-Eritrean origin who may have arrived during the study period. A longer time period would be needed to draw any conclusions about Eritrean refugees in Kenya in general.

Resources posed another limitation. The transcription of the survey responses from Tigrinya to English was time consuming and the interview and transcription process was tasked to the same limited human resource available at EDEA for receiving, assisting and co-ordinating incoming calls from refugees in multiple locations in Kenya.

Another limitation was the fact that there was no set time for the interviews. EDEA receives calls directly from refugees/asylum seekers and relatives living abroad seeking help. Based on these calls, EDEA took the opportunity to interview the respondents. The calls would give EDEA an indication of the location in which the refugee arrived, but it is not known how the respondents obtained the contact information for EDEA. Sometimes the respondents were not sure about disclosing information because of fear of being spied on.

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## Chapter 8

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### Israel's 'Voluntary' Return Policy to Expel Refugees: The Illusion of Choice

*Yael Agur Orgal, Gilad Liberman & Sigal Kook Avivi*

*"We have expelled about 20,000 and now the mission is to get the rest out."*

Prime Minister Netanyahu, 3 January 2018 (Heller, 2018)

#### Introduction

Many African asylum seekers, almost exclusively from Eritrea and Sudan, arrived in Israel through the Egypt-Israel border in the Sinai Peninsula between 2006 and 2013. Sudanese refugees mainly fled following the Mustafa Mahmoud Square massacre in December 2005 (Whitaker, 2005); Eritrean refugees arrived later, as the refugee and trafficking routes consolidated around 2007/08. The closure of the Libyan route and the strengthening of the kidnapping and trafficking networks resulted in the arrival of many Eritrean refugees. Many of these refugees had suffered extreme conditions and torture on route and in the torture camps in the Sinai (Aid Organization for Refugees and Asylum Seekers in Israel, 2014, p. 3). In mid-2012, Israel constructed a fence along its border with

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*Under Israel's Anti-Infiltration Law, more than 2,000 people have been deported to Eritrea, 4,500 to Sudan, and 5,400 to Rwanda and Uganda. Although 'true consent' is required under Israeli law, the voluntary nature of such returns is dubious, with deportees being given a choice between indefinite detention and deportation. The deportees leaving in this way risk imprisonment, slavery and persecution in their countries of origin or third countries. Some flee again, often through Sudan, Libya and the Mediterranean Sea to Europe, perilous journeys that are driven by lack of choice and often facilitated by state-sponsored smugglers.*

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Egypt, which dramatically reduced entries by 2013 and stopped them completely by the end of 2016. In total, 64,736 asylum seekers have crossed to Israel through the Sinai since 2005. As of January 2019, there were 33,627 African asylum seekers in Israel, consisting of 24,007 Eritrean and 6,594 Sudanese (Population, Immigration and Border Authority, 2019). Eritreans and Sudanese make up the vast majority of the group derogatorily referred to as ‘infiltrators’ under Israeli legislation. In a bid to rid itself to what it perceived as a problem, the Israeli government set up a scheme for what it called ‘voluntary’ repatriation. To what extent this policy is indeed ‘voluntary’ and what its implementation means in the lives of the refugees is researched in this study.

### **The situation in Israel**

Although Israel has signed and ratified the 1951 Refugee Convention, it has not embedded it in its national legislation and, at the time of writing this chapter, Israel has no refugee law. In the absence of such a law, the government, the Prime Minister and the Minister of Interior Affairs enjoy few legal restrictions on determining who is a refugee, how the asylum system is built and functions, the rights and obligations of refugees, and the status individuals will hold until their application is ruled upon. Since the late 2000s, the same Prime Minister has been in office in Israel, with similar governments, and their attitude toward asylum seekers has been consistent – to get rid of them by different mechanisms of deportation (Heller, 2018). The first deportation was as early as 2007 under the so-called ‘Hot Returns’ policy, under which asylum seekers were pushed back at the Israel-Egypt border into the arms of the Egyptian army and Bedouin smugglers (Hotline for Refugees and Migrants, 2008, p. 49). After this policy was renounced, Israel built its border fence, which effectively stopped the entry of new refugees. The focus then shifted to the population already in Israel. A double-headed approach was put in place: first, to make the daily lives of refugees impossible by imposing different sanctions, including incarceration under an amendment to the Anti-Infiltration Law, which was introduced in 2011, and, second, to pressure them to leave Israel under the Voluntary Return

mechanism introduced in 2012. The former (indefinite or prolonged detention) was used to encourage the latter (voluntary return).

The sanctions Israel has put in place to push the asylum seekers out include geographic restrictions; detention for a long duration; denial of access to a functioning asylum system; absence of social care or any integration scheme; denial of any permanent or long-term visa; requirement to renew ‘conditional release visa’ every 1–3 months through a humiliating and time consuming process; denial of a work permit; and extreme taxation (Rozen, 2014; Birger, Shoham & Bolzman, 2018). These measures have led to the removal of more than 30,000 persons since 2013 (Population, Immigration and Border Authority, 2019).

Severely traumatised survivors of torture camps in Sinai, who have survived torture and human trafficking for ransom, succumb more easily to pressure from immigration officials to leave the country. These survivors owe money to members of their family or community who paid their ransom for release from the torture camps and cannot afford to stop working. It is, therefore, reasonable to assume that since 2013, there are numerous survivors, who should have been protected in Israel under Israeli law and international law, are among those who left ‘voluntarily’ to third countries (Drori Avraham, Rozen & Avigal, 2015; Rozen, 2015; Rozen & Michaeli, 2015).

Current and accurate information regarding those removed from Israel is scarce. Following a freedom of information request in 2015, the Ministry of Interior reported that 4,608 Sudanese were deported to Sudan, 1,059 Eritreans to Eritrea, and over 4,200 asylum seekers to third countries up until August 2015 (Ziv, 2015). Recent data published by the Population, Immigration and Border Authority reveals that, between 2015 and 2018, 2,228 Eritreans and Sudanese were deported to their home countries, 3,376 were deported to third countries (Rwanda and Uganda), and 6,049 left to other, mostly western, countries. Among the rest of the uncounted deportees from

Israel are also around 1,500 South Sudanese who were deported to South Sudan in 2012 (cited in Bras, 2018).

This research focuses on Israel's Voluntary Return mechanism, which has been in place since 2012, and asks questions about its 'voluntariness' from a legal perspective. The research is based on the Israeli Supreme Court's criteria for voluntary consent, as set out in the case *Elmasgad v. Minister of Interior*, also known in legal terms as 'truthful consent', namely, that the consent must be 'free' and 'knowledgeable' (Supreme Court of Israel, 2017, para 120). Based on the testimonies of deportees gathered for this research we argue that under the sanctions Israel put in place since 2012, these two criteria could not have been met. All of the interviews were conducted by the authors,<sup>21</sup> while additional information was gathered from government resources, the media, non-governmental organisations (NGO) reports, academic research and the refugee community in Israel and abroad. Accordingly, it answers the following research question: *Is Israel's Voluntary Return mechanism truly voluntary in practice, or are refugees and migrants being pushed out, and what is the situation of deportees after they have been deported to countries of origin and third countries?*

This chapter is organised as follows: first, we contest the concept of 'free consent' based on the testimonies of those deportation from incarceration, and describe the main mechanism used to push refugees out of Israel. Israel's secret third-country agreements are described next, along with the promises made to the refugees before deportation to dispute the existence of 'knowledgeable consent'. This is followed by a description of the reality for refugees after

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<sup>21</sup> More than 20 refugees from Eritrea and Sudan who were deported to Rwanda and Uganda were interviewed in person by Sigal Kook Avivi and Yael Agur Orgal in Uganda in October 2016 and the interviews documented on film. Further interviews were conducted with NGOs and UNHCR officials. Several interviews with refugees were carried out in person in the Netherlands by Gilad Liberman in July 2017. More than 10 refugees were interviewed in person in Switzerland and 2 in Germany by Sigal Kook Avivi and Gilad Liberman in October 2017. Several of those interviews were documented on film and several written. Further interviews were conducted over the phone with refugees in Europe, Uganda and Egypt, and notes taken. One refugee sent a recorded audio testimony using an online messaging system. All interviews were conducted in either Hebrew or English.



deportation in their countries of origin and in third countries, Rwanda and Uganda. The consequences of deportation are briefly described, before the conclusions are presented.

### **Imprisonment – The illusion of choice**

*For the time being, I plan to lock them up. This I can do without anyone's authorization. I am doing it for the good of the State of Israel... I have asked the Treasury for a budget increase to build more detention facilities, and until I can deport them I'll lock them up to make their lives miserable.*

(Eli Yishai, Minister of Interior, cited in Efraim, 2012)

Before the fence along Israel's border with Egypt was constructed in the Sinai in 2012, virtually stopping the arrival of African refugees, all refugees who entered Israel were held in detention for anything ranging from hours to years, under the Law of Entry. The Third Amendment to the Anti-Infiltration Law, which came into force in 2012, enabled the detention of new persons arriving through the Sinai border for a minimum of three years. By the end of 2013, the law was amended again allowing refugees who were already in Israel to be 'summoned' to detention (Drori-Avraham, Rozen, & Avigal, 2015).

The incarceration of refugees was coupled with a mechanism for their 'voluntary' return – since the end of 2012 from Saharonim Penitentiary and since December 2013 from Holot Facility. This mechanism is based on an individual 'agreeing' to leave Israel, distancing the procedure from forceful deportation, according to the Government of Israel. However, under Israeli law, in order for there to be true consent there must be 'free consent', which means: "consent that reflects the true and free will of a person. Free consent can occur only where a person is sovereign to make a knowledgeable and aware decision out of a few choosable options" (Supreme Court of Israel, 2017, para. 120).

The Supreme Court has clearly stated that if a person is faced with two options – leaving Israel or being imprisoned – there is no element of free consent, because imprisonment cannot be considered a

‘choosable’ options (Supreme Court of Israel, 2017, para. 121). As seen in the testimonies of people deported, many were forced to make this exact choice. Under the theory of planned behaviour (Ajzen, 1991), social pressure in the form of motivation to comply with immigration officers, who have broad control over the person’s fate, both in prison and outside; motivation to avoid mistreatment and the fate of indefinite or prolonged imprisonment; and expected opportunity in the form of future safety from persecution in the new country, all render the person’s attitude irrelevant – these factors negate the element of choice.

### ***Saharonim***

*Agreement to return to Eritrea under a jail ultimatum  
cannot be considered voluntary by any criterion.*

(UNHCR to Haaretz newspaper, cited in  
Schwartz & Hetfield, 2013)

Saharonim Penitentiary is located in the Israeli desert, just a few kilometres from the Egypt-Israel border and is equipped with immigration personnel. Detainees in Saharonim are locked inside the facility 24-hours a day and locked in their cells for a variable number of hours, ranging from only at night up to 22 hours a day. They are not allowed to have phones and do not receive visits, except from close family, United Nations High Commissioner for Refugees (UNHCR) personnel, lawyers and volunteers from the Hotline for Refugees and Migrants (Rozen, 2012, pp. 6–8). The Third Amendment to the Anti-Infiltration Law, which enabled their detention, was finally abolished on September 2013 after an appeal was lodged with the Israeli High Court of Justice in October 2012. As an intermediary order was not accepted, until the amendment was abolished it was applied to newly-arriving asylum seekers, who were imprisoned in Saharonim for up to two years, until being moved to Holot (Kovaliyov-Livi & Rozen, 2014).

According to Israel’s Population, Immigration and Border Authority, 1,687 Sudanese and 268 Eritreans left Israel in 2013 (Population, Immigration and Border Authority, 2014, table 4). The vast majority

of them are assumed to have been refouled to their country of origin, as deportation to a third country only started in 2014 and was not systematised at that time. Leaving to other (mostly Western) countries was also rare. According to the Hotline for Refugees and Migrants Report from November 2013, and based on information provided by the Population, Immigration and Border Authority to a Knesset committee, more than 800 Sudanese and at least 14 Eritreans have been deported to their country of origin from detention in Israel until 2013 (Human Rights Watch & Hotline for Refugees and Migrants, 2013).

BG,<sup>22</sup> a refugee from Darfur, entered Israel in 2012 and was immediately incarcerated in Saharonim. There, he witnessed people breaking due to the long imprisonment and agreeing to leave Israel. He reported that in January 2013, after being imprisoned for a long time, the detainees decided to go on a hunger strike. Immigration officials tried to convince the detainees to end the strike, and when that failed, they called the police:

*[On] 5 May 2013, when the police were entering Saharonim, agaf [wing] 7, I saw the violence of the police of Israel. They beat us like dogs. They beat us and put handcuffs, some were injured, some vomiting, it was like we were animals in the forest, some even got out naked. ...They came with dogs, handcuffs, all that... It was after this that people left. The government beat us like we are not human beings. ...It was horrible. ...it was the first time I had handcuffs in my life, and a lot of people were like me. And you say, oh my God, we have to get back. Everyone has his own problems, from my point of view, that made a lot of people go back. ...They put pressure, pressure, pressure and they went back [to their home countries]. People said "no, we waited for so long, we are fed up, we would like to get freedom, we cannot stay anymore". (BG, interview with Gilad Liberman, by phone, 2018)*

Many months of struggle later, BG decided he could not stand the pressure in the Israeli prison anymore and that it was better to risk his

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<sup>22</sup> All names of interviewees have been anonymised for their safety, as some are still in vulnerable situations.

life by going back to Sudan. He was promised by the immigration authorities that he would be safe, but the reality was different:

*When I got out of the plane, there is a connection between the Government of Israel to the Government of Sudan. When we just arrived, around 20 persons, they took our passports. The National Security took our passport and they put us in a big car, like a bus. They took us to the office of the National Congress Party. They asked us a lot of questions, like where you are coming from. At first we tried to say Turkey, but they knew exactly where we came from, because they have connections with the Government of Israel... When we were coming from Ben-Gurion airport, there were some people, Israelis, who were joining us until Turkey. I'm sure there was a connect, because when we arrived, there were other people, but they knew us, the names. They had a list and they knew who came from Israel. You can't deny it. They know every single detail.*

*All of us they took to prison, but I spent one month and when I got out other people stayed in prison. They did not release us at one time. I was very lucky. I was one of the first ones out. During the first 30 days [in prison] they come to insult you, they tell you "you are from Darfur and you join the rebel group, and why you came to Israel, and you know in the passport we can't go to Israel". They put water on you. They try to force you to talk. [They ask questions like] what do you know about Israel and how did you get there... (BG, interview with Gilad Liberman, by phone, 2018)*

MH entered Israel in June 2012 and was imprisoned in Saharonim under the Third Amendment to the Anti-Infiltration Law. He spent a year and a half there, until he was moved to Holot under the Fourth Amendment, which was passed in December 2013. He never left Israel, but witnessed many of his community members break under the pressure to leave:

*I personally knew over a 130 people who were deported from Saharonim, all of them Sudanese. Almost all of them were deported to Sudan, via Jordan or Turkey. The first ones deported that I remember, in December 2012 or January 2013, were a group of 30 Sudanese. The authorities in prison put a lot of pressure on them to leave – they shouted and cursed. They said you can either spend a life in prison in Israel or leave to another place. The pressure was too much for anyone. I am not even*

*sure that Israel told them they will go back to Khartoum. Maybe some of them believed they will leave to an Arab country. The second group was in January 2013, they were over 100 people. The immigration authority then said that if we won't leave they will take us to a worse prison. They said "now you have the chance to leave the prison and go back to your country, but later you won't have that option to leave and you will be stuck in prison for the rest of your life". They always lied to us. Always.*

*The way they put pressure on people was: call you every week to the office of the immigration official and conduct an interview where they said you have a way to go out of the prison, or stay in prison for life. They cursed a lot, making fun of our situation, stating that we were 'not men' for leaving our country, that we were worth nothing because we ran away from our families. They always found the small things that really make a person upset and used them. The conditions of imprisonment also made us despair. Every three days or week they would change our prison cell and move us from one place in prison to another. It was during the winter, and we were in tents. Everything always was cold and wet. We tried to put fabric around the bed to keep in the heat, but they said it was not allowed. Imagine yourself in the winter in the desert, every hour of every day outside in the cold. They changed our places so much that we did not even organise our things. Everything was packed and we could not have any stability – we were always ready to move again. I am sure it was all used to make us suffer and despair and leave Israel. (MH, interview with Yael Agur Orgal, face-to-face, Jerusalem, January 2018)*

## ***Holot***

The indefinite detention of asylum seekers in Holot detention centre started on 13 December 2013 under the Fourth Amendment to the Anti-Infiltration Law, which was enacted three days earlier. This was after completion of the fence on the Egypt-Israeli border and the number of new arrivals had dropped to virtually none. The Fourth Amendment laid the foundation for the indefinite detention of asylum seekers already in the country at an 'open' detention centre. Holot is located in the Negev desert, more than 50 kilometres from the nearest Israeli city, Be'er Sheva. It is on the other side of the road from Saharonim Penitentiary, where detainees in Holot were sometimes transferred as a punitive measure. Detainees in Holot were barred from working, they were locked in their wing (28 containers of 10 persons each) at night time, from 10 pm to 6 am, and had to

sign-in 3 times a day. The rest of the time they were allowed to stroll in the nearby desert (Guthmann, 2018). Holot was closed in March 2018, in conjunction with the launch of the new forced deportation policy by the Government of Israeli (Zur, 2018).

Holot had the capacity to hold 3,300 persons in containers with a small cell space per detainee. The criteria for being 'summoned' to Holot has changed over the years. Initially, it was duration of stay in Israel, and those who had been in Israel the longest were the first to be detained. This policy mainly targeted the Sudanese population. However, that emphasis shifted as the population of Sudanese refugees was reduced by deportation (Rozen, 2014, p. 4). From December 2013 to September 2014, Holot was the main tool used to coerce people to leave Israel. Detention at Holot at this time was indefinite, and the population detained and threatened were all (single men) Eritrean and Sudanese asylum seekers, not only newcomers.

Confronted with prolonged or indefinite detention many refugees accepted deportation. After five years in Israel, TGS was 'summoned' to Holot. He described that moment and the fear of the mental effects that imprisonment would have on him, as the reason he agreed to leave Israel:

*I was in Israel for 5 years and several months, I had a 'conditional release' visa, which I renewed every 3 months. Suddenly one day they wrote there that I have to enter Holot within one month [for an indefinite time]. I did not want to enter Holot; Holot is a prison, also it made me stressed to be in prison. I was 5 years in Tel-Aviv, and also to return to prison, it's hard for me. So, it is better, I've decided, to leave the country and go to Rwanda...* (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face Zurich, October 2017)

MSY was summoned to Holot in October 2015. He did not work the few months prior due to a work injury. His friends helped pay his expenses, including his medical insurance, and when he was summoned to Holot he asked to have his detention cancelled or delayed in order to keep receiving treatment. His request was refused and MSY never received the medical treatment he needed in Holot.

Eventually, out of fear that if he stayed, he would suffer long-term damage, he agreed to leave Israel:

*It was in winter, which is very terrible for my muscles, because I cannot stay in the cold... So when I went there [to Holot]. I asked them, because I gave them all my [medical] documents... but they only picked a few papers and refused to take everything. They gave me back all the documents... I asked them for medication, but they never cared about it... They sent me to Soroka [a hospital], but over there, she gave me only three pills, tablets. I shouted and really refused, because she was the secretary and she decided to give me this kind of advice. I was very nervous at that time, because this is psychological abuse. Because they want us to leave... I understood this is bad for my health... So I tried again to go back to Holot and asked them for the tablets, and they said "no problem, we will see". I asked "how long?" This is physical damage, but they don't care... they don't want to give you any service, any respect. They just want you to leave soon. I tried to think about my future and I thought that there is a great threat to me, so I decided to leave Israel. (MSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)*

While MSY was denied medical treatment and agreed to leave Holot, many, such as MuSY, left after being summoned to Holot, but before entering the facility. MuSY spent his time in Israel trying to get into higher education. It was clear to him in January 2014 that Holot was now the future and that he could either forsake his dreams and be imprisoned for life, or take the risk and be deported back to his country of origin:

*They decided to send people who had lived in Israel four years, or more than four years, to Holot. And, actually I was shocked... but no one is above the law, and of course no one is going to stop them if this is their decision [the government, to imprisoned people]. We are going to Holot, or another choice, you can leave the country. Where will you leave to? You leave to Sudan... In January 2014, my visa was over and I went to renew it. They said that now you have to go to Holot. So I said okay. I went home and thought about it. And I decided that if I go to Holot I don't know when I will get out of Holot. Four years I was struggling to go to college, but Israeli government did not allowed me to go to college... So I had to go back to Sudan. I knew 80% if I go back to Sudan they will put me in prison... They*

*[Israeli authorities] promised me that nothing will happened to me.* (MuSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)

MuSY, was indeed put in prison in Khartoum upon his arrival.

The Anti-Infiltration Law under its different amendments was challenged in court three times, and abolished twice (Ziegler, 2015). The Sixth Amendment was enacted on 11 February 2016 and limited detention in Holot to one year (Guthmann, 2018). Holot was finally closed in March 2018.

## **Deportation**

According to the Israeli Supreme Court, the second criterion needed for true consent is ‘informed consent’. “This is a consent given after a person was informed about all the relevant details in order to make the decision” (Supreme Court of Israel, 2017, para. 120). It is argued in this chapter that under the Voluntary Return mechanism ‘informed consent’ could not have been given, as evidenced by the lies immigration officers told asylum seekers in order to convince them to leave (as elaborated in this section) and the actual conditions they faced upon arrival in Rwanda and Uganda (described in the next section).

### ***Confidential agreements***

Israel has agreements with Rwanda and Uganda to take refugees as 'third-countries'. Based on these agreements, Rwanda and Uganda have been receiving refugees and asylum seekers since 2013. The first publications regarding Israel's agreement with third countries surfaced in March 2013 (Pawle, 2013) and again in August 2013 (Pfeffer & Lior, 2013). The existence of these agreements was also discovered in a process in the Israeli High Court of Justice in July 2013 (Weiler-Pollack, 2013). However, although deportation to the two countries has been underway for more than six years now, there is almost no official information available on the agreements between these countries. These agreements are subject to a confidentiality order dated March 2014 signed by Prime Minister Netanyahu.



According to the Prime Minister, revealing information about the agreement “may harm the State of Israel's foreign relations” (translated from Hebrew, Prime Minister’s Office, 2014). In addition, Uganda has continuously denied having any agreement with Israel, while Rwanda initially did not fully deny having an agreement, but later issued a strong denial (Reuters, 2018; Associated Press & Times of Israel Staff, 2018).

However, while these countries are keeping quiet, more and more deportees are giving testimonies that show the widespread violation of the promises given to them by Israeli officials, including promises that the government gave to the High Court regarding the procedures (Birger *et al.*, 2018; Green, 2017; International Refugee Rights Initiative, 2015). Similarly, promises that cannot be met were given by the Population, Immigration and Border Authority to asylum seekers regarding deportation to home countries, mainly that they will be safe upon arrival.

During an appeal against a deportation order, a request was made to the Supreme Court of Israel to see these agreements, resulting in the expansion of the confidentiality order in September 2015 to include any document relating to the agreements, including the supposed reports and other information held by the state regarding the execution of the agreements and the fate of deportees in those countries (Supreme Court of Israel, 2015). Until the time of writing, neither Uganda nor Rwanda have confirmed having any deal with Israel, or admitted to receiving deportees from Israel.

### ***Promises regarding about third countries***

With the launch of the deportation mechanism, asylum seekers in Israel were given an ‘information sheet’ with vague statements about the unnamed third country, promises regarding the issuance of a residence permit in that country, the ability to work, and a local team allocated to help in the first few days after arrival (Population, Immigration and Border Authority, n.d.). The destination country (i.e., Rwanda or Uganda) was usually told to the refugees in person, but never written down.

TGS weighed his options: life-long imprisonment or the promise of a possible future, status and security in Rwanda. He describes the choice as follows:

*TGS: They [the immigration authority] also said that in Rwanda you'll have everything – you'll be [treated] as a refugee there, they said. So I went, so that I'll have some quiet [in my head] and be ok, instead of every day being in prison... When I went to Rwanda it was not like they said.*

*Interviewer: When did you understand that they had lied to you in Israel about having a place and status?*

*TGS: I knew that they were lying [before I left], but I didn't have a choice; I had no other option, I had to leave the country and go, that is what they wanted. ...Myself, I knew that of course they lied ... but I was thinking Rwanda might be ok. (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Zurich, October 2017)*

When taken to the airplane, TGS was given an Israeli travel document, which was his sole form of identification. When he landed in Kigali, he and all the other deportees from Israel were taken to a side room by an official who had a list of their names. As with all of the deportees we interviewed, TGS's travel document was taken from him there, he did not go through border control, and he was escorted out of the airport without any kind of official registration or documentation of his legal presence in the country. Many deportees, both to Uganda and Rwanda, described exiting the airport with no identification document, at which moment they realised that their presence in the new country was illegal. MSY, who was deported to Uganda, had the same experience in Entebbe airport:

*They told us to collect the travel documents just for registration... then at that time I tried to explain to my friends in my mother language, but they were not so aware of what will be the consequences at that time. And I told them, from now onwards, if we hand them this one [the travel document] we are not legal entered in Uganda. So take care now, or try to think what we can do when we reach the hotel... When I was not registered in the airport, just from that time, I was not protected by any of the governments of Israel or Uganda. From that time I was illegal, because I did not come legally. Because, they did not sign me in to enter Uganda. (MSY, interview*

with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016)

In a verdict given by the District Court in November 2015, it was stated that, during a one-sided session (due to the confidentiality order), the government representative argued that the government had made some changes, including “In contrast to the past, the transit certificate issued to leave the country will remain in the deportee’s hands even after his arrival in the third country and will not be taken from him” (translated from Hebrew, Administrative Court of Beer Sheva, 2015, p. 19). However, testimonies taken from refugees by the authors, as well as a recent report on the testimonies of deportees from Israel who arrived in Europe, indicate that no change took place in practice, and that the documents continue to be taken from the refugees upon entry, leaving them with no identification, protection or legal status in Rwanda and Uganda (Birger *et al.*, 2018). The latest deportee we interviewed, PY, was deported from Israel to Uganda in October 2017. His story is identical to all previous testimonies; he reports that his travel document was taken from him upon arrival in Entebbe (PY, interview with Yael Agur Orgal, by phone, October 2017).

### ***Deportation to Rwanda***

Various reports and press articles have been published about the deportations to Rwanda, including interviews with deportees. The earliest investigation was conducted in 2015 by Galia Sabar (Lior, 2015b) and the latest in early 2018 by a ‘fact-finding mission’ from the Israeli opposition party Meretz (Ziv, 2018). All evidence shows that the (very few) persons who were able to stay in Rwanda were the first deportees. They received temporary documents while there was a legal case in Israel regarding the forced deportation procedure to Rwanda. However, afterwards, these deportees found that they could not renew their documents.

SSG is the first deportee to Rwanda we know of. He arrived in Israel in December 2007 at the age of 16, where he attended school. He was deported to Rwanda in March 2013. According to his testimony, he

was the second person to be deported from Israel to Rwanda. At that time, it seems that the Israeli immigration was ‘testing’ the deportation procedure to Rwanda in a non-systematic way. He describes being almost kidnapped and deported to Rwanda:

*I worked at the corner of Begin Road and Hashmonaim Street. One day there was a brawl there, which had nothing to do with me at all, and I went outside. The police came with horses and cars, and checked the identity cards of everyone. I forgot my visa at home that day. They took me directly to the police station. They left me there for several hours. They put me in an interrogation room. I didn't sleep all night. My phone battery drained. I could not call anybody and they did not let me. The same night, at around 10 pm, they told me that either I return to my country or I'd go to jail for three years. I told them I can't. They treated me very harshly. Pressured me. They told me to wait all day. Locked me in the room. In the morning they gave me coffee and food. At the end three men came and took me in a car. A normal car with a beacon light. A green car. They took me to my apartment in Pardes Katz; They wanted my identity card and I gave them my visa. It was in effect. They told me to take only the important things, and that I will not return there. My flatmates were not at home and I couldn't tell them nothing. Nobody knew what happened to me. ... They took me to prison [probably Yabalom facility] ... They told me there that there's an option to go to Rwanda or Uganda. They told me that Eritreans get a visa there... There they made me sign a paper. Everything was in Hebrew. They told me sign here. I did not know what I was signing. They forced me to sign. I was so full of hate for Israel. From there I did not come back home. (SSG, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Lausanne, October 2017)*

Once the mechanism for deportation from Rwanda to Uganda was systemised, all testimonies revealed the same process. Upon arrival at the airport in Kigali, as the plane lands, a person called ‘John’, a Rwandan dressed in what is perceived to be an official uniform, receives the deportees from Israel, calls them and separates them from the rest of the people arriving. The group of deportees is then led by him out of the airport, without passing through any passport control, into several private cars, which take the group to a villa in Kigali. The documents given to them by the Israeli authorities are taken from them, either in the airport or in the villa. Most are

confined to the villa and forbidden to step outside. The villa is guarded, and some interviewees mentioned that the guard was armed and did not speak English or Tigrinya. Then the deportees reported being pressured to leave Rwanda. After some time, between a few hours to several days, they were told that they have to leave to Uganda and that they need to pay USD 100 (the sum varied between interviewees, but USD 100 was a common figure) to 'John', and were taken in the afternoon towards the Rwanda-Uganda border, where they arrived at night. There, they had to cross by foot, quietly. Upon arrival on the Ugandan side, they reported being taken in private cars, by smugglers who were waiting for them, to Kampala. They needed to pay an additional USD 150 (in most cases) to the smugglers on the Ugandan side.

The testimonies regarding Rwanda are very consistent. All respondents reported passing through the same villa. In her investigative trip to Rwanda, Sabar found the villa and took a photo of it (Lior, 2015b). We showed that photo to the deportees we met and they all confirmed that it was the place they stayed in Rwanda. TGS gave the following testimony about coming to Rwanda by plane and having his documents taken from him:

*You don't ask them. You don't even have time to ask them. You give them and straight away another person tells you "come, come", and you go directly to the car. When everyone is in the car, they tell you, we take you to one place, we take you to a hotel now, we don't know what's going on, but meanwhile we take you to a hotel. After that no one comes to speak with you, to ask you. We were 2–3 days there in the hotel; you have a bed to sleep in and food, that's it. You are not allowed to go outside. Then somebody comes and tells you, tomorrow you're going to Uganda, prepare USD 250. (TGS, interview with Sigal Kook Avivi and Gilad Liberman, face-to-face, Zurich, October 2017)*

In this part of the route, the trafficking is state-sponsored, the ransom is fixed and it is relatively safe. As the refugees are completely vulnerable, without documents, under the supervision of a person who is either an officer or acting under the guidance of the Rwandan government, the amount of actual brutality needed is minimal. For

most of the refugees this was their first time on an airplane and they arrived in Kigali after a long flight, tired and afraid. And so, after a few questions left unanswered, the refugees are quietly and forcibly trafficked to Uganda.

### ***Deportation to Uganda***

Similarly to the testimonies of those deported to Rwanda, the testimonies of those deported to Uganda are also consistent. Upon arrival in Entebbe international airport, a Ugandan in official clothes separates them from the rest of the arrivals, takes the documents given to them by Israel, and leads them out of the airport, bypassing passport control. They are then taken to one of several hotels (notably, Forest Cottages and Fairway Hotel & Spa). While the deportation from Rwanda to Uganda is conducted by Rwandan officials, those who are deported directly to Uganda have no further contact with Ugandan immigration officials after they leave the airport. Instead, they are handed to smugglers through the following system: the deportees arrive to a pre-paid hotel in the early morning (sometimes as early as 4 am), where the reception clerk tells them their rooms will be ready later (usually between 10 am and 12 pm) and that they should wait in the lobby. It is during this waiting time that the smugglers arrive at the hotel, sometimes within minutes of the deportees' arrival. If the deportees from Israel are Eritrean, a Tigrinya-speaking smuggler arrives; if they are Sudanese, an Arabic-speaking smuggler greets them.

MSY, who left Israel after being denied medical treatment in Holot, discovered upon arrival that none of what he had been told in Israel was true:

*We entered Uganda at 3 am at night... 2 persons came, black people, Ugandans, I don't know... [They said] "Don't go there!", where other good people go, with passports, having it [stamped], "Don't go there! Give me your visa! Give me! Give me!" What is that?*

*We entered the hotel; 2-4 minutes [after] people came there... saying "you want to go to Juba? You want to go to Sudan? You want that?" What is that? We said,*

*10 persons, we don't want to go to Sudan, Juba, whatever. "Are you crazy? What is there in Uganda? Soon you'll see you'll go to Juba". We said we don't want to...* (MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016)

For MSY, the connection between the local authorities, the smugglers and the hotel was obvious from the moment he arrived at the hotel:

*When we reached there, they just put us inside the hotel and they disappeared [the people who took them from the airport]. But the most strange thing at that time – we were welcomed by smugglers – one from Sudan and three from Eritrea. They came at night, they were waiting at the hotel...*

*[The smugglers said] "This hotel is very expensive for you, so we can take you to other very cheap and smuggle you somewhere you want"... We made a very serious disagreement – we told them: "We come here now. Who told you to come before we arrive here? Who is behind this mechanism?"*

*[The smugglers replied] "No we know, we know this one before. That is why we came too early." We ignored them and kept for registration... when we ask the reception they said "now is not the check in time. You will wait until 10 am".*

*[MSY replied to the smugglers] "Why such thing? If you are not free why you just demand to have people today? This is another means of action – instead of just to stay here you want us to leave? This is what you want?"* (MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016)

Before finally receiving his room at the hotel, MSY tried to strengthen his friends and told them not to listen to the smugglers and not to make any rash decisions. He advised them to rest and only afterwards think together what they should do. In the afternoon, when he got up from his rest, he discovered that five people from his group had left with the smugglers.

Much like in Rwanda, no physical pressure was exerted on the deportees to leave, but the mental pressure is no less powerful: most of the deportees had just taken a flight for the first time in their lives, they had been on the road for two days, without any rest or proper meal, they had just realised they are illegal in a new country, fearful for their safety, forced to wait in the lobby with smugglers who tell

them they are illegal and cannot stay in Uganda. The deportees have a lot of cash on them at that point (money they received from Israeli immigration) and many expressed fear about being easy targets out in the streets of Kampala.

### ***Number of Eritreans and Sudanese deported***

In addition to deportation to countries of origin and third countries under the Voluntary Return mechanism, over the years, testimonies of not-agreed-upon deportation to countries of origin have surfaced (Pawle, 2013; Neshet, 2013; TG, interview with Gilad Liberman, by Internet voice messaging, 2016;<sup>23</sup> Lior, 2015a; MSY, interview with Sigal Kook Avivi and Yael Orgal, face-to-face, Kampala, October 2016). Figure 8.1 shows the number of Eritrean and Sudanese refugees deported from Israeli to the different destinations between January 2012 and January 2018. The deportations to countries of origin (Eritrea and Sudan) are in black, to Rwanda and Uganda (‘third-countries’) are in grey and to Western countries (resettlement, sponsorship, family reunifications, etc.) are in dotted light grey. The numbers are those given by the Israeli Population, Immigration and Border Authority, which aggregates Eritrean and Sudanese together, and only them (Population, Immigration and Border Authority, 2018).

As mentioned before, by 2015 over 5,400 Eritreans and Sudanese had been deported to their home countries (Ziv, 2015), and over 1,700 individuals were deported to their home countries between 2016 and 2018 (Population, Immigration and Border Authority, 2019, table 3). While the actual number of clear cases of refoulement from Israel to countries of origin or from third countries to countries of origin is unknown, what is known is that the Israeli immigration officers told lies to the refugees and asylum seekers – from the first deportations from Saharonim in 2012 until today, which take place even from outside prison – to push them to ‘agree’ to leave.

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<sup>23</sup> A full transcript of TG's testimony can be found at: <https://martinplaut.wordpress.com/2016/09/29/israels-role-in-the-enforced-return-of-eritrean-refugees/> and an audio (in Hebrew with English subtitles at: <https://www.youtube.com/watch?v=1JWyXmBPcD0>).



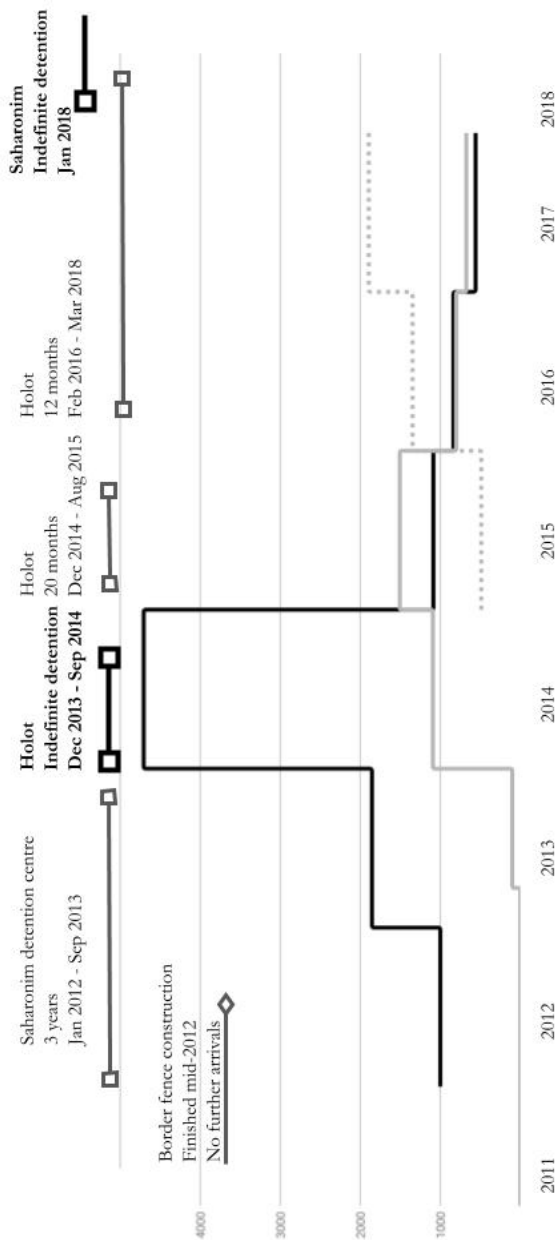


Figure 8.1. Timeline of Israeli legislation allowing refugees to be detained in Saharonim and Holot and number of Eritrean and Sudanese refugees removed

Source: Based on figures from Population, Immigration and Border Authority (2018)

## Situation after deportation

By attributing the notion of volition to the action of leaving, Israel is reducing its responsibility for the deportees once they exit the country, thereby minimising its responsibility for the consequences of the deportation. Those who were deported from Israel to third countries were left to a life of persecution and illegality, with no means to support themselves. All the 25 people we met in Kampala lived in fear, hunger and despair. As they had entered Uganda illegally, they had no visa and were unable work legally to provide for themselves. But even those who manage to buy fake visas declared that there are no jobs in Uganda. And, as their access to the Ugandan asylum system is blocked,<sup>24</sup> they are not eligible for any kind of support from UNHCR. All of the testimonies collected showed that upon arrival, deportees from Israel in Rwanda and Uganda are confronted with two paths: use the money they have to leave Uganda, or remain there and live on their savings. Those who choose the second option were soon left with nothing.

PS was deported to Rwanda in early 2014. He arrived in Rwanda in the early days of deportation, when the mechanism for second-deportation to Uganda was still being fine-tuned. He is one of the few who managed to remain in Rwanda, but he never succeeded in receiving legal status. He is dependent on his relatives in Israel, who send him money every month, but since the Deposit Law they are unable to send as much.<sup>25</sup> PS is now suffering from starvation and anxiety, and does not know what his future holds (PS, interview with Sigal Kook Avivi, by phone, March 2018).

For those choosing the first option, the journey is not any easier. They find themselves in the hands of smugglers, on a dangerous route to Libya, on which they are extorted for money, tortured and sold into

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<sup>24</sup> For more on of the Ugandan asylum system and its inaccessibility to those deported from Israel see: International Refugee Rights Initiative, 2015, p. 17–19; and Green, 2017.

<sup>25</sup> Under the Deposit Law in Israel, which came into force 1 May 2017, employers must deposit 20% of asylum seekers salaries into a security deposit. Asylum seekers may receive some of their money back once they leave Israel (Heruti-Sover, 2018).

slavery. Some have died from dehydration and fatigue, and many have drowned in the Mediterranean Sea trying to cross to Europe. Those who survive the journey often suffer from mental distress and anxiety (MG, interview with Gilad Liberman, face-to-face, Limburg, July 2017). Most of those we interviewed in Europe travelled similar routes: Israel–Rwanda/Uganda–Kampala (Uganda)–Juba (South Sudan)–Khartoum (Sudan)–through the Sahara to Izlabya (Ajdabiya, Libya)–Tripoli (Libya)–Mediterranean Sea–Europe.

For those deported to countries of origin, testimonies reveal imprisonment, harsh investigations and even torture. MuSY was deported to Khartoum, where he was imprisoned upon arrival. In Israel, he was promised that no harm would come to him in his home country, but the Sudanese authorities knew he had arrived from Israel and charged him with treason. While he was imprisoned, he was tortured and faced the death penalty. In the end, a family friend helped him out of prison (MuSY, interview with Sigal Kook Avivi and Yael Agur Orgal, face-to-face, Kampala, October 2016). MuSY had enough luck and connections to survive, unlike some of his friends who were deported with him and disappeared upon arrival.

## **Conclusion**

Israeli authorities have denied Eritrean and Sudanese refugees a rational and voluntary choice in relation to deportation from Israel. This research studied Israel's Voluntary Return mechanism and concluded that is not voluntary in practice. The research found that the decision was influenced by pressure from the Israeli legal system and immigration officers, the prolonged and indefinite detention in Israel, and the untruthful information provided about what will happen to the refugees after they are deported.

It is concluded from this research that there is no free consent or knowledgeable consent, and, therefore, the refugees and asylum seekers deported from Israel could not have provided true consent under the law. Hence, it can be concluded that the refugees did not leave voluntarily, but were forcefully deported from Israel. Thus,

Israel has been forcefully deporting refugees and asylum seekers since 2012 from Saharonim, under the Third Amendment to the Anti-Infiltration Law, and since 2014 from Holot, under the Fourth Amendment to the Anti-Infiltration Law. By deporting Eritrean and Sudanese refugees to their countries of origin without their consent, Israel has broken the fundamental principle of customary international law of non-refoulement, as also laid out in the 1951 Refugee Convention, which Israel is a party to.

Under the Anti-Infiltration Law and its amendments, more than 2,000 persons have been refouled from Israel to Eritrea. The fate of virtually all of them is unknown. It is reasonable to assume that many, if not most, of them left Eritrea within months of arriving. For most people, their safety in Eritrea is uncertain, and the number of lives lost, as well as the number of those incarcerated and disappeared, is, at the date of publishing, unknown.

More than 4,500 persons have been refouled from Israel to Sudan. Many of them belong to persecuted populations. Merely being in Israel is a criminal offence in Sudan. Therefore, a 'sur place' refugee status is due. Horrendous testimonials of murders, imprisonment, torture and persecution by the regime upon arrival have been collected by the authors. Many refugees report having to subsequently flee again. The number of deaths is unknown.

More than 5,400 individuals have been refouled from Israel to Rwanda and Uganda, under the confidential agreements Israel has with these countries, in what is nothing less than state-sponsored trafficking (Ziv, 2015; Population, Immigration and Border Authority, 2019). Although Israel has the economic means to pay the two countries for at least a small number of refugees to be absorbed with some legal status, all testimonies collected show that this is not the case. During their journey, the refugees are stripped of their documentation, and they are then nudged or trafficked out of the countries where they were deported to. The evidence, thus, suggests that the role of Rwanda and Uganda in these makeshift agreements is to serve as 'detachment units', relieving Israel from its obligations

under the Refugee Convention (1951), while keeping the consequences unknown and hidden from the judicial system, and from the Israeli and international public.

People deported from Israel leave in fear of imprisonment, slavery and persecution in their countries of origin or in third countries. Being unprotected and unsafe, many continue to flee, usually through South-Sudan, Sudan, Libya and the Mediterranean Sea, to Europe. Given the difficulties of such journeys, the well documented death rate in the Mediterranean Sea, and the murders, deaths and slavery in the Sahara, which was a common theme in the testimonials collected for this chapter, it must be concluded that many have died following their deportation from Israel.

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# The Plight of Refugees in Agadez in Niger: From Crossroad to Dead End

*Morgane Wirtz*

### Introduction: Migration, a capricious market

A pile of adobe bricks, winding alleyways and brownish facades decorated with Tuareg patterns: that is how you might describe the old city centre of Agadez in Niger. The city is located at 2,394 km from Sabha in Libya, 869 km from Tamanrasset in Algeria, and 554 km from Kano in Nigeria. Since its founding in the 12<sup>th</sup> Century, it has been a commercial harbour. Everything transits through Agadez: 4WD Hilux vehicles from Libya, Algerian carpets, Burkinabe shea butter, tramadol, marijuana, cocaine, Kalashnikovs, handguns and, of course, migrants and refugees.

The city of Agadez was always an important leg on migratory routes. Until 2011, most of the people travelling through Agadez were moving towards Libya, the final stage of their journey. At that time, Muammar Gaddafi would hold in his territory the migratory waves that now continue their journey all the way to Europe. Most Africans would manage to earn a decent income as a

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*The European Union's policy to control migration from Africa has led to the restriction of the free movement of people from Agadez in Niger to Algeria and Libya – despite the fact that the Economic Community of West African States guarantees such movement. This has left migrants and refugees in dire situations, restricting their options and ultimately making their journeys more perilous. It has also left 'migration business professionals' without a source of income, stifling a trade that has existed for generations. The impact of the EU's policy is that Agadez has been transformed from a migratory hub into a land of lost migrants and refugees.*

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worker in Libya. But when the United Nations (UN) forces commenced bombing on Gaddafi's forces, the spill over was the opening of a new gateway for migrants and refugees to Europe through the Mediterranean Sea.

Agadez witnessed the mass arrival of migrants. As soon as they would step off the bus, they would be sent to ghettos with hundreds more of their kind to wait for Monday to come. When it finally arrived, hundreds of vehicles escorted by military would bring them all the way to Libya. In the back of the trucks, groups of around 25 migrants and refugees wrapped up in hoods and turbans would cling to a piece of wood in order to stay inside the vehicle, all of them prepared to undergo such conditions during the three to five-day journey through the desert. Their goal: to reach Europe. Those were good times for professional smugglers like Abdoulaye Sidi, who used to fill a vehicle every week:

*We used to ask for up to 120,000 West African CFA francs (XOF) (EUR 183) or XOF 150,000 (EUR 228) per passenger for the trip from Agadez to Sabha. The driver gets XOF 70,000 (EUR 107) and I keep XOF 50,000 (EUR 76) [total: XOF 1,250,000 or EUR 1,887 for a full vehicle]. That's making money! There is no better source of income except for cocaine. Because you make easy money. You do not have to sell anything.* (Abdoulaye Sidi, interview with Wirtz, face-to-face, Agadez, 20 February 2019)

In October 2013, a drama raises the migration issue in Niger – 92 persons are found dead of dehydration in the desert. Their destination was Algeria. The Government of Niger becomes aware of the dangers related to transporting the migrants. Two years later, they decide to start penalising the trade: on 26 May 2015, the Parliament of Niger adopts Law 2015–36 banning all commercial activities related to migration (République du Niger, 2015). Transporting migrants and refugees becomes trafficking – on paper. In fact, during the first months after it was promulgated, the law was not applied and migration professionals kept working without any change.

At the same time, the European Union (EU) offered support to the Nigerien authorities to fight illegal migration. At the European Council, the High Representative for Foreign Affairs and Security Policy and Commission Vice-President Federica Mogherini declared:

*We have agreed on reinforcing our presence in Niger: 90% of migrants from Western Africa travel through Niger. Only by working jointly with countries of origin and transit, with the African Union and the UN, we will succeed to tackle the root causes of the emergency while disrupting criminal organisations and helping migrants to escape from them. (Council of the European Union, 2015)*

Following the Summit in Valetta in November 2015, the EU set up a fiduciary fund worth EUR 1.8 billion with the aim of helping Niger in the fight against clandestine migration. In effect, Agadez became an external border of the EU. Niger is a member of the Economic Community of West African States, which guarantees the free movement of people, goods and services in its territory. Regardless, Law 2015–36 was implemented and migration professionals started to be heavily sanctioned. Authorities, the judiciary, the police and the army were trained to fulfil their new task: to eradicate clandestine migration by hunting down and judging all those making profit on migrants and refugees passing through Agadez.

One might say they did their job. In July 2018, European Parliament President Antonio Tajani reported a 95% drop in the migratory flow through Niger to Libya and Europe between 2016 and 2017. That success for the EU is due to both the repression campaign carried out by Nigerien authorities and the regional conditions. Even though lots of migrants and refugees still want to reach Europe, only a few of them dare to cross Libya, knowing they will be either kidnapped, imprisoned, tortured, raped or even killed. Algeria could be an alternative, but the risks are high: if they were to be rejected – as is often the case – they will be sent back to the starting point of their journey.

Agadez has been transformed from a migratory hub into a land of lost migrants and refugees. Migration keeps going, but its form has

changed. Some young Africans still stop in the city on their way to Libya or Algeria. However, a lot of foreigners end up there after being expelled from Algeria or fleeing Libya, roaming around in search of money in order to continue their journey. Most migration professionals have quit. New smugglers have replaced them, bringing with them new kinds of abuse, exploitation and extortion.

The main research question addressed in this chapter is: *What is the current situation of migrants, refugees and smugglers in Agadez (Niger) in the context of implementation of Law 2015–36*. In order to answer this question, the consequences of repression for all the players is investigated. The goal is to inform the reader of the situation currently prevailing in this town in the north of Niger and to warn about the impact of the EU's foreign policies.

### **Immersion in Agadez**

This chapter presents an explorative ethnographic investigation of Agadez after the introduction of law 2015–36. It follows a grounded theory approach, allowing the researcher to explore a setting without any prior theoretical framework in an extended case method (Burawoy, 2009; 2013). This approach is particularly relevant to understanding situations that are new, in which the researcher immerses him/herself to access hitherto unexplored terrain. This type of research respects the natural setting and focuses on the specifics of the context of the situation under consideration seeking high ecological validity (the validity of findings in context) (Chapter 2, *Network Gatekeepers in Human Trafficking: Profiting from the Misery of Eritreans in the Digital Era*, by Mirjam Van Reisen, Klara Smits, Mia Stokmans & Munyaradzi Mawere). The situation in Agadez was chosen given the focus it received from EU-driven policy on migration and human trafficking following the EU's policy transition in 2014 (Chapter 17, *The Representation of Human Trafficking in Documentaries: Vulnerable Victims and Shadowy Villains*, by Nataliia Vdovychenko, and Chapter 19, *The Shaping of the EU's Migration Policy: The Tragedy of Lampedusa as a Turning Point*, by Klara Smits & Ioanna Karagianni).

All the interviews and observations in this chapter were made in Agadez between September 2017 and March 2019. The immersion was carried out during 18 months by staying in the city with local journalists, while sharing the same living conditions. Every day brought something new. Many people were interviewed in such a way as to catch the complexity of life in Agadez. The impact of the law 2015–36 was explored focusing on three groups: migrants, refugees and those engaged in their facilitation, referred to as ‘migration business professionals’.

The first group of players are the migrants. In this research we shall keep the focus on those whose main goal is, or has been, to reach Europe. These migrants were met on the street, at the bus station and in the ghettos. Those transiting through Agadez all have different stories. Some are just stopping there until they can find a car that will carry them to Maghreb, others are fleeing from Libya or have been rejected from Algeria. Some stay in Agadez while they try to find the financial means necessary, or decide whether or not, to continue their journey north or south. Finally, some people remain in Agadez and settle.

The second group of players consists of refugees and asylum seekers. Most of them arrived in Agadez at the end of 2017 and beginning of 2018. The United Nations High Commissioner for Refugees (UNHCR) or UN Refugee Agency sends most of the refugees to the capital Niamey, while most of the asylum seekers are hosted in a camp 15 km from Agadez.

The last group of players is called the ‘migration business professionals’. This group consists of smugglers, coaxers, drivers, car owners, ghetto chiefs, ghetto owners, retailers of canisters, sticks or hoods, and restaurant owners. Between 2011 and 2015, the people of Agadez made a lot of money from migration and, as a result, the number professions related thereto diversified. The smugglers organise the migrant’s journey. They work as a network linking the country of departure to the final destination. Coaxers manage the migrant’s life in the city. They fetch them at the bus station and drive

them to the ghettos. They also buy them certain products and work as currency exchange agents. Drivers transport migrants and refugees from point A to point B. Car owners rent their vehicles to drivers. Ghetto chiefs – often migrants or refugees working to pay their own journey – are responsible for organising daily life inside the ghetto. Ghetto owners rent houses to migrants, coaxers or smugglers. Before they leave, migrants or refugees acquire the equipment useful for the trip: canisters to carry water through the desert, sticks to help them hold on to the truck, and hoods and gloves to protect themselves from the wind, sand and sun. Migration professionals do not necessarily fall into only one category: some of them are involved in different aspects of the business.

Interviews were also conducted with local authorities, members of civil society, police, representatives of the judiciary, journalists and experts. While we could meet with some of the interviewees only once, we had the chance to ride along with others over a few days.

All the players spoke of their own free will. They were selected based on the relevance of their testimony with regards to the topic under inquiry and the assessment of mutual trust. Their words were cross-referenced with other sources of information. Thanks to the encounters and meetings in Agadez during the immersion, the author was able to reach a global view on the situation and swiftly grasp the background to an interviewee's testimony.

Within the 18 months that the immersion lasted, the situation in Agadez evolved. With each day that passes, fewer people work in the network. More and more migrants and refugees are roaming around the city not knowing where to go next. Many people who we met at the beginning of the immersion had already left the city, going either north or south. Some migration professionals whom we had the chance to interview are now in jail. Others quit because of the lack of 'customers' or because they were afraid of being arrested.

In order to write this chapter, the author drew on material gathered during the past two years so that the reader will have the benefits of



the most relevant testimonies. In addition, more recent interviews were completed with migrants, smugglers, refugees, and representatives of UNHCR so as to update or substantiate information. The combination of all this material should provide the reader with a comprehensive picture of the current situation on migration in Agadez.

## **Agadez: A crossroad after repression**

### ***Migrants***

Mohammed Baldé is sitting on a holey plastic mat, gazing at the ground. His face is illuminated by the rays coming through a skylight. There is no window and no door in this ghetto, only holes in the walls covered by messages left by the previous tenants. The curious observer can read such things as: ‘He who tries nothing, has nothing. We’re going to Europe’, ‘Where there’s life, there’s hope’, ‘A blessed child will know suffering, but not shame’, ‘God alone decides’ and ‘Freedom of movement’.

“Me too, I’ll leave someday. And I’ll leave my mark on the wall”, says Mohammed (Mohammed Baldé, interview with Wirtz, face-to-face, Agadez, 19 February 2019). Eleven months ago, this 19-year-old boy decided to leave the Ivory Coast and travel to Europe. He graduated in geology, but he could not find a job in his native country. He tried twice to get to Libya. However, twice the driver was arrested and sent to jail.

*That’s why I’m still here. Because my older sister sent me money. But when the authority caught us, they caught the driver. We lost our money because the driver was sent to prison. And that’s why you must do what the driver tells you to do. It is for the good of us all.* (Mohammed Baldé, interview with Wirtz, face-to-face, Agadez, 19 February 2019)

Like most of the migrants, Baldé does not trust the smugglers and the drivers with whom he gets involved, even though he listens to them. He knows that at the first disagreement, his transporter will not hesitate to abandon or beat him. “Once, the vehicle broke down and

a young one wouldn't help us push. The driver broke his arm. They're bastards, you see. They use violence" (Mohammed Baldé, interview with Wirtz, face-to-face, Agadez, 19 February 2019).

When Mohammed Baldé first arrived in Agadez, he was taken under the care of an Ivorian smuggler. Eight months later, the smuggler quit and left town. He was afraid that he would be arrested and he had understood that smuggling migrants was not as profitable as it used to be. Mohammed was then transferred to another ghetto. The house is just dilapidated walls, a dirt floor and empty rooms. A few canisters, a furnace, old books, a map of Africa and a Red Cross poster are the only furniture. "It's better here," Mohammed explains. "Earlier, I was with two or three hundred other migrants" (Mohammed Baldé, interview with Wirtz, face-to-face, Agadez, 19 February 2019). If places gathering tens of migrants can still be found on the perimeter of Agadez, they have become uncommon and out of reach. After the law banned all economic activities related to illegal migration, the smugglers became cautious.

During his stay in Agadez, Mohammed saw a lot of migrants passing by. But as the months passed, the flow dropped off. "For now, the newcomers in the ghetto are the ones who've been rejected from Algeria and decided to try again," he explains (Mohammed Baldé, interview with Wirtz, face-to-face, Agadez, 19 February 2019). Foreign nationals from the coastal lands of West Africa keep arriving in town. They are mostly from Nigeria, Burkina Faso, Ghana, Guinea Conakry, Gambia, Senegal, Ivory Coast, Togo, Benin, Mali or Liberia. They are hoping to find a path to Europe. As Mohammed laid out, a lot of them do not come straight from their native land, but are fleeing Libya or they were sent back to Niger by the Algerian authorities. According to IOM, 25,000 migrants from West Africa, among them 14,000 Nigeriens, were expelled from Algeria in 2018 (Bachir, Pascual & Kane, 2019). They are often left at the border in the middle of the desert and they keep going on foot until they reach Assamaka, where IOM takes over.

However, this is not enough to discourage all the survivors from Algeria and Libya. Some of them will try again. For example, Boubakar arrived in Agadez after spending seven months locked up in a container in Libya. We find him curled up deep inside a ghetto.

*Every day, they brought me one pack of cigarettes, one litre of water and only biscuits. That's the only thing they were giving me there. The man did not beat me with his hand. He used a stick to beat me. All my body swelled up. If you saw me [before], I was twice the size. The man beat me. Every time he beat me. Sometimes, the passengers [...] they cried because of the way I looked. I couldn't even walk.* (Boubakar Dibba, interview with Wirtz, face-to-face, Agadez, 22 October 2017)

After being released, Boubakar was brought to a garden in Brak, in the centre of Libya, where he was forced to work for three months without getting paid. However, these misadventures have not turned him away from his dream of going to Europe.

*Europe is a very nice place. It's different from Africa: too much stress, too much thinking. The poverty is too much. But if you are in Europe, you live a simple good life. Even if you don't have anything, you live a good life, simple life, good health, you understand. In terms of educations, its standards are different from Africa.* (Boubakar Dibba, interview with Wirtz, face-to-face, Agadez, 22 October 2017)

In Gambia, Boubakar studied business and management. He could not graduate as he was short of money. Most of the migrants in Agadez enjoy basic education. They ran away from their native countries hoping to find a better financial situation elsewhere. However, now the migrants cannot find a job and still have to provide for their families. Yet they are not from the poorest segment of the population. These migrants were able to save the money needed to undertake such a trip. In January 2019, the trip from Sabha to Agadez cost between XOF 200,000 and 300,000 (between EUR 305 and 458). In 2011, it cost around XOF 150,000 (EUR 229).

Estimating the total cost of a journey all the way from any West African country to Italy is no easy task and depends on the itinerary, the mishaps and the various bargains that might happen along the way. Migrants spend money at each control station. They need to bribe security forces something between XOF 2,000 and 20,000 (between EUR 3 and 30) just to be allowed to keep going. Before getting to Agadez or after leaving the city, they face the risk of being deported, in which case they will have to pay even more for the same trip. Some smugglers make migrants use bypass roads by bike or 'bush taxi' in order to avoid control points. Of course, this additional service comes at a cost. Migrants are also sometimes conned by smugglers and end up paying twice for the same trip. Finally, migrants can lose a lot of money if they are kidnapped in Libya. Ransoms can be thousands of euros.

As it is, some migrants arrive in Agadez empty-handed. The majority then turn to their family or friends in their home country or the diaspora for money. Others start looking for a job. Yet, finding an employer in Agadez is a challenging undertaking. Most of the locals themselves are jobless. Some rare migrants manage to find a job in construction, hair salons, garages or restaurants. Women can find it easier to be hired as waitresses, because Nigeriens women will not take the job. Several of them also slip into prostitution to earn quick and easy money. Myriam, a 26-year-old from Nigeria, has been walking the streets to finance her trip back to Lagos.

*I did it to make some money. The first time they paid well. The thing was classic. He took me in a way classic. So that was the first time. [...] It's not that I did it as soon as I arrived in Agadez. It took me like a month, two months. If you don't do it, who is going to help you? So it's because of money. [...] You feel bad because what you did. They didn't train you for that. You feel bad in your heart because it's not work that you can be proud of. (Myriam, interview with Wirtz, face-to-face, Agadez, 19 November 2017)*

Like a lot of the prostitutes in Agadez, Myriam works freely and of her own account. Be that as it may, the trafficking of Nigerian women takes place through Agadez as well. Nigerian women are brought

from their native land to Agadez or all the way to Europe in order to work as sex workers. Most of the time they have been approached by some rich man or woman making promises of bringing them to Italy for free.

Every migrant in Agadez abandoning their European dream and deciding to go back home can apply for the IOM programme. The United Nations has three transit centres in the area; 300 people can be held in Arlit, 150 in Dirkou and 1,000 in Agadez. IOM also rescues migrants who were lost or abandoned in the desert. This includes those expelled from Algeria. In 2018, 9,419 people who were in trouble in the Sahara were assisted by IOM; 98% of them join the Assisted Voluntary Return and Reintegration programme. Through this plan, IOM prepares the necessary administrative documents and escorts the migrants back to their home country. In addition, it gives support to help them reintegrate in their home community.

A young Senegalese and a Guinean are among the volunteers hosted in the Agadez IOM transit centre. They were taken in Assamaka, after having been deported by the Algerian authorities. The police have confiscated all their possessions, including their cell phone and even the money they had sewn into their clothes. They shared:

*- I am going home with IOM because I don't even have one cent to buy water. And there are dangers.*

*- And how can he go to Algeria, at this point in time?*

*- Yes. Because I know it is dangerous. We don't know if Algeria is going to become like Libya. That is the problem. We are scared. You have to start by saving your life.*

*- We have to go back home, to gain momentum, to think.* (Anonymous migrants, Agadez, February 2019)

Other migrants in Agadez keep their distance from IOM. Their reasons vary: some are not sure about going home, others owe money to too many people in their home land, some refuse to go back empty-handed or they do not trust IOM.

A good example is Aboubakar: he has been roaming around Agadez for three years. In 2014, he climbed on a boat headed for Italy. The boat sank. The 29-year-old Gambian was forced to go back. After that he was kidnapped in Libya, escaped and, finally, ended up in Agadez. In his mind, making another attempt at crossing to Europe is out of the question. “Too much risk. There is no government, no law in Libya. It is not safe” (Aboubakar, interview with Wirtz, face-to-face, Agadez, 19 February 2019). Now that Yahya Jammeh (the leader of Gambia from 1994 to 2017) is out of office, Aboubakar feels that he is ready to go home and see his son. He will, nevertheless, wait until he has gathered enough money to cover the whole journey, rather than apply to IOM. “IOM, right now, they take your video and your fingerprint”, he explains (Aboubakar, interview with Wirtz, face-to-face, Agadez, 19 February 2019).

An increasing number of migrants remain in Agadez, wondering which way to go and how to finance their ride. Others decide to settle in Agadez. Despite the road from Agadez to Italy still being used, people are increasingly giving up on that itinerary. In the ghettos, migrants will tell you that it is safer to go through Timbuktu in Mali and reach Algeria or fly to Morocco and cross the Strait of Gibraltar. As of today, Agadez is no longer the gateway to Europe: it has become Europe’s border. And that border has been closed.

### ***Refugees***

In March 2019, 2,619 persons had already been transferred from Libya to Niamey through the Emergency Transit Mechanism (ETM). This programme, set up by UNHCR, targets extremely vulnerable refugees in Libya. Most of them are Eritrean and Somali. Once in Niamey, they apply to be recognised as refugees by the government of Niger. If their file is approved, they become candidates for resettlement. A delegation from American and European countries comes to the Nigerien capital on a regular basis and selects a certain number of refugees and offers them asylum in their territory. According to UNHCR, between September 2017 and January 2019, 1,242 evacuees left Niger to be resettled in Europe, the United States or Canada (UNHCR, 2019b).

In Agadez, UNHCR counted 1,666 registered persons in March 2019 (UNHCR, 2019a). Almost all of them are from Sudan and are seeking asylum in Niger. They came there by the hundreds, surprising everyone, between December 2017 and March 2018. The majority come from Darfur and, before they tried to reach Libya or Europe, they had been living for years in camps for deported people in Sudan. After Gaddafi's fall, they suffered from both racism and the absence of the rule of law in Libya. A young Sudanese refugee remembers how he was turned into a slave:

*Four of us were working without receiving any salary. We would be beaten all the time. Sometimes we would spend two days eating only dry bread. I would moisten it with water. After three months, three of us ran away. The fourth one was lost. He was no longer able to do anything. Then he remained. (Wirtz, 2018)*

Be that as it may, Sudanese refugees receive little support after reaching Agadez. One year after having submit their applications for asylum, only 39 persons, the most vulnerable, have received an answer (Davies Kamau, interview with Wirtz, face-to-face, Agadez, 1 March 2019). Niger, one of the poorest countries in the world, has become a safe haven for Malians, Nigerians, and refugees. However, the population of Agadez seems rather hostile to these asylum seekers who are often seen as connected to Sudanese rebels or mercenaries operating in southern Libya. "They are related to countries that are at war: Libya, Chad, Sudan. They speak Arabic like most of the terrorists. We are afraid that they might set up terrorist bases here", explains Mano Aghali, Deputy at the National Assembly of Niger (Wirtz, 2018). Many incidents have occurred between the Sudanese and the local communities. Some Sudanese have been accused of theft, fights and the harassment of women.

In May 2018, over 140 people were arrested by the Nigerien security forces. "Despite the awareness-raising we did, they kept walking every night close to the military base", explain the UNHCR chief of office in Agadez (Davies Kamau, interview with Wirtz, face-to-face, Agadez, 1 March 2019). After talks with UNHCR, the women and fathers were released, but the others were moved from Agadez and

left in Madama, at the border with Libya. Only 13 of them came back. The others are probably in Libya or Algeria, explained Davies Kamau. It is really uncommon for Niger to expel people.

Due to these tensions, most of the Sudanese asylum seekers have been installed in a 'Humanitarian Centre', 15 km away from the city. The atmosphere is there depressing. Interviews end in tears. According to the asylum seekers, seven persons have already tried to commit suicide and a lot of them are going mad. They have nothing else to do but keep reliving how much they suffered in Sudan and Libya. Many people complain of insomnia. They are scared in the middle of the desert and they keep wondering, "who are we"?

*We came here a long time ago and actually we faced several problems. Here in the camp, we are afraid during the night. We don't even dare to go to the bathroom alone. I have to wake up my husband to ask him to escort me. Recently, I had a miscarriage. I lost my child when he was nine months. A lot of women here have miscarriages [...] We are scared.* (Anonymous asylum seeker, interview with Wirtz, face-to-face, Agadez, 27 February 2019)

In June 2018, UNHCR made it clear that no resettlement in European or American country would be organised for the Sudanese in Agadez. During the following six months, around 500 Sudanese left the city, probably disappointed and tired of waiting for a decision from the state regarding their application for asylum (Davies Kamau, interview with Wirtz, face-to-face, Agadez, 1 March 2019). Now, they might be working in gold mines in Niger, in Libya or on the way to Europe. In March 2018, one of the Sudanese asylum seekers, Mudatheir, affirmed his determination to risk his life once more:

*I have to follow my dream. I am not going to feel happy if I am a failure. That doesn't mean I am going to be a failure all my life, but I have to follow my dream. I am not going to lose hope. So if one road closes in a state, you have to take another road. So it's going to open. If this road is closed, I am going to open a new one.* (Mudatheir, interview with Wirtz face-to-face, Agadez, March 2018)



Not long after the interview, Mudatheir left for Libya. At the time this chapter was written, he had reached Zawiyah on the coast, after enduring long months of work and misadventure in Tripoli in Libya. He is getting ready to cross the Mediterranean Sea. He dreams of studying law in the United Kingdom.

### ***Smugglers***

Many migration professionals have quit as a consequence of Law 2015–36. Some of them because did not want to keep doing something that had become illegal, others because of the decrease in the number of migrants wanting to reach Libya, which rendered the activity much less profitable. Hence, Law 2015–36 has had heavy consequences in Agadez.

When the law was implemented, authorities promised some kind of compensation to migration professionals willing to quit and register a file. In January 2019, 2,345 applications for compensation had been submitted and analysed in Agadez; 981 were declared eligible and 371 have already received help (Bachir Amma, president of the ex-smugglers' association, interview with Wirtz, face-to-face, Agadez, 25 February 2019).

This compensation consists of XOF 1,500,000 XOF (EUR 2,264) worth of material aimed at helping applicants to start a new business. These materials are being allocated by high up authorities and the Nigerien non-governmental organisations (NGO) Karkara, which funded by the EU fund to fight clandestine migration.

Bachir's case is significant. He is the president of the ex-smugglers' association. He received what he needed in order to be able to open a restaurant: tables, chairs, an oven, casseroles, plates, cutlery, rice and spaghetti. Now he makes between XOF 70,000 and 140,000 (between EUR 106 and 216) per week. When he was smuggling, he could make XOF 1,250,000 (EUR 1,887), yet he does not complain.

*We were doing a legal job. We had papers to do that job. Hence, when the law was adopted, we were upset. Later, however, with what happens in Libya and in the*

*desert, we may really say that we are happy with what the EU has given us. Because the work has become dangerous. [...] I am happy with what I earn. I work legally, everything is fine. [...] There is no one I can think about who has got troubles or who is dead. (Bachir, interview with Wirtz, face-to-face, Agadez, 25 February 2019)*

Bachir's case is an exception. First, because only a few of the beneficiaries of the fund have been able to make a decent living out of their new business. Second, because many ex-professionals complain about the fact that, about two years after they quit their work, their file has not been reviewed and they have not received any compensation. Some of them are talking about going back to smuggling. The way the files are being handled is also being criticised.

*That money, actually, when it came, it is a mess. [...] Agadez made it a public thing. Everyone came and was interested. There are many people. You do not even know who's for real and who isn't. You do not know to whom you must or must not give. [...] And us, very unfortunately, frankly, we did not give our names. Because we do not want to be identified, we do not want to be known by the whole world, we do not want any trouble with anyone. (Anonymous ex-smuggler, interview with Wirtz, face-to-face, Agadez, 1 December 2018)*

The promise of financial compensation did not convince everybody. Certain smugglers keep organising journeys towards Libya and Algeria. According to Abdoulaye, an ex-smuggler, some of them are newcomers.

*Now the majority are foreigners. You can see Burkinabe people who have settled. There are Malians and Ivorians as well. They are here. They have settled. Even Togolese people. They do stuff, they say they have a restaurant, but it is made-up. Migrants come to them, they host them and then they leave for Libya. That's how they do it now. (Abdoulaye, interview with Wirtz, face-to-face, Agadez, 20 February 2019)*

Today most of the drivers are Libyan nationals. They do not speak French. They merely come and collect the cargo in the ghettos to transport them to Libya.

Smugglers have many ways to avoid being spotted by the police forces. Very few migrants still reach Agadez through the bus station. And if they do so, they do so alone and not as a group. They are in contact with their smuggler before arriving, they have contacts numbers and addresses, and they have been told who they should speak with and who they should not. Some of them arrive in Agadez by 'bush taxi' or by smaller secondary buses in order to remain under cover. Different hosting strategies have been developed. Legally, nothing stops you from hosting a foreigner. Yet, in order to avoid being arrested on their departure day, migrants and refugees planning on leaving to the north keep quiet even in the city. Several of them will not leave the ghetto before dark. Smugglers often harbour migrants and refugees in their own home. Sometimes, passengers are being hosted out of town, in the fields. There are also greater ghettos around the city.

Once the migrants and refugees are ready to go, drivers take them, usually by night. Different strategies exist that allow them to leave the city. Some of them will go in the direction of Tahoua, in the south of Agadez, and then Algeria. Others know the roads to avoid checkpoints. Others still cross the border by bribing the police. In spite of all the training provided in the fight against clandestine migration, the police force remains corruptible. As Nigeriens, not all police officers agree with Law 2015–36. Like many fellow Nigeriens, they believe that the law was enjoined by the EU and should not be applicable within the Economic Community of West African States region, where freedom of movements of goods and people is guaranteed. In addition, some of them were earning money from migration before it was banned. They are, therefore, suffering a deficit:

*Sometimes, the police see but they do not see. Do you get it? They are already used to making a lot of money with smugglers. Now, there are none. When migrants would cross checkpoints, the police could stop them and make all the foreigners step down. Each person would pay XOF 5,000 (EUR 8), sometimes even XOF 10,000 (EUR 15). They would profit from each vehicle. That's for getting to Agadez. But when leaving, each migrant would give XOF 2,000 (EUR 3) to*

*the national police.* (Abdoulaye, interview with Wirtz, face-to-face, Agadez, 20 February 2019)

Once they have left the city, drivers take by-pass roads in order to avoid being spotted by security forces. “No one can control the Sahara” is a common saying among drivers:

*We created a new route. In the past, it was the path used by drug traffickers. That route is so far from everything that, if your vehicle breaks down, you're sure to die. It's only gazelles down there. Sometimes, you might even worry about driving over one. It could cause troubles to the car.* (Wirtz, 2017)

Taking by-pass roads increases the risks. In the case of a breakdown, the chances of finding help are low. That is why, since Law 2015–36 was implemented, there has been an increase in the casualties in the desert. “Four months ago, we had a flat tyre. We couldn't manage to take it off. While we went looking for help, nine people died of dehydration” (Wirtz, 2017).

Many migrants and refugees die falling from the truck as well. Drivers are so scared of being arrested that they do not stop to pick them up. At the smallest sign of movement in the desert, they get scared. As soon as they see a vehicle they believe to be from the military, they speed up and sometimes this causes accidents. Sometimes they decide to get rid of the migrants and refugees and leave them in the middle of the desert:

*Drivers, who are Libyan nationals, do not know the Nigerien military. As soon as they spot a military vehicle, they think it's a patrol that's going to take them in and send them to jail or kill them. The thing is ... they're afraid. Therefore, they threaten migrants with a weapon and command them to step out and run away. They leave the migrants there. And perhaps, the patrol they spotted had nothing to do with these people. Hence, the military turns on the passengers and the passengers stay there. One day, two days. [...] That's how they die.* (André, ex-smuggler, interview with Wirtz, face-to-face, Agadez, 1 December 2018)

For all those reasons, migrants and refugees tend not to trust the smugglers. Most of them deny payment until they arrive at their destination. This can generate confusion, as migrants and refugees and drivers often do not agree on who has paid how much and to whom the payment was made. If a driver does not receive his payment from a migrant, he will place him in a ‘credit house’. They are places where migrants and refugees are locked up in Libya until their debt is paid. Jailers leave phones at their disposal for them to ask their family and friends for money. Once they are connected, migrants and refugees are tortured in order to generate their family’s pity and ensure payment. Libyans in search of manpower can also come and buy workers by paying their debt at the ‘credit house’. That’s how many migrants and refugees become slaves.

**Conclusion: Roaming migrants, blocked asylum seekers, unemployed smugglers**

The combination of the situation in Libya and Law 2015–36 has had a large impact on migratory flows through Agadez in the direction of Europe. Migration has always been part of life in this town in the north of Niger. As its residents say: “it couldn’t be otherwise”. But the situation is different now from what it was eight years ago. This chapter describes the current situation of migrants, refugees and smugglers in Agadez (Niger) in the context of implementation of Law 2015–36.

From this research it is concluded that the journey has become a lot more perilous for the migrants. Many of them live through hell in Libya or in the desert before coming back to Agadez. Their stories are hard to tell. Listening to them is no easy task either. Some of them suffer from psychological trouble. Others come back with physical scars. In all cases, their pockets are empty.

Due to the situation in Libya and Law 2015–36, the cost of the journey has increased. Prices have gone up as the number of migrants and refugees has dropped and as the drivers are taking the risk of being arrested and sent to jail. In addition, the relationship between

migrants and refugees and migration professionals has deteriorated. Passengers have always feared their drivers and drivers have always despised their passengers. Yet today, migrants and refugees know before leaving that their driver might abandon them in the desert or sell them to a ‘credit house’ in Libya.

Lastly, the road has got longer. Migrants and refugees make longer stops, trying to earn some money for their onward journey. They are often forced to turn back and start again by a different path. One of the main consequences of Law 2015–36 is that more migrants and refugees are roaming around the Sahel. Some of them are going back home with IOM, although they are not necessarily sure that they will not try to go to Europe again later.

Regarding refugees, many leave a chaotic Libya and gather in neighbouring countries. Niger barely manages to welcome everybody. It is following agreements with UNHCR that the Nigerien state will serve as a transit land for refugees applying for resettlement. Furthermore, UNHCR has had to convince the authorities to house asylum seekers in Agadez. And yet the situation of the 1,666 Sudanese stuck in Agadez registered with UNHCR has not changed in a year. Left alone, some of them feel like going back to Libya and making a new attempt at reaching Europe, which is in total contradiction with the EU policies currently being applied in that region.

Migration professionals have likewise suffered from the deterioration of the situation in Libya and the implementation of Law 2015–36. The majority have ended up jobless. The decrease in migration has had an impact on the city’s economy, as migrants and refugees used to inject money on each level: from the smuggler to the canister retailers and the police.

Those migration professionals who actually received the compensation that was promised in return for quitting are few at this point in time. The migration professionals who have found themselves jobless may easily slip into petty crime or become prey for terrorist groups operating in the region. Some smugglers who kept

working and newcomers to the business have seen their profits increase as a result of the rise in the price of crossing the desert. However, the risks taken by professionals have also grown. They can now be arrested and imprisoned, they can face breakdowns and accidents in the desert, and they often end up with blood on their hands. By operating illegally, smugglers have become criminals.

This chapter aimed at sketching a general picture of the situation of migrants, refugees and smugglers in Agadez. Several topics have been mentioned, without development. Many issues need further investigation and more thorough study. Despite the contact made with the authorities and security forces during the immersion in the city, their comments have not been reproduced here. In future research it would be compelling to bring our attention to the citizens of Agadez who are not directly involved in migration and the decrease in migratory flows.

Finally, it is important to underline that the aim of this work is not to judge Law 2015–36, but to merely highlight its consequences. Prohibiting all economic activities related to migration has had a serious impact on Agadez. The chaotic state of affairs in Libya has brought about similar effects. In spite of the adverse impact of the law, one question remains unanswered: what would migration in Agadez look like if the law had never been implemented?

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### Lawless Libya: Unprotected Refugees Kept Powerless and Silent

*Mirjam Van Reisen, Klara Smits & Morgane Wirtz*

#### Introduction

Libya has long been a destination for migrants and refugees, mainly as a place to work, but also a transit country for those seeking to go to Europe (Hamood, 2008).

In 2008, the Italian Government and then President Gaddafi arranged a special deal to push migrants and refugees in the Mediterranean Sea back to Libya. This coincided with a new form of human trafficking for ransom – Sinai trafficking – which emerged in 2008 and came into full swing in 2009 (Van Reisen & Rijken, 2015). In this new form of human trafficking, migrants and refugees, many of whom were Eritrean, were locked up in torture warehouses in the Sinai. The human traffickers extorted

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*After the legitimisation of some militias as enforcers and coast guards, the landscape of human smuggling and trafficking in Libya has changed drastically. The trafficking networks have gone underground and profit-making has become less about moving people across the Mediterranean Sea and more about human trafficking for ransom and forced labour. Refugees are kept in warehouse, abused and commoditised, sold and extorted for ransom. The almost total control of digital technology by ‘gatekeepers’ keeps the refugees in a ‘black hole’, which plays a vital role in the repression and human trafficking of refugees in Libya.*

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the victims by calling their family and friends and forcing them to listen to the sounds and screams of their loved ones being tortured. After 2012, this new form of human trafficking for ransom migrated west to Libya and the broader region (including Sudan and Chad), after routes through the Sinai were stopped by a high-tech fence

constructed on the border between Israel and the Sinai, as well as anti-terrorism activity in the Sinai desert (Van Reisen *et al.*, 2017).

But how are such inhumane practices able to take root and flourish in today's modern world? Surprisingly, this practice emerged at a time when digital connectivity, in particular, the use of mobile phones, hit a global level (Van Reisen *et al.*, 2018; Van Reisen & Rijken, 2015; Van Reisen & Mawere, 2017). Although, often assumed to be positive, developments in technology do not benefit everyone equally. While information is distributed to some, it fails to reach others, creating 'black holes' in the socio-digital landscape (Castells, 2000). In Africa, where inequality is pronounced and access to connectivity and digital technology is unequal, the effect of these black holes is distinct. Within these black holes, information exchange is limited due to low connectivity and high levels of control. In this communication structure, people in black holes rely on gatekeepers of information, who keep a tight hold over the information exchanges that take place (Van Reisen, Smits, Stokmans, & Mawere, forthcoming, 2019).

Libya can be described as a black hole in the information landscape, especially in places that are under the control of fragmented militia. In 2018, Freedom House (2018) analysed Internet freedom in Libya and noted that the country suffers from both physical obstacles (such as power outages), as well as restrictions on freedom of the press. There is limited access to the Internet and access is controlled. This is especially the case where migrants and refugees are held in captivity, as will emerge later in this chapter.

This chapter looks at the relationship between the gatekeepers and 'the gated' in Libya. These gatekeepers range from human smugglers and traffickers, to police, detention centre guards, and workers from humanitarian organisations such as the United Nations High Commissioner for Refugees (UNHCR). The chapter explores how the evolution and spread of information communication technology (ICT) relates to the emergence of human trafficking for ransom and its development into a full-blown criminal trade. The focus of the research is on Eritrean refugees who are or were held in Libya. It is

difficult to give an estimate of the number of refugees in Libya, as presence on the ground is challenging. Of the refugees registered by UNHCR currently in detention in Libya, Eritreans form the largest majority by far – 2,589 individuals as at June 2019, which is 66% of the total number of refugees registered with (UNHCR, 2019b). However, this does not include unregistered refugees. The closest realistic estimate is that over 11,000 Eritrean refugees are held involuntarily in camps and detention centres in Libya at the time of writing (Melicherová, 2019). This large number of generally young Eritrean refugees, many of whom are unaccompanied and separated minors, is of great concern. Eritrean refugees have the right to protection under international law and the European member states regard around 90% of Eritreans as entitled to asylum (Eurostat, 2018). Many Eritrean refugees have been held in captivity in Libya for long periods of time. In addition, since 2009, they have constituted a high percentage of the people who have fallen victim to human trafficking for ransom (Van Reisen & Mawere, 2017), first in the Sinai desert of Egypt, and currently in Libya and other countries, such as Sudan. This chapter zooms in on how their situation has evolved in Libya. The main research question is: *What is the role of the gatekeepers and the situation of Eritrean refugees as a gated community living in a black hole in the digital landscape in Libya?*

## **Methodology**

This study was conducted as a literature review and an explorative ethnographic case study. The case study consisted of interviews with refugees and resource person, focus group discussions and observations. The document and literature review includes reports, news articles and policy documents that have covered the situation of human trafficking in Libya in the past years. The research was conducted over a period of three years, from 2016 to 2019.

The focus on Eritrean refugees was chosen given that this group forms an ‘extreme case’. An extreme case methodology is justified for a particular problem to emerge more clearly (Jahnukainen, 2010). The group of Eritrean refugees in Libya are distinct because of their

reason for moving to Libya, their composition, and their proportional presence among victims of human trafficking. What sets Eritrean refugees apart is that this group is generally accepted for protection under international law – and they are, therefore, clearly refugees, even if they are denied such protection – and the group comprises many young refugees, unaccompanied and separated children, and pregnant girls and young women. It also seems that human trafficking for ransom specifically affects Eritrean refugees.

Interviews were conducted with 35 Eritreans between February and July 2019. The interviews were in-depth and semi-structured. Two Eritreans were interviewed twice, with follow up questions focused on details relevant to the research. The interviewees had all been held in Libya between 2014 and 2019 and spent anywhere from 40 days to 3 years there. Most of the interviews were done in Italy, the Netherlands, Belgium, Ethiopia and Niger. Several interviews were conducted via WhatsApp with three refugees in various camps in Libya. One refugee was later interviewed face-to-face in Niger. Three testimonies presented in public by Eritrean refugees between December 2018 and April 2019 were also included. In addition, in-depth interviews were held with resource persons. Most of the interviews were done individually, although three were conducted with two people at once, one of which was a family with two children (the children were not interviewed). The interviews were extensive and carried out over several months while the respondents resided in different locations. All interviews were conducted in English, Tigrinya (with translation) or Dutch. They were recorded and transcribed and analysed through open coding-labelling. In addition to the interviews, a focus group discussion was held in the Netherlands with six refugees on 27 March 2019. During this meeting, experiences were extensively shared. The conversations were translated from Tigrinya to English.

Given the researchers' work on human trafficking among Eritrean refugees, they were able to build trust among the community, which helped facilitate access. The second and third researchers carried out site visits and interviews in Niger. In the setting, the first and third

researchers had direct or indirect contact with human smugglers and traffickers to help understand the way they saw their work. Research on human trafficking is sensitive and it requires trust among respondents and researchers, especially given the sensitivity of the stories. The researchers took time and prepared for the interviews over two years, by conducting document reviews and engaging with the community. Being well embedded in the community and present in different countries relevant to the research, the researchers were able to enter the community through trusted persons.

In order to ensure the safety of the participants in the research, all names are withheld (but known to the researchers) and all information is provided such that it cannot lead to a particular person. In the citations of WhatsApp messages, the language is adapted, without changing the meaning, to make the messages accessible to the reader. The names of people provided in the interviews in relation to smuggling and human trafficking have not been anonymised because these names have been published on earlier occasions and emerge often, consistently and regularly in the interviews. The authors deem it in the public interest that these names are made available. Although this is the case, this is an ethnographic study and is based on observations, as they have been provided by the participants in the study; the chapter does not contain legal analysis or make any legal accusations.

### **Theory of gatekeeping**

The concept of gatekeepers is used to describe the individuals or processes in control over the filtration, cutting down and selecting of information (Shoemaker, Vos & Reese, 2009). This filtered information then reaches the target audience, the gated (Barzilai-Nahon, 2008). The concept is most often used to describe the process of selection and editing in traditional media such as newspapers, but it has also been used more generally to mean people who mediate between different isolated groups. The term gatekeeper has been widely used in other areas of study as well, for example, to describe those who control access to information and relations (Tushman &

Katz, 1980). Network gatekeepers are those who perform the role of information guardian in any form of network (Barzilai-Nahon, 2008). In the case of refugees on the move, many different actors, including smugglers and traffickers of people, authorities, refugee organisations, friends and relatives, can act as gatekeepers.

The role of gatekeepers is especially powerful in the context of black holes in the information architecture. Digital innovations can create power imbalances, which are used by those with (full) access to technology and information to exploit those who do not have (full) access (Castells, 2000). Castells argues that technology creates a new social structure from which the elite profit, but others become trapped in 'black holes' of informational capitalism. Van Reisen, Smits, Stokmans and Mawere (Chapter 2, *Network Gatekeepers in Human Trafficking: Profiting from the Misery of Eritreans in the Digital Era*) explain how this new digital social structure bears close resemblance to the information society created during the colonial era. This structure facilitates the flow of data to certain areas, while leaving other places disconnected, as 'black holes' in the information landscape. This is particularly pertinent in Africa, given the vast size of the continent, extreme differences in wealth, and low physical connectivity to the Internet.

In order to describe the role of gatekeepers and the situation of the gated with regard to Eritrean refugees in Libya, the theoretical framework on network gatekeeping proposed by Barzilai-Nahon (2008) is used. In order to assess the relation between gatekeepers and gated, as well as the mechanisms of gatekeeping, Barzilai-Nahon looks at the *salience* of the gated with regard to the gatekeepers. In other words, the theory assesses the degree to which the gated are controlled by the gatekeepers. Barzilai-Nahon states that the gatekeeper-gated relationship relies on four attributes: 1) the autonomy and alternative information sources available to the gated; 2) the ability of the gated to produce and distribute information freely; 3) the relationship between the gated and the gatekeeper, considering that a direct and enduring relationship can produce a platform of negotiation between the gated and the gatekeeper; and 4) the political

power involved in the gated-gatekeeper relation. The gated can possess attributes in any number of those four categories, including none at all – the lower the score, the more information control the gatekeepers can exert over the gated. Following these distinctions, this chapter investigates the human trafficking of Eritreans in Libya from the perspective of the relationship between the gated and the gatekeeper.

### **Situation in Libya**

In 2017, the world was shocked by a CNN video of people being sold as slaves in Libyan markets (Elbagir, Razek, Platt & Jones, 2017). Other videos emerged showing migrants and refugees being held in captivity, tortured and forced to beg for ransom from family members (Elbagir, Razek, Platt & Jones, 2018). After the legitimisation of some militias in Libya as enforcers and coast guards, the landscape of human smuggling and trafficking in Libya has changed drastically. Micallef (2019) argues that it is not so much the work of the Libyan coast guards, but the change on Libyan soil that led to the drastic drop in migrants and refugees crossing the Mediterranean Sea to Europe. Starting in the Libyan city of Sabratha, militias that were involved in the smuggling and trafficking of people changed their tactic overnight and became the security outfits tasked with stopping smuggling and trafficking. In response, the trafficking networks went underground and profit-making became less about moving people through Libya and pushing them out to sea, and more about forced labour and human trafficking for ransom.

The United Nations Support Mission in Libya (UNSMIL) and Office of the High Commissioner for Human Rights (OHCHR) (UNSMIL & OHCHR, 2018) remark in their report, *Desperate and Dangerous: Report on the Human Rights Situation of Migrants and Refugees in Libya*, that Libyan authorities are either unwilling or unable to tackle the human rights abuses in Libya. In addition, UNSMIL states that it:

*[...] continues to receive credible information on the complicity of some State actors, including local officials, members of armed groups formally integrated into State*

*institutions, and representatives of the Ministry of Interior and Ministry of Defence, in the smuggling or trafficking of migrants and refugees.* (UNSMIL & OHCHR, 2018, p. 6)

In July 2018, the UN Security Council, in the first resolution of its kind, added six individuals to its Libya sanctions list for their complicity in human trafficking (UN Security Council, 2018). Four of these were Libyan nationals and two were Eritreans, Ermias Ghermay and Fitiwi Abdelrazak (Jaura, 2018), who had been earlier identified by Van Reisen & Mawere (2017). One of the Libyans named in the resolution was the head of a regional arm of the Libyan Coast Guard. The report by UNSMIL remarks that despite overwhelming evidence of abuse, the Libyan authorities seem unwilling to take action against or even acknowledge the violence taking place in trafficking warehouses in Libya.

*UNSMIL received consistent testimonies from migrants and refugees about horrific treatment, degrading conditions, and frequent rapes in captivity [...] Despite the well documented patterns of abuse against migrants and refugees by smugglers and traffickers and the frequent recovery, across Libya, of bodies of unidentified Sub-Saharan migrants and refugees bearing gunshot wounds, torture and burn marks, the Libyan authorities have appeared largely unable and unwilling to address or even recognize crimes committed against migrants and refugees. As Libyan law criminalizes irregular migration and lacks any measures to protect victims of trafficking, migrants and refugees are reluctant to report abuse to Libyan authorities.* (UNSMIL & OHCHR, 2018, pp. 26–27)

According to the Head of the Presidential Council in Libya, Fayez al-Sirraj, 800,000 migrants and refugees are residing in Libya, as of January 2019 (Assad, 2019). Only a fraction of these are housed in official detention centres. The vast majority are stuck in human trafficking warehouses or on the streets of Libya. It is estimated by human rights activists that there are several thousand Eritreans stuck in situations of human trafficking in Libya (Human rights defender 11, interview, face-to-face, Italy, 18/19 March 2019). The UNHCR states that as of July 2019, there are 50,000 registered refugees and asylum seekers in Libya (UNHCR, 2019a).



Of the refugees and migrants stuck in Libya, the OHCHR and UNSMIL have reported that Somali and Eritrean individuals seem most likely to be held in captivity for prolonged periods of time (UNSMIL & OHCHR, 2018). UNSMIL commented that this appears to be the case because smugglers and traffickers think that these communities can pay more, due to the likelihood of them being granted refugee status in Europe and the disposition of the diaspora communities. According to estimates by the International Organization for Migration's (IOM's), there are some detention centres where there are almost exclusively Eritreans, such as Abusliem (793 Eritreans out of a total of 838), Al Zintan (700 Eritreans out of a total of 915) and Alkhums (310 Eritreans out of a total of 438) (Human rights defender 11, interview, face-to-face, Italy, 18/19 March 2019).

UN agencies described the scope of the abuses against migrants and refugees in Libya as including death, detention, abuse, sexual violence and rape, exploitation and starvation (UNSMIL & OHCHR, 2018). Degrading treatment includes the lack of hygiene, adequate food and water, and lack of access to health care for (seriously) ill people. Tuberculosis is rampant in the centres and the direct cause of death for many. In addition, many detention centres have been the scene of violence, most prominent among which is the shooting of detainees in Qasr bin Ghashir detention centre in April 2019 (Médecins sans Frontières, n.d.) and the airstrike on Tajoura detention centre in July 2019 (Wintour, 2019). Organisations such as IOM and UNHCR, as well as the African Union (African Union, 2019), have called for the release of all migrants and refugees from detention centres, replacing them instead with open facilities. When refugees and migrants are trapped in detention, the only options for escape are through IOM's Assisted Voluntary Return and Reintegration (AVRR) programme or evacuation through the Emergency Transit Mechanism by UNHCR to Niger, from where refugees can be resettled to other countries (IOM, 2018). The UNHCR emphasises that more places for relocation are needed as the capacity in Niger is limited (UNHCR, 2019c).

## **Gatekeeping in Libya and the situation of refugees as a gated community**

In order to look at gatekeeping in Libya, it should first be established who are the gatekeepers in relation to the gated, in this case the Eritrean refugees in Libya. Whereas gatekeeping theory refers to the control of information, every aspect of the lives of Eritrean refugees in Libya is controlled by the gatekeepers. From the interviews, three main categories of gatekeepers emerged: human traffickers and smugglers, who form a single category as the distinction is blurred in the context of Libya; Libyan authorities, such as militias working with the Government of National Accord, guards and chiefs of detention centres; and international organisations and actors such as UNHCR, IOM and international delegations. When looking at the four attributes of the gated in relation to the gatekeepers, these three categories will be included in this order.

### ***Autonomy and alternative information sources***

The first attribute in the theory of gatekeeping set out by Barzilai-Nahon (2008) is the autonomy and alternative information sources available to the gated. In Libya, access to information is severely restricted for Eritrean refugees. Many of them enter Libya via the town of Kufra, which lies relatively close to the border with Sudan, from where they are transported to warehouses in places such as Bani Walid. All of the refugees interviewed were held by human traffickers at some point, often multiple times, for weeks to years, while they arrangement for the payment of their journey and/or ransom. Many Eritrean refugees do not carry a phone with them on the journey, but if they do carry a phone, it is both dangerous and difficult to keep possession of it. One Eritrean refugee explained the difficulty of keeping a phone on the journey from Sudan to Libya: “You hide the phone inside your clothes or anything. Because it is so hard to pass the telephone. If the smugglers see the phone, they take it” (Refugee 13, interview, face-to-face, Niger, 4 July 2019).

The unofficial places of detention run by human traffickers are described as warehouses with as many as 1,000 or more people

crowded under one roof. Locations include Bani Walid, Shwerif, Kufra and Sabratha, among others.

*We know that the town is Bani Walid, but we don't know the town. We are in the side of the town. We are in a big house. People are crowded together there. [...] Women, children, all nationalities, put together.* (Refugee 10, interview, face-to-face in Niger, 9 July 2019)

The refugees shared that they are not viewed as human beings in these places, but only as a marketable source of income. In these warehouses, even speaking to each other is strictly forbidden by the guards: “There were Libyans with guns. If someone speaks loudly, they say, please stop talking. And one was shooting at a guy for talking. Only the Libyan people are speaking with the Eritrean smugglers (Refugee 1, interview, face-to-face, the Netherlands, 17 March 2019).

In such situations, the inflow of information is fully controlled by the guards and the traffickers, who do not provide information to the refugees. One refugee spoke of the fearful experience of being caught in the middle of heavy fighting between militias in Sabratha, which started around September 2017. Despite the fighting, the refugees who were trapped received no information and were often left alone by their guards for days as the fighting worsened: “We are locked. We see only some holes – we see some soldiers shooting. They come to us. The heavy tanks are coming. Our lives are going from bad to worse” (Refugee 10, interview, face-to-face, Niger, 9 July 2019). Another refugee caught in the same fighting confirmed: “You just listen to the arms [gunshots] – they tell you nothing” (Refugee 13, interview, face-to-face, Niger, 4 July 2019).

Information exchange starts to be possible only when the refugees are captured by the Libyan police or coast guard, or report to UNHCR. After that, they are taken to detention centres. The conditions in the detention centres varies, with the worst conditions reported in the more isolated centres. The autonomy and access to information varies based on the detention centre where the refugee is

located and relies mostly on the ability of the refugees and migrants inside to obtain and hold onto a phone, which they are then able to use for sparse communication. In Gharyan detention centre, for example, one refugee described only one phone being available and hidden carefully: “In Gharyan [...] they remove all the clothes from your body then they collect money and phones, also documents” (Refugee 23, interview, WhatsApp, Libya, 18 March 2019).

Refugees state that, in some instances, obtaining a phone is possible by bribing the guards. Other things, such as credit, can also be obtained by paying the guards or other workers: “They are entering the money in the phone” (Refugee 10, interview, face-to-face, Niger, 9 July 2019).

The UNHCR faces severe challenges in guaranteeing the rights of refugees in detention centres in Libya, by their own admission (UNHCR, n.d.). Especially in detention centres that are not easy to reach, this leads to a sense of abandonment by the refugees. Many also state that UNHCR does not give them sufficient information about their situation, refugee status determination or evacuation.

*We are dying slowly. Why the world is killing us slowly? Where is UNHCR?*  
(Refugee 10, interview, WhatsApp, Libya, 11 January 2019)

*Sometimes in the prison they give us clothes, shoes, blanket, soap from UNHCR. But the policemen take it.* (Refugee 24, interview, face-to-face, Niger, 4 April 2019)

Through limited access to phones, refugees in Libya are in touch with other Eritreans and, in some cases, journalists or activists outside the country. Pictures, information and posts on social media are shared in this way, which for many is the only alternative source of information available. Lack of information also means that the Eritrean refugees are often unsure of who to trust in detention centres. The guards, although they are officials, are often abusive.

Therefore, staff of international organisations – especially when also Libyan – may arouse suspicion.

*[...] when the Red Cross was coming there, some people were afraid. Maybe they are dressed like Red Cross, but it is not them. We cannot believe them. The Red Cross said: "Me I am working for Red Cross. If you believe me, I will make contact with someone from Eritrea". They called someone from Eritrea. One that someone knows. He said: "Yes these people are from Red Cross". (Refugee 32, interview, face-to-face in Niger, 4 April 2019)*

This shows that at every stage of their captivity in Libya, Eritrean refugees are unable to obtain information; information comes mostly from their social network via the few and shared mobile phones available (see below). They do not have access to independent information and they do not understand the situation in which they find themselves and what the future may hold. This results in mental health problems such as anxiety, stress and post-traumatic stress, depression and mistrust, including of international organisations, which are there to protect refugees.

It can be concluded that Eritrean refugees have no significant autonomy and alternative information sources in Libya than the three categories of gatekeepers. In the hands of smugglers and traffickers, the refugees have no access to information sources such as phones – the traffickers do not provide them with information on what happens outside of the warehouses. Libyan authorities also severely repress access to information in detention, although through smuggled and hidden phones, very limited contact via social networks is possible for some. International actors and organisations face mistrust from the refugees and refugees state that they feel abandoned and uninformed by international organisations, mainly UNHCR. Hence, Eritrean refugees score low on this attribute.

### ***Information production and distribution***

The second attribute in the theory of gatekeeping is the ability of the gated to produce and distribute information freely. The previous section remarked on the difficulty for refugees to obtain and keep a

phone, which is one of the few links to the outside that they possess. The information that the refugees produce is, in many cases, extracted by force. In human trafficking warehouses, refugees are forced to pay ransoms – often multiple times. The amounts usually range from between USD 3,000 to 7,000 for every trafficker the refugee encounters. After paying the amount that was agreed for the journey from Sudan to Libya (‘the desert’) and from Libya to Europe (‘the sea’), many are told the amount they owe is higher than what was agreed. Even after paying, many end up in the hands of other traffickers, either because they are sold or as a result of fighting between different groups of traffickers over control of territory.

The extortion of ransom happens through mobile phones. Family and friends are forced to listen to the cries of their loved ones as they are tortured:

*Every morning he comes. He puts the people in a line. Every person he gave telephone. Family, friends, he asked you to call them to ask them to send money. Me I don't have anybody to pay money. I will hold the line, but who will I call? They beat you when you call your family or your friends. They have sticks. Also, in the cold time they throw cold water on us. It's cold. He beats. When you hold the telephone, he beats. When he hears your family voice, he will beat you. (Refugee 25, interview, face-to-face, Niger, 4 April 2019)*

In addition to phone calls, pictures and videos are also circulated (Hayden, 2019). Often, refugees reported have access to the same pictures and videos, which are circulated on social media, serving both as extortion mechanisms and to put fear into other (future) victims. This modus operandi of using digital technology is highly effective:

*They try to give you a phone and beat you, to cry, to shout, so that your family will sell things in their house, like gold. Gather money, like in church. That's why they can pay. If you can't pay, sometimes they kill you. If they don't kill you, they sell you. (Refugee 15, interview, face-to-face, Niger, 6 July 2019)*

Most refugees stated that during their trip, they had sparse or no contact with family. For some families, the extortion calls from Libya were the first sign that their loved one was still alive: “I am not in touch with them, but I call to my family [when I was] in Libya. Even now, I’m not in touch. Only in Libya” (Refugee 17, interview, face-to-face, Niger, 8 July 2019).

This shows that, rather than the classic definition of a gatekeeper, who is someone who dictates what information the gated receive, human traffickers also decide what information the refugees are able to produce and distribute. This creates widespread fear in the Eritrean community, which leads to compliance and payments, which in turn reinforces the lucrative profits generated by the traffickers.

In the official detention centres, there are severe restrictions on the information that refugees are able to send out: “Now in Gharyan only one phone is there. Only after 10:00 pm is it turned on” (Refugee 23, interview, WhatsApp, Libya, 18 March 2019). Some refugees maintain contact with the outside through journalists or human rights defenders, but they are highly cautious of the information they send out. If they are caught sending out information that could be damaging, the guards will arbitrarily punish them. In the example below, a refugee wanted to take a picture to communicate about the bad meal they received for lunch:

*A: There is open war here between my friend and the Libyan police*

*MR: Why?*

*A: Today our lunch is very bad.*

*MR: What happened?*

*A: I told you to wait for me to take a picture.*

*MR: I want to take a picture to send you.*

*A: But the police took my phone, they made me delete the picture and gave me a warning. (Refugee 23, interview, WhatsApp, Libya, 28 April 2019).*

Visitors to detention centres, in addition to UNHCR, are Médecins Sans Frontières, Red Cross, international delegations that visit to obtain information, and delegations that visit for the repatriation of

individuals locked up there. However, during these visits, several methods are used by the Libyan authorities in charge to minimise their access to information produced by refugees:

*When the UNHCR come, the Libyan policemen will take all Eritreans outside. They will say that these people are free. Understand? There are many Europeans who will come to see you in that place. When they leave, all the people will enter the store [detention holding centre]. When they have finish their work, they start beat us. "Go!" "Enter!" When you are praying, they beat you! When you need to sleep, they beat you!* (Refugee 25, interview, face-to-face, Niger, 4 April 2019)

The conditions repeatedly reported in detention centres include lack of food, water, hygiene, and medical treatment; lack of light; punishment; isolated detention in harsh conditions; lack of clothing; and severe beating. One journalist describes her experiences of witnessing a foreign delegation in Libya speaking to a refugee who told them frankly about the situation. Afterwards, his friends contacted her to explain that he was severely beaten.

*[...] right now, this person is beaten, so the information was collected by speaking with this fellow's friends in Tajoura, by hidden phone; they are all extremely scared to speak about this, because they are afraid of what could happen to them. They told me "he was beaten in front of us, like a snake". And he could not even stand up after they had beaten him, and then he was brought to this separate cell, where he is now staying with other guys who either have tried to escape from the centre or so on.* (Journalist 12, interview, face-to-face, Belgium, 1 April 2019)

A statement by an Eritrean refugee describes a similar situation, which happened after talking to representatives of IOM.

*One day, IOM came to visit the centre and us and the two Eritrean people explained what was happening in the centre, but when IOM left, the police took the two persons who spoke and testified about the living conditions, and now we do not know where they are.* (M., public presentation, Brussels, 13 December 2018)

Refugees who protest about the conditions also face consequences and may even be shot at. One refugee recounted how he was shot after 20 refugees were taken from his detention centre and sold.



When another 20 were threatened to be sold, the refugees protested and the interviewee was shot:

*We fight with the police there. They tried to sell us, many times. They take a lot of people. After that, we ask "why did you take them?" So, they tried to beat us. After that, one police, he shot two people. Me and another... (Refugee 13, interview, face-to-face, Niger, 4 July 2019)*

General punishments for speaking out serve as a warning to others:

*People are beaten, in front of the others, in order to tell "ok, do it again and this will be the treatment". They put them in a different room, or they lock them, or they say we won't give you food or we won't give you water, or just harassment. So just to make people afraid of speaking out. (Journalist 12, interview, face-to-face, Belgium, 1 April 2019)*

Furthermore, access for civil society organisations and journalists is impossible in human trafficking warehouses and very difficult in detention centres. This makes information on what is going on in the holding places difficult to obtain, as described by a journalist who went to Libya:

*So as a foreign media person, if you want to report, you have to register at the foreign ministry department that is under the Sarraj – the recognised government. There, you need to specify why and so on. And then, if they want, they will give you an authorisation and you will be followed by someone from the department. So, this means that all your work is followed by someone who is telling you what to do and what not to do. I mean, you are not really freely able to collect what you want without putting people at risk. And, also, let's not forget that even if you have access and you are able to enter those detention centres, the people who have the courage to speak with you because they are fed up with the situation, they may face consequences. (Journalist 12, interview, face-to-face, Belgium, 1 April 2019)*

*There was a situation where they were giving food. [...] Then he was saying, "film, film!". I don't want to film, you know. I want to film and I want to ask to the people if they are ok to be filmed. So even this treating people as objects or just saying "we have the right over them and we decide how you film about them or what you*

*do". That's not the kind of work I like to do. I like to sit with someone and discuss and then film.* (Journalist 12, interview, face-to-face in Belgium, 1 April 2019)

The tight control over information means that any attempt to raise awareness about the situation carries severe risks. Even so, refugees in detention centres organise protests where they sit with crossed arms – pictures and videos of such protests are shared on Facebook, in hope of wide circulation.

UNHCR and IOM, as well as other organisations, have limited access to Eritrean refugees and do report on their situation, however, those communications are not under the control of the refugees. Therefore, the organisations – by necessity – play the role of gatekeeper, when it comes to the production and distribution of information. Part of the control of information comes from the dependency of the refugees on UNHCR and other organisations. Even outside of Libya, Eritrean refugees who have been evacuated, but remain under UNHCR protection, express fear that any information they give may compromise their case with UNHCR. Therefore, respondents are difficult to find and those willing to speak often seek repeated assurances from the researchers that they are not part of UNHCR and that their interviews will remain anonymous.

In conclusion, information production and distribution by refugees is affected by all three categories of gatekeepers. The human traffickers and smugglers fully control the use of mobile phones and other digital media, using it to force Eritrean refugees to ask for ransom from family and friends, while their images and sounds of torture are used to increase pressure. Libyan authorities in detention centres also strictly control information outflows, handing out severe punishments for unauthorised phone use or speaking to foreign visitors. Journalists face severe restrictions on free reporting, while authorities attempt to present a positive image of the detention centres. UNHCR and other international actors have limited access to collect and distribute information from refugees, beyond their own mandate. Hence, Eritrean refugees also, score low on this attribute.

### ***Relationship between refugees and the gatekeepers***

The essence of this attribute is whether an exchange is able to take place between the gated and the gatekeepers – for this, a relationship that can form a platform of negotiation has to exist. Most Eritrean refugees who were interviewed knew at least a nickname of the person who was overall in charge of their trafficking and/or smuggling. However, the relationship and any chance of negotiation usually did not go any further than that. The traffickers and smugglers are often only known to the Eritreans because of conversations via the phone or because they have overheard the name being mentioned by people who work for the smuggler or trafficker. For example, when payment needs to be made, the people who work for the traffickers often specify the trafficker who the payment is destined for. However, most do not know prior to arriving in Libya that a major trafficker is the one in charge of their travel and payment. Smaller actors, posing as smugglers, do not mention this information when negotiating over the phone or in person in Sudan. Finding people to take you to Libya is not a challenge:

*It's difficult to identify who collects us. "Oh, you want to go to Libya." "Yes, I am not accepting to live in Khartoum, thus I want to go to Libya". Ok, so someone comes and collects everyone in one car. (Refugee 1, interview, face-to-face, the Netherlands, 17 March 2019)*

In Libya, the passengers are distributed to warehouses belonging to different traffickers: "When you enter Libya, the first city after the border is called Kufra. There all the connection men are waiting for their different passengers. For me, my smuggler was A. He is Eritrean" (Refugee 32, interview, face-to-face in Niger, 4 April 2019).

This process leaves the Eritrean refugees mostly in the dark as to the identity of their traffickers until they are already locked up. Even then, they know few details. In one case, an interviewee stated that the top trafficker had visited the place where he was detained: "It was at night time. Speakers say "Medhanie, Medhanie"... we heard this. He was loudly announced" (Refugee 1, Interview, face-to-face, the Netherlands, 17 March 2019). However, the Eritrean refugees have no chance to

engage in conversation or negotiate with the high-level smugglers and traffickers:

*I know only the names, I didn't see them. Only the people who organised us: "Oh, this is from Welid and this is from Medbanie". They separated us – but where is Welid, where is Medbanie, I don't know. No one knows.* (Refugee 1, interview, face-to-face, the Netherlands, 17 March 2019)

Negotiations over price usually take place in Khartoum, Sudan, with middlemen before departure. However, the prices that were originally agreed upon before departure to Libya often suddenly increased upon arrival: "In Sudan, the connection man said, me, I pay USD 3,800. But when I entered in Bani Walid, he asked me for USD 5,500" (Refugee 25, interview, face-to-face, Niger, 4 April 2019).

After arriving in Libya, the situation often switches from apparent facilitation of transportation to human trafficking, due to the increase in price or because people are sold after paying the agreed amount. Phones are used to extort ransoms from the Eritreans, but the numbers of the smugglers and traffickers often change: But I will never call him. I am afraid [...]. This is the phone number for Abduselam. But they change phone numbers from hour to hour" (Refugee 23, interview, WhatsApp, Libya, 4 April 2019).

A platform of negotiation is not present. If a refugee or his/her family and friends are unable to pay, torture will follow until the money is found. If the money is paid, this is communicated through the trafficking network by sending codes, after which the refugees are released for the next phase of transport, or sold to other traffickers. If the money is not paid, two options remain: either the refugee is killed or sold to another trafficker who repeats the process. Some traffickers have a bad reputation – this is sometime used by other traffickers, who often cooperate, to threaten victims:

*They tried to scare us, to take us to Abdella Sini [translator noted the man was notorious for violence]. So we stay for a week or two weeks [with Abdella Sini] and he beat us. He tried to force us to pay. So, after two weeks or one week, they returned*

*us to our place. And then another time, he did that. But we have no money.* (Refugee 17, interview, face-to-face, Niger, 8 July 2019)

The traffickers in charge of the network are often not located in Libya:

*The boss is in Dubai. [...] sometimes he calls us. Because if you don't pay money, bad things will happen to you. [...] He says, "If you don't pay the money, I will sell you". If they sell you, the ransom increases.* (Refugee 17, interview, face-to-face, Niger, 8 July 2019)

Family and friends of the Eritrean refugees who pay the ransoms and fees are also unable to form any relationship with the smugglers. When they are able to pay, they do not meet with the smugglers. In all cases, the family is told to leave the money in a location, mostly in either Sudan or Eritrea.

*Some of the traffickers are paid in Eritrea, so they have a branch there. Many people have paid there. Especially in 2014, 2015 and 2016. Now it happens less. In Eritrea, the family paid – they were told to leave the money in the house, in the shop... They think it is normal. Some people get told where to leave the money. They never see the person who collects the money. They just get told where to leave it and go.* (Human rights defender 11, interview, face-to-face, Italy, 18/19 March 2019)

Payments for Eritreans held in Libya are also done in Tel Aviv, in fact Eritreans in Tel Aviv pay for the entire trip from Eritrea to Europe from Tel Aviv, and they also pay there for ransoms when relatives are extorted:

*When I was in Tel Aviv, we paid for everyone from there. I paid USD 24,000 for three boys, one was my cousin, the other my nephew and then my brother. As we were living close to the border, they could cross to Ethiopia, then I paid in Tel Aviv for them to go from Hitsats refugee camp to Khartoum (USD 1,700 each), then from Khartoum to Libya, that was the same price and then from Tripoli to Italy, in 2015, that was USD 2,000. I paid for the food and everything else, it was USD 24,000. Then you get a code, you give that to the person for whom you pay. Then*

*they know you have paid. I paid it in Tel Aviv. I knew them, they are Eritreans, some from my own village. They receive the money, then it is sent to Dubai. They try to hide they are working with 09 Red Sea Corporation [owned by People's Front for Democracy and Justice, the ruling party in Eritrea]. They give you a representative to pay the money to. We all pay it in cash in an open shop, they were receiving some USD 20,000 a day. We call them the 'receiver of money', in Tigrinya it is: 'tekebali hawala'. (Refugee 39, interview, face-to-face, Ethiopia, 24 July 2019)*

The payment system is secret and inaccessible:

*They open a small shop, but on the other side they do the hawala [traditional system of transferring money]. So, the shop is to hide the hawala. You can also pay in Asmara or Khartoum, or Tel Aviv or any city, and they can receive the money for your travel. You can pay anywhere for the ransom of people held in Sudan or Libya. They have links with the smugglers and traffickers in Sudan and Libya. Hegdef [Tigrinya name for the People's Front for Democracy and Justice] is collecting the people and the money for the trafficking. (Refugee 39, interview, face-to-face, Ethiopia, 24 July 2019)*

Eritreans comment on the dehumanisation they face during the process of trafficking in Libya. They describe being treated like commodities that are valued according to their perceived worth in terms of ransom or sale. They state that persons of different origin are treated differently:

*Eritreans and Somali have money. They think like that. Ethiopians, they have no money. Sudan... they pay USD 500 for everything, from Sudan to Libya, by plain [desert] and sea. But for Eritrean, it is USD 1,200, 1,600. Even Somalis – more from us. Even more. So, everybody is not the same. (Refugee 13, interview, face-to-face, Niger, 4 July 2019)*

*When they see people from Eritrea, what they see is money. That is why they want to have us. (Refugee 24, interview, face-to-face, Niger, 4 April 2019)*

Refugees, asylum seekers and migrants are all placed under detention when arrested or returned from Mediterranean Sea. The NGO

Global Detention Project (2018) considers this detention arbitrary, as it is not part of a clear legal framework or process. All are placed in the category ‘illegal migrants’ for illegally entering and residing in the country. Some guards in the detention centres are available for some negotiation, for example, to obtain a phone, phone credit or other materials, as described earlier in the chapter. However, the interviewees expressed a general mistrust towards the Libyan guards and detention centre chiefs and described frequent beatings.

In the detention centres, the gated are again unable to establish platforms of negotiation for information or their personal status. There is a risk in some detention centres of being sold back to the human traffickers. This is often disguised as an opportunity to cross the Mediterranean Sea. As the Eritrean refugees lack information on who to trust, it becomes a one-sided negotiation:

*The Libyan asks us: “If you want to cross the sea, just give us the money, we will send you”. But we say no. Because we are afraid that when we pay the money they [will] try to sell us.* (Refugee 18, interview, face-to-face, Niger, 8 July 2019)

UNHCR and other international organisations are not able to establish relationships with the gated beyond what their mandate states. Although they can provide some materials, such as clothes or medical care, the conditions are set by those in charge of the detention centres: “They [the UNHCR] cannot come for us, but we see them from afar. Because we are locked up” (Refugee 17, interview, face-to-face, Niger, 8 July 2019).

In conclusion, Eritrean refugees in Libya have hardly any ability to establish a direct relationship with the gatekeepers controlling the information flows. As for the human traffickers and smugglers, they do not know them directly and have no direct contact with them; payments are arranged far away and to extensions of networks that they have no knowledge of and no relationship with or control over. The gated see their gatekeepers as operating from a long distance away, and they lack access to them, which makes it virtually impossible to negotiate their situation. Agreements made outside of

Libya are often not kept. Eritrean refugees are locked up in detention centres arbitrarily and are in no position to negotiate their freedom or conditions. In some cases, Libyan authorities cooperate with human traffickers and sell the refugees to them. The relationship between international actors and the Eritrean refugees is also fully controlled by the Libyan authorities. Hence, Eritrean refugees score low on the third attribute, as well.

### ***Political power***

The fourth attribute of gatekeeping theory, political power, is expressed in three dimensions: control of actions; control of the policy agenda; and control over the shaping of preferences. Especially relevant to the political power of the gated, in this case the Eritrean refugees, is how much agency they are able to exercise over their situation in Libya and to what extent they are able to make choices. To a large extent, this relates strongly to the lack of ability to produce, distribute and receive the information described above. In Libya, the line between authorities and human traffickers is blurred, and with the inability of Eritreans to protest their situation, they feel powerless over their destination, the amount of money they have to pay and who they can turn to. The testimonies of refugees show that Libyan authorities are often directly benefiting from, and, therefore, involved in, the smuggling and trafficking of human beings. The authorities who in other contexts might be the ones protecting them, therefore, become the oppressors:

*We were arrested by the policemen. They have communication with the connection man. They took me to Misrata's police station. Another connection man knew this place. His name is Abduselam. He is Eritrean. He has a good communication with the police. He asked the police to catch the people so that he could take them afterwards in exchange for money. (Refugee 24, interview, face-to-face, Niger, 4 April 2019)*

In such situations, the actions of the refugees are fully under the control of the gatekeepers. The gatekeepers – authorities and human traffickers – have free communication and know who they can trust. The relationship between the smugglers and traffickers and the police



enables them to freely travel around in Libya: “Every police is working under that [the system of cooperation with the traffickers]. If we travel from Shwerif to Tarabulus [Tripoli], there are posts – but the posts don't ask anything. Why?” (Refugee 13, interview, face-to-face, Niger, 4 July 2019).

Although most refugees say that they intended to go to Libya in order to cross into Europe, not all of them go willingly. The kidnapping of refugees from Sudan to Libya also happens, so refugees are not always in control of their arrival in the first place:

Refugee 4: *Some of them are smugglers, but some force you and take you to Libya.*

Interviewer: *How do they kidnap people?*

Refugee 4: *The police stop you and they take you. But the Eritreans made an agreement with them before and then they take you. From the police station, they bring you to the cars. The traffickers have their own police officers that they work with. (Refugee 4, interview, face-to-face, Italy, 19 March 2019)*

In the detention centres, the Libyan authorities remain mostly in full control of the policy agenda by constricting the outflow and content of the information. Even the access of UNHCR to the detention centres is restricted. As Libya has not signed the 1951 Refugee Convention and does not consider itself a country of asylum, Eritrean refugees have limited rights. One interviewee said that UNHCR used to have status, but the authorities quickly realised that UNHCR could not do anything:

*They [the guards] tried to sell us [to human traffickers], but we fought with them. At that time, UNHCR took our names, they just register us – so they were afraid of us. Because the guards tried for the first time to deal with UNHCR. After 2 months, 3 months, the guards know everything about UNHCR. Because UNHCR is so afraid of the Libyans. (Refugee 14, interview, face-to-face in Niger, 4 July 2019)*

This is exemplified by the fact that UNHCR has long been aware of the situation in refugee camps in Libya and advocates for change, but

the situation remains unchanged (UNHCR, 2018). Some refugees attempt direct communication with UNHCR or others, such as the European Union, but are often frustrated by the perceived lack of impact their testimonies have:

*In this place where I am today, there is no sufficient food or water, no clothes for the winter. Where are our human rights? There are many pregnant women and children. I contacted the EU and UNHCR on Twitter and by email, they didn't respond to my claims. This is a very dangerous place. We are suffering more than anything. And nobody takes responsibility. This is a shame on the EU.* (Refugee 10, interview, WhatsApp, Libya, 11 January 2019)

In other words, their ability to contribute to agenda-setting, the second dimension of political power, is limited. On the other hand, the European Union and UNHCR work together and are dependent on the Libyan authorities, which makes their political power significantly larger. Through their ties with authorities, the human traffickers and smugglers also enjoy a measure of protection.

The refugees lack the power to determine how, where to and when they should exit Libya. The UNHCR evacuates refugees from Libya through the Emergency Transit Mechanism; due to the desperate situation in Libya, most refugees interviewed in Niger said that they are relieved to be outside of the country, but also emphasise that they did not expect to stay in Niger for long. Some, however, have remained there over a year and a half, since the evacuations started. IOM operates in cooperation with the UNHCR on voluntary returns; this also includes Eritreans, despite the UNHCR's classification of Eritrea as a country where people cannot safely be returned. According to IOM, the returns are voluntary; however, in the AVRR guidelines, one condition mentioned is "the absence of physical or psychological pressure to enrol in an AVRR programme" (IOM, 2018, p. 6). The testimonies reveal that the Eritrean refugees are under severe physical and psychological pressure due to the prolonged and traumatising stay in Libya, and, therefore, the returns cannot be considered voluntary.

Examples of the third aspect of power, the shaping of awareness and preferences, will not be further elaborated on, as the refugees are unable to act on their awareness and preferences. As shown in the case of ‘voluntary’ returns, the overall oppression in Libya is such that little choice of any kind remains for the refugees. Therefore, it is irrelevant to discuss this aspect of power.

In conclusion, the Eritrean refugees have almost no ability to exert political power in relation to all three categories of gatekeepers: the traffickers, Libyan authorities and international organisations. The refugees perceive that they have very little control over their actions or over the policy agenda, they also have no control over their choices or preferences. The refugees reported feeling that they have no ability to exercise any influence on agenda setting. Their complaints, when they were able to communicate them, remain unanswered and their protests are not seen or registered anywhere. In the perception of the refugees, the dependency of the international community on the Libyan authorities gives the latter an almost uncontrolled free hand and the Libyan authorities are perceived as providing a free place for smugglers and human traffickers, who are able to exploit the refugees without any restrictions. Hence, Eritrean refugees score low on the fourth attribute.

## **Conclusion**

This research looked at the role of the gatekeepers and the situation of Eritrean refugees as a gated community living in a black hole in the digital landscape in Libya. It found that access to information in Libya is nearly fully controlled by gatekeepers. The gatekeepers form the bridge between the gated, acting as vital sources of information. This research investigated at the situation of Eritrean refugees in Libya by examining the four attributes of their relationship with gatekeepers, as set out by gatekeepers theory (Barzilai-Nahon, 2008): the autonomy and alternatives available to the refugees as the gated, information production and distribution by the gated, the relationship between the gated and the gatekeepers, and the political power of the gated. The gatekeepers identified were the human traffickers and

smugglers, the Libyan authorities, and the international organisations and delegations operating in Libya.

In relation to the first attribute, the analysis revealed that Eritreans have very little alternative sources of information, as access to mobile phones is severely restricted. All three categories of gatekeepers have little need to keep the refugees informed of what is going on. Also, in relation to international organisations such as UNHCR, the refugees feel there is a lack of information on their cases and expressed a sense of abandonment.

Analysis of the second attribute, information production and distribution, showed that not only do the human traffickers control whether the refugees can produce and distribute information, but they also force the refugees to distribute information beneficial to them, including threats, ransom requests, and sounds and images of torture. The Libyan authorities mainly repress information, but also force the refugees to present a positive image to foreign visitors, through threats and reprisals. International organisations also decide what information they do and do not share about refugees in relation to what they see and hear. In both the production and distribution of information, as well as the alternative information sources available, the refugees rely heavily on mobile phones. However, access to mobile phones is controlled by the human traffickers and the guards at detention centres, and unauthorised use of phones carries heavy penalties.

The third attribute relates to whether or not there is a platform for negotiation between the gated and the gatekeepers, which was found to be mostly absent in Libya. Human traffickers hide themselves by positioning themselves at the top of an extensive network, known only by their nicknames, and communicating only through mobile phones, thereby, negating any possibility for negotiation. The guards, representing the Libyan authority, may facilitate some things for the refugees (such as airtime) for bribes or payment, but otherwise do not form relationships with the refugees. International organisations face

both restricted access and the knowledge that refugees who share information with them may face reprisals.

The fourth attribute, political power, was examined by looking at the dimensions of control of actions, control of the political agenda, and control of awareness and preferences. The gatekeepers in the first two categories have been shown to collude with one another, so that the refugees' actions are almost fully controlled by them. In addition, the political agenda in Libya is also in control of the first two categories of gatekeepers. Although the international organisations and delegations that visit Libya do influence the overall political situation in Libya, they have no direct control over what happens to the refugees. As there is full control of the refugees' actions and the political agenda by gatekeepers, the third category of awareness and preferences becomes irrelevant.

International organisations such as UNHCR and IOM perform a role as gatekeepers, but can at the same time be seen as gated. Their access to refugees and migrants in detention centres is tightly controlled and, due to fear of reprisals and as a result of the influence of the human traffickers, the information they receive from refugees may also be distorted. Therefore, the organisations are trapped in a delicate balance, where they are both critical of Libyan authorities, but at the same time depend on the relationship with them to operate.

Through the analysis of the four attributes, it can be seen how control over digital technology, through the lack of access to technology and use of mobile phones, videos and social media to extort the Eritrean refugees, plays a vital role in the repression and human trafficking of refugees in Libya. It can be concluded from the analysis that the Eritrean refugees do not score on any of the four attributes of gatekeeping theory. This means that they can be classified as 'traditional gated' (Barzilai-Nahon, 2008), as they are mere 'receivers' in gatekeeping theory. However, in the case of Eritrean refugees, rather than just passive receivers of information, they are in fact forced to distribute information on the conditions specified by the gatekeepers. In the case of the human traffickers, the Eritreans are forced to send messages to family and friends to beg for ransom.

Their videos and pictures are also used and distributed to put pressure on the wider Eritrean community to pay ransoms. In the detention centres, refugees' means of communication are tightly controlled, so that they do not reveal the extent of the abuse in the centres. Even foreign journalists face pressure to record only positive aspects and their work is tightly controlled. Refugees who have been evacuated from Libya also clearly fear that revealing any information to researchers may compromise their case with UNHCR. Therefore, they are more than 'traditional gated', but can be considered 'exploited gated', as the content and means of their information distribution also is controlled by gatekeepers. In addition, due to the fact that not only do the gatekeepers have control over information, but also over the situation and indeed the very lives of the refugees in Libya, the Eritrean refugees can be seen as a particularly repressed gated community.

The new slavery in Africa today is located in the black holes in the digital landscape, where people are extorted without any control over their situation, lacking information about their situation and incapable of communicating about their fate. Eritrean refugees in black holes in Libya depend entirely on gatekeepers to get information out and to receive information. Human traffickers exploit this situation and the gatekeeping power they hold. Not only do they restrict what information is received, sent and distributed, but they force the refugees to send information by mobile phone and social media for their own financial benefit. Human trafficking for ransom relies on the black holes in the digital infrastructure, in which the powerlessness of those in the black holes is increased, while the power of those controlling the information streams in and out is nearly absolute.

The fight against human trafficking requires recognition of the gated and slave-like conditions of those held in captivity, a focus on the protection of the victims and a determination to persecute the perpetrators of such crimes.

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# The Voices of African Migrants in Europe: Isaka's Resilience

*Robert M. Press*

### Introduction

In the ancient hilltop city of Perugia in central Italy, the locals admit, almost with pride, that they are ‘*chiuso*’, or closed-minded to foreigners – which can mean anyone from the next city, and definitely someone from distant Africa. However, a chance encounter, a smile, a nod, a greeting, can dissolve this invisible barrier in an instant. Such an encounter happened one summer evening in 2018 in the main plaza of the city when an elderly Italian man and a young African migrant<sup>26</sup> with a spiked hairstyle found themselves sitting silently next to each other on a stone bench outside a museum. To capture the contrast between them, I asked if they would lean their heads toward each other for a photo. They happily obliged then fell into conversation in Italian, which the African migrant had learnt. Soon an Italian woman who had been sitting on the other side of the migrant, and another Italian man, joined in with smiles all around.

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*Although migration is a hot topic at the moment, refugees and migrants' voices and stories from their own perspective are hardly told. This chapter shares the stories of refugees and migrants and the hardships they have suffered told in interviews with the author. This chapter makes the point that refugees are not numbers. Like Isaka, every refugee has a name. Each person has a story: experiences, courage, loss, pain, resilience and dreams. Their presence among us bids us to listen to their voices.*

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<sup>26</sup> “Migrants includes people moving across international borders for any reason, including economic or educational pursuits, family unification, or flight from conflict, which can apply to refugees and asylum seekers” (Connor, 2018a).

In a Europe that needs migrants to fill gaps in the workforce left by an aging population, public scepticism and outright racist sentiment towards Africans (and other migrants) is being used by nationalist politicians to win votes.<sup>27</sup> Plaza encounters, such as the one above, between Italians and migrants may be unique, but what is not unique, according to European polls, is that people who have actually met a migrant are much more welcoming than those who have not. “Proximity to immigrants correlates with pro-migrant sentiment, rather than the opposite” (The Economist, 2018). Getting to know more about migrants has the potential to affect public views of them – and possibly even the views of policymakers.

In that spirit, this chapter introduces some recent African migrants in Europe today. Italy is a prime initial destination, given its geographic location and relationship with North Africa, the main departure point. Based on personal, private interviews conducted by the author, this chapter introduces some African migrants. In their own words, they share their hopes and dreams, their fears and uncertainties, and their memories of the dangerous journey across the Sahara, through Libya, where torture and modern-day slavery are common, and across the Mediterranean Sea, where tens of thousands have drowned.

In theoretical terms, there is much to learn about migrants from closely examining their journeys, instead of the more traditional method of examining the origin and destination of migration. This study also places their voices against a backdrop of the failure of origin, transit, and receiving states to provide the kind of human rights and safety in a post-colonial society that, as Hannah Arendt

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<sup>27</sup> Despite the political rhetoric about a migrant ‘crisis’, the European Social Survey – “one of the most high-quality sources of attitudinal data – asked citizens in 15 countries in 2014 and 2016 about their attitudes to immigration and found that during this period nine countries had become more favourable, four did not change and only two – Austria and Poland – became more negative” (Dennison & Geddes, 2017). Yet by 2018, even some communities originally favourable toward migrants as a way to help their economy have felt the political pressure against migration (Martins, 2018). The immigration of Africans to Italy and beyond to other European countries continues, although it is about 80% less than in 2017 when Italy began helping Libya to capture would-be asylum seekers and send them back to Libya (Torelli, 2017).

(1973) points out, everyone deserves. This chapter is based on more than 60 face-to-face interviews with African migrants, mostly in Italy, some in France, between 2014 and 2018. The interviews give deeper insight into the migrants' experiences than is available in some studies on contemporary African migration to Europe, in which the voices of the migrants themselves are lost in theoretical arguments and data analysis. By listening properly to migrants, it is possible to better understand their pain, their resilience, their losses – and perhaps most of all – their hopes and dreams. One of these migrants is Isaka.

### **Isaka's story**

Isaka is from Guinea. His story is an example of the resilience, courage, and strategic thinking that helps African migrants to survive the journey to Europe. In Perugia, Italy, a major reception centre for African migrants, Isaka has agreed to tell his story. He wears a polo t-shirt and black jeans, holding his cell phone as we talk in private in the courtyard of a former church.

#### ***Deciding to leave Guinea***

“There was [political] fighting; they killed some people in my family; my father was killed” (Isaka, Guinean, interview, face-to-face, Perugia, 24 May 2016).<sup>28</sup> Like hundreds of thousands of Africans before him, Isaka set out on a long and dangerous journey that eventually took him through Libya, the main transit state for African migrants to Europe, a lawless land where migrants are frequently sold as slaves (CNN, 2017) and sometimes tortured for ransom. Isaka crossed the Mediterranean Sea in an overcrowded boat to Italy.

“I came [to Europe] to survive. I came to get protection”, he explained. Despite lack of work and still waiting for official permission to stay, he said, “Italy is good”, compared to his native state and Libya. However, African migrants arriving in Italy since 2017 have experienced a third state failure: that of Italy. Italy has begun a European Union-supported policy of helping Libya return

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<sup>28</sup> To protect the identity of the migrants interviewed for this study, the author has used aliases chosen by the migrants or assigned by the author.

would-be-asylum seekers to Libyan prisons and possible torture and sale as slaves (BBC News, 2012).

### ***Prisons in Libya***

“The children could take a stone and throw it (at you). We were in a big compound. There was no work.” However, Isaka was hopeful: “I was going to find work”. He found it, but only for a week, on a construction site:

*[Then] they put us in prison in southern Libya. Meals consisted of bread in the morning and couscous at midday. One of my ‘brothers’ [fellow countrymen] heard I was in prison. If you don’t have any relationship, it’s hard for a black. He put me on a bus to a city near Tripoli. I was working there. The place was so nice for me. (Isaka, Guinean, interview, face-to-face, Perugia, 24 May 2016)*

Isaka worked for three months building houses; then he was caught by the military:

*They took me to another prison. I was there about two months. I was suffering. There was no good food...They beat us with a big stick. They made us run up a hill carrying a big stone in each hand. (Isaka, Guinean, interview, face-to-face, Perugia, 24 May 2016)*

Migrants learn to network along the journey. Once again, his friend helped get him out of prison by contacting the same Libyan who had helped free him from prison before. Isaka’s account of the helpfulness of some Libyans cropped up in numerous interviews, in stark contrast to the militia, gangs, and police who imprison Africans, often demanding ransom for their release. Motives for helping individual Africans may include sympathy, but are almost certainly economic as well. Altogether, he was in prison three times in Libya, ranging from about a month to more than six months. Conditions each time were deplorable: “There was no space. You can never lay down straight.” With his hands, he indicated a small area into which many people were shoved “like animals. They punch you” (Isaka, Guinean, interview, face-to-face, Perugia, 24 May 2016).

## ***Departure***

In Tripoli, all the money he had earned working was stolen when a gang came and started shooting, searching everywhere in the compound. One evening around 8 pm, his 'boss man' put him on a truck, covering him with a blanket to avoid detection, presumably by police or Libyan militia, and took him to the seaside. People were boarding a boat. "He had a gun and said if you don't go I will shoot you." Speculation among African migrants is that smugglers do not want people to stay in Libya and discourage others from leaving. They describe the dangerous overcrowding of boats. Smuggling is a major business, and the line between trafficking and smuggling is blurred.

## ***Across the Mediterranean to Italy***

His rubber raft with some 150 people left the Libyan shore around 9 pm. It was 29 January 2016. Waves are higher in the winter, making such craft even more vulnerable to capsizing. "I was so afraid", Isaka said. Like many of African migrants, Isaka does not know how to swim. By eight the next morning, they were spotted by a big ship and were rescued and taken to the Italian island of Lampedusa. After three days there in a closed camp, he was transferred to an open camp in Sicily for a week, then travelled by ferry and bus to Perugia where he joined the Associazione Ricreativa e Culturale Italiana (Italian Cultural Recreational Association, ARCI) migrant reception programme, which provides temporary housing for migrants while they are waiting for their asylum case to be decided, a stipend for food, and Italian lessons two hours a day. Isaka lived with a Malian, Gambian and two other migrants from Guinea. "Everybody cooks their own rice," he said. Asked what he eats, he laughs: "couscous", the food of his prison time in Libya.

## **Migration**

### ***A problem for senders, receivers and the migrants themselves***

Contemporary African migration to Europe represents a problem for the migrants and Europe, as well as for the sending and transit states. For the migrants, the problem is obvious: they suffered at home and along the routes to Europe. Once in Europe, they continue to suffer from isolation – although they often make new friends among

migrants and with locals in the ‘host’ country. They also have problems integrating in the host country. As the interviews show, migrants are often lonely and disoriented, adrift in a new culture among people who may not want them there. The position taken in this chapter to explain these issues is primarily that of the migrants.

For Europe, the problem is how to receive and effectively use the migrants to fill the gap in the labour force left by an aging population (in addition to calming the political anti-migrant rhetoric that makes reception and integration difficult). For the sending states in Africa, the problem is how to slow the exodus of willing workers by curbing abuses and corruption. For the key transit state of Libya, the challenge is to regain political stability and curb human rights abuses.

### ***In search of dignity and safety***

In practical terms, African migrants in Europe, or still trying to get to Europe, are seeking the safety, freedom and dignity that their origin, transit, and even receiving states have failed to provide. Their decision to migrate usually amounts to an unarticulated protest against this lack of protection of their human rights, as promised in the United Nations Declaration of Human Rights. For example, in Libya, a major transit state for those seeking to reach Europe, migrants experience a range of abuses by Libyans and Sub-Saharan Africans engaged in trafficking and smuggling. Italy and other receiving states in Europe, which have both welcomed migrants and tried to deny migrants entry, are “complicit” in sending would-be asylum seekers back to Libya, where they face possible torture and slavery (Amnesty International, 2017). As reported in the European Union (EU) Observer, United Nations (UN) Human Rights Chief Zeid Ra'ad Al Hussein is quoted as saying that: “forcing rescued people at sea to return to Libya for detention was inhuman. “The suffering of migrants detained in Libya is an outrage to the conscience of humanity” (Nielsen, 2017). The United Nations High Commissioner for Refugees, Filippo Grandi, called the slavery and other abuses in Libya an “abomination” (United Nations, 2017).



According to a Pew Research poll conducted in 2017, “One-in-five or more adults in Senegal, Ghana, Nigeria, and South Africa say they plan to move to another country in the next five years if they have the means and the opportunity” (Connor, 2018b). Although political violence remains the leading cause of migration in Africa, the fact that the poll includes Senegal, Ghana and Tanzania, countries without major political violence, indicates that migrants move for reasons other than national security. As indicated in the interviews, personal security may be an issue even in countries that are politically stable.

### ***State failure***

The scholarly literature on African states and failed states is immense.<sup>29</sup> Often it includes comparisons with Western states and frequently cites Weber’s definition of a state, which focuses on the control of territory (Weber, 1919).<sup>30</sup> Khadiagala (1995, p. 33), notes that: “Since Weber, however, scholars have also conceded the inadequacy of mere territorial expansion, hence the importance of legitimacy, the normative basis for the exercise of authority”. Herbst (2000) points out that geographical differences, including greater concentrations of people in Europe after the 14<sup>th</sup> Century than in Africa due to the environment, help explain why Weber’s definition cannot be applied automatically to African states. “[T]he European experience does not provide a template for state-making in other regions of the world” (Herbst, 2000, p. 22). In the West African savannah, for example, “Under population was the chief obstacle to state formation” (Iliffe, 1995, p. 70). Mamdani wrestled with the legacy of colonialism on the African state, arriving at a discouraging point:

*No nationalist government was content to reproduce the colonial legacy uncritically. Each sought to reform the bifurcated state that institutionally crystalized a state-*

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<sup>29</sup> Examples include Zartman (1995); Khadiagala (1995); Akokopari (1998); Whitman (2000), whose book includes chapters listed separately in the references by Du Pisani (2000), Schoeman (2000), and Chokuwenga (2000); Englebert & Tull (2008); Castles (2009); and Herbst (1996/1997; 2000).

<sup>30</sup> Weber defines a state as “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory” (Weber, 1919; 1947, p. 78).

*enforced separation of the rural from the urban and one of ethnicity from another. However, in doing so each reproduced a part of the legacy, thereby creating its own variant of despotism.* (Mamdani, 1996, p. 8)

If one agrees that the Western model of a state was never the model for African states, what then is the model when Western governments try to help restore what Zartman (1995) describes as ‘collapsed’ states, including post-conflict states?<sup>31</sup> Some scholars argue that as Africa never had the Western version of a state, when an African state collapses or fails, there is no Western model to follow in rebuilding it. “Indeed, the evidence is overwhelming that most collapsed states at no point in the postcolonial era remotely resembled the ideal type of the modern polity” (Englebert & Tull, 2008, p. 111). These authors then point out that most Western efforts at reconstruction of ‘failed’ states aim at re-establishing the “monopoly over coercion” (Englebert & Tull, 2008, p. 112), similar to Weber’s definition of a state. So even as debates and comparisons of Western versus African states continue, the underbelly of statehood implies a concentration of power, whether legitimate or not, which opens the door to human rights abuses.

Regarding the delicate balance between state capacity and human rights, Englehart (2009, p. 163) notes that: “The more common problem is states that cannot effectively protect human rights. We must take state failure seriously when thinking about the causes of – and remedies for – human rights abuse”. He adds:

*The analysis above suggests that states' protective role outweighs tendencies to violate human rights. On balance, human rights abuse tends to happen in relatively low-capacity states. In general, the better the state apparatus, the safer its citizens will be from the depredations of non-state actors and rogue government officials.* (Englehart, 2009, p. 177)

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<sup>31</sup> Zartman describes a collapsed state as one “where the structure, authority (legitimate power), law and political order have fallen apart and must be reconstituted in some form, old or new” (Zartman, 1995, p. 1).

His argument overlooks the problem that sometimes the state is the violator. The problem continues to be the relationship between the state and human rights. Englehart's study (2009), like many studies on failed states and responses, does not link human rights with migration, and his focus is not Africa. Although Castles (2009) does focus on Africa and migration through the window of development, he makes only one mention of human rights. Castles questions the idea that "international migration (especially from South to North) is a *bad thing that ought to be stopped*" (Castles, 2009, p. 2; emphasis in original). Castles argues that development aid to Africa is likely to increase migration – a point that is now widely accepted by migration scholars, but is not acknowledged by European political leaders – "because [the] increased economic resources and improved communications that development brings make it easier for people to seek opportunities elsewhere" (Castles, 2009, p. 2).

### ***Limitations of the theory of push and pull***

The push-pull theory of migration relies on assumptions of perfect knowledge (i.e., rational choice) and usually focuses on a linear route between point of origin and country of arrival. However, African migration does not fit this model. Hence, this study argues that traditional push-pull theories simply do not apply to the overall phenomena of contemporary African migration to Europe via the Sahara, Libya, and the treacherous Mediterranean Sea.

It is true that migrants are encouraged to leave their home countries, at least in part, because of the failure of their state to provide a decent and safe living environment. And they are drawn toward Europe by the hope of a better life. But the full picture is more complex. The interviews for this study show that their migrations are far from linear, often involving multiple trajectories. Their decisions are based on social networks, not formed in advance, but on the journey, often for reasons of survival. While the push-pull theory provides an important starting point for such studies, much is left out. "Individual feelings and emotions, the angst that accompanies difficult decisions about whether or not to leave one's home, family and friends, and the ways in which these attitudes and expectations have been shaped over time

by culture, communities and communication, are generally overlooked” (O’Reilly, 2015).

“They [the journeys] may consist of multiple journeys going in various directions. As such, they question the linear logics of migration, having its foundation in push pull models of migration theory” (Schapendonk, Van Liempt, Schwarz & Steel, 2018). Furthermore, the African migrants interviewed for this study, for the most part, did not sit down calmly and rationally “weigh up the costs and benefits of various options before making their decisions”, as the push-pull theorists posit (O’Reilly, 2015). Some were lured into trafficking, some left rapidly, fleeing danger, most failed to calculate their potential earnings in Europe or consider the obstacles to getting work as a migrant, and most also failed to realise how dangerous the journey would be.

### **Migrant journeys: Filling a gap in migration studies**

There is a small, but growing, amount of literature that focuses on what can be learnt about migrants on their journeys. The current study is located not in migration during normal times, but looks at migration in moments of crisis, specifically focusing on the journeys which migrants are making from Africa to Europe. Benezet and Zetter (2014) are among the migration scholars calling for more attention to be paid to migrants’ journeys. “The journeys of migrants have generally been overlooked as an important study object”, notes Schapendonk (2011, p. 233). Brachet also notes the lack of attention to the journeys: “Nowadays, the majority of the research work on international migration is carried out in two categories of specific points along the route: ‘departure’ places and ‘arrival’ places” (2012, p. 95). Benezet and Zetter (2014, p. 301) point out that this “lacuna of research exists in spite of the fact that the journey is a powerful notion in the human psyche”. “The first and most important argument is that the journey is a profoundly formative and transformative experience and a ‘lens’ on the newcomers’ social condition” (Benezet & Zetter, 2014, p. 302). They conclude: “We can better understand how the journey painfully enriches individuals and

communities and enhances their resilience and capacity for surviving” (Benezer & Zetter, 2014, p. 314). Mainwaring and Brigden emphasise the necessary adaptability of migrants during their journeys and point out that: “Determining the beginning of a journey becomes even more complicated when migrants change their destinations midstream, adjusting to unforeseeable events encountered en route” (2016, p. 245).

As significant as the study of migrants’ journeys is for determining how this shapes migrants, this study goes a step further. The focus is on how the African migrants themselves recall their journeys, what they are willing or reluctant to comment on, how they see their own story and why they came to Europe.

### **Research objectives**

The main research question that this chapter seeks to answer is: *What are the personal stories of each refugee: how can we understand their personal stories as unique experiences? Now that the refugees are in Europe, how do African migrants look back on their journeys; how do they explain their story? What are their dreams of the future?* Stories can offer the parameters of their experience, but the interviews with migrants who have arrived in Europe offer a window into how they see their journeys in terms of their strategic skills, negotiating abilities, fears, ability to survive and resilience. These face-to-face interviews by the author provide raw, unpackaged portraits that allow one to see migrants’ experiences as they see them, to hear what they recall, and infer from their silences what they do not want to recall. The research highlights some of the contradictions that exist in the layers of revealed reality.

The main goal of this study is to provide insight into the nature, character, skills and dreams of African migrants with the hope that this information may influence an often sceptical public and inform policymakers. The European public may or may not be swayed by knowing more about African migrants, but at least the information, contrary to the images of migrants as hapless and helpless new arrivals rescued at sea, can offer a different and more realistic portrait. Fear

of the ‘other’ is always lessened when the mystery is reduced by facts about who they are. Interviews can help bridge the gap between myth and reality.

Policymakers, on the other hand, are different. There the gap may be more between political ambition and the reality of who migrants are. Migrants make an easy scapegoat for economic woes, as seen in the United States and Europe. No additional information is likely to sway policymakers who consciously engage in the politics of fear. However, their impact may be lessened if an informed public comes to understand migrants better.

### **Research methodology**

*We were three days on top of the sea. We saw so many things. We saw a big ship. I don't know which country it was [from]. They put us in the big ship. ...If not for the rescue at sea, I'd be a dead person. ...The water can change your brain. It's in the hand of God. I'd like to stay here [Italy]* (Diego, Nigerian, interview, face-to-face, Perugia, May 2016)

The journey of migrants “leaves physical, emotional and psychological traces on its survivors”; therefore, “researching and writing about migrant journeys requires reflexivity, humility and caution” (Mainwaring & Brigden, 2016, p. 251). Benezet and Zetter (2014, p. 313) argue that narratives are “the most obvious and powerful tool in researching journeys,” adding, however, that they are “time consuming [...] pose challenges for interpretation, [and require] great sensitivity” (Benezet & Zetter, p. 314.). Berriane and De Haas (2012, pp. 2–3), in a study of methodologies of African migration research, note that “many methodological challenges face researchers of African migration”, including that “the often vulnerable position of migrants within Africa makes it difficult to approach and interview migrants”.

Winning migrants’ confidence for interviews was not easy and was done one-by-one. It often took a lot of time just being around them at reception centres and camps. In some cases, confidence came

quickly; in others, it was slow to come or did not come at all. The researcher was more hesitant to ask detailed questions during the first summer (2014) than was necessary, as some migrants welcomed the opportunity to talk. However, others were uneasy with detailed questions. One question the researcher avoided until the second and third summers was about whether the migrant had received permission to stay. Once broached, however, many migrants responded readily.

The author conducted 60 interviews, mostly in English or French, between 2014 and 2018.<sup>32</sup> Notes were handwritten and transcribed by the author. A tape recorder was rarely used, and then only with the migrant's verbal permission. The interviews were transcribed and analysed. In order to protect the identity of the migrants, no real names are used in this chapter.<sup>33</sup>

This study uses grounded theory to develop notions about African migrants based on a back-and-forth analysis of the interviews as they progressed and reflections on their significance. The author began the interviews in Perugia, Italy, the site of a major reception centre for migrants. Other interviews in Italy were conducted in Rome, Naples, Caserta, and Foggia. In addition, the author spent three days in 2016 with migrants in a camp on the outskirts of Calais, France.

The semi-structured interview method allowed for deviations from planned questions introduced by the migrants. What the author initially interpreted as mistrust when discussing motives for flight was later found to be reluctance on the part of the migrants to recall the trauma of their journeys. Many had faced death in Libya or at sea. The author had no way of verifying their accounts of why they had fled. What most migrants had in common was that they were escaping

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<sup>32</sup> The author speaks conversational French, but is not fluent, so some details no doubt were not understood. When something was not clear, however, the author asked the migrant to repeat the statement. In the few cases where the migrant spoke Arabic or an Ethiopian dialect, other migrants were used to translate.

<sup>33</sup> This research methodology was approved by the Institutional Review Board of the University of Southern Mississippi.

from places that lacked a culture of human rights. Some migrants, once they were comfortable granting an interview, candidly identified themselves as what is commonly called ‘economic migrants’: they came to Europe looking for a better life, work and a way to get ahead, something they had not found at home. Some had come with the hope of playing for a professional sports team in Europe. Others told of political reasons for escaping their home country, which, if accurate, would make them good candidates for asylum status. These included war, terrorism or religious threats, human rights abuses, government repression, or threats due to a family member being in the political opposition. Some cited corruption that affected them personally. The study involved spending time with migrants at the reception centres and camps, on visits to their apartment, and just hanging around and walking.

## **Results**

Having arrived in Italy or France and having survived the dangerous crossing of the Sahara, Libya, and the Mediterranean Sea, how do African migrants look back on their journeys; how do they remember them; how do they narrate their pain, resilience, and hopes? In individual interviews in informal settings where they could speak privately and personally, migrants shared what they wanted to share. Some avoided the most painful parts; others shared these in what seemed to be part of the healing process. Few volunteered their dreams, but when asked responded with a wide range of hopes for the future – hopes of safety, of usefulness, and of using their skills. What emerged from the interviews was an intimate glimpse into their character, strength, fears, resentments and determination to be someone, to be free, safe, and independent. Each person interviewed had suffered a lot; each was unique; most were discouraged – but none had lost hope.

### ***Down, but not out***

In a small, one-room apartment on a narrow street in the historic district of Perugia, Perry, a Nigerian from Edo State, welcomed me and agreed to tell his story of hardship and unbroken faith in the future. “I’m very sick; I have pain in my tummy”, he said. Perry was



suffering from abdominal pains, which he suggested traced back to a heavy labour job in Benin. He is a high school dropout and never knew his father. After his mother died, his grandmother took care of him. Eventually, he found a job as a driver for six years. He says that Nigeria's failure to curb corruption and to provide a safe environment led him to flee his country in 2015.

*I left for the corruption; I was a truck driver. It was good. But the corruption was too much. It affected me. They can just attack you, beat you up, take your phone. That's the reason I left the country.* (Perry, Nigerian, interview, face-to-face, Perugia, Italy, 8 June 2016)<sup>34</sup>

Originally, Perry had no plan to go to Europe. Like many others he had heard that Libya offered jobs to black Africans, as it had historically under Muammar Gaddafi until he was assassinated in 2011. Since then, Libya has been largely lawless with rival factions and widespread abuse of African and other migrants (Human Rights Watch, 2018). To get to Libya, like countless thousands of others, he passed through the Sahara desert. It took five days by truck. "It was very bad; very complicated. You have no food. People were dying on the road; there were human beings on the ground." People fall off the speeding, overcrowded pickup trucks and often are left to perish. Things got worse once in Libya. In Sabha, in southern Libya, a lawless city in a lawless state, a mafia-style militia imprisoned him. With echoes of post-Civil War in the former US Confederacy, when blacks were jailed on spurious charges then leased out for harsh labour, Perry was leased out to work for Libyans. His job: help build cement block houses. His boss later took him to Libya's capital, Tripoli, where he found paid work at a car wash. It was there that he heard that many Africans were crossing the 'river', which he discovered was the Mediterranean Sea. Driven by his basic dream of finding safe

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<sup>34</sup> He said that upon arrival in Italy in December 2015 he had received a deportation notice from the police before he had a chance to apply for asylum. If true, this violates Italy's stated policy of granting a hearing to those who apply for asylum. He ignored the order to leave and later applied for asylum. At the time of the interview, he was still waiting for permission to stay in Italy. Attempts to reach him in 2018 were unsuccessful, although an Italian social worker said he was still in Italy.

employment and a decent life, he decided to cross. “I hadn’t heard about people dying. The water got inside the boat. People were crying. Water was coming in. They said we may die.” He was fortunate, they were rescued by an Italian ship and taken to the Italian island of Lampedusa and later to the mainland. When asked if he was discouraged about his future after all that, he said: “I’m confident”.

### ***Minors adrift***

At an age when they should be going to school, playing sports, and maybe falling in love, thousands of African youth have joined the adults migrating to Europe, enduring the same pain, shock, and bewilderment of confinement and near death along the way (The Guardian, 2016). Amelie, aged 18 at the time of the interview, is from Cameroon. She was trafficked to the Central African Republic.

*I didn't know my mother; I was with my father. He had an accident and died when I was six. I lived with a lady. It was not easy with her. I met a Nigerian woman in Douala [Cameroon] who helped pay for my schooling and later took me to the Central African Republic on the promise of paid employment. It was contrary to what she said. Some men paid [for me]; they took off my clothes. I was obliged [to have sex]. I can't think about it, I couldn't live locked in. (Amelie, Cameroonian, interview, face-to-face, Perugia, 25 May 2016)*

She asked to continue the conversation later. On 6 July 2016, she agreed to another brief interview. She had come through Algeria then Libya. She spoke of being ‘tortured’ in prison.

*I didn't know where we were. I had problems in Cameroon; that's why I left. A man, the 'Chef du village' wanted to marry me. He already had a wife. I refused. He was too old, in his 30s. When someone is not agreeable with him, it is a problem. I wanted a new life. The new life is protection. (Amelie, Cameroonian, interview, face-to-face, Perugia, 6 July 2016)*

Tolessa looked back on his journey to Italy from Ethiopia with horror and shock; but he looks towards the future with hope and optimism. When interviewed, he was staying in a makeshift shelter in an alley in Rome, amid cardboard boxes, piles of clothing, and blankets. Several

minors, male and female, mixed with the adult refugees. “The Ethiopian government killed a lot of Oromo”, said Tolessa, “I left at 15 [years of age]”. From Sudan, he rode 11 days in a big truck. Eight people died along the way. They had no water. In Libya, where he lived in a shipping container, it was worse. “Every day they kick you.” He was in Libya for five months.

*They hate black people. I hated my life in Libya. I lost my mind. [He holds his hands to his head.] They beat you. There were a lot of Oromo people. I was the ‘baby’. They [the Oromo] gave me everything. (Tolessa, Ethiopian, interview, face-to-face, Rome, 16 July 2016)*

Like many migrants, he was obliged to form new networks on his journey, always wary of strangers, but needing help and turning to fellow Oromo. Others recounted, however, how Africans from their own country, sometimes their own region, betrayed them and sold them to Libyans for a profit. Tolessa recounted his experience crossing the Mediterranean Sea. He shakes his head slightly: “It is so bad. Oh my God. A lot of people said: ‘I’m dying’”. There were 400 people on his boat. They had spent only one day on the beach and were launched that evening. Others recounted long stays near the beach with little to eat; one migrant called it the ‘slimming’ camp to make people thinner and lighter so more people could be packed into a raft or boat. Tolessa was at sea two days before being rescued by an Italian ship, probably the Navy. After a month on the island of Sardinia, he took a boat to Rome.

In the same alley camp in Rome, Abdul, 17-years of age, from Sudan, wearing a blue t-shirt and black cap, recalled that in Libya “people took us in handcuffs. Some people were shot; they wanted money. They forced us to call our family [to demand ransom]”. Describing his Mediterranean Sea crossing, he calculated the number who had died: of 150, only 36 survived. “There was a fire in the ship. All people on the ship were black,” he said. He drew a diagram of the crowded ship, which may have been a raft, which are vulnerable to tipping over in the waves. “Some were swimming; some don’t know how to swim.” Another boat eventually rescued the survivors, apparently

after they had been in the water for some time (Abdul, Sudanese, interview, face-to-face, Rome, 16 July 2016).<sup>35</sup>

***‘Don’t destroy my hope’***

My taxi driver to a sprawling migrant camp known as ‘the Jungle’, just outside the French resort town of Calais, complains that sensational reporting in the English press of a heavy police presence and running battles with refugees trying to board trucks for illegal passage across the channel has killed English tourism in the area. A military officer at the unfenced entry smiles as I greet him in French and walk into the sprawling camp, which has at least 7,000 migrants from various parts of Africa and the Middle East.<sup>36</sup> The main ‘street’ of dirt and sand leads past wooden-framed food kiosks enclosed mostly with plastic sheeting. Most migrants are still in their tents. In a makeshift collection of wood and cardboard structures known as ‘Jungle Books’, the ‘School of English’ is empty. A sign near a model of the Statue of Liberty reads, ‘Send the homeless, tempest to me’. On a table, someone has written ‘A difficulty in every opportunity’ and ‘Don’t give up’. On a wall is another sign: ‘Don’t destroy my hope please’.

The hope of many in this camp is to get across the English Channel (via the ‘Chunnel’ railroad line) to the United Kingdom, where some have relatives from earlier migrations. They hope for education, jobs, freedom and safety, in a country where many of the migrants can use their English. The United Kingdom refused to accept more than a few hundred of the unaccompanied children from the camp and made it practically impossible for anyone to apply for asylum while in France (Bulman, 2017).

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<sup>35</sup> Abdul is from the Darfur region of Sudan, which is the site of genocidal killings by pro-government militia.

<sup>36</sup> The camp was destroyed in late 2016 by the French government, which dispersed migrants countrywide (The Guardian, 2016).

A few, in desperation, break into trucks in an attempt to enter the United Kingdom covertly.<sup>37</sup> Some, including Haro, from Sudan, decided to apply for asylum to stay in France: “I just want to be free in my life. I want to live in France. I want to stay here”. His dream? “I’d like to be safe, go to school (secondary), then university. Help the people. Everybody needs someone to help them,” he said in a loud voice (Haro, Sudanese, interview, face-to-face, Calais, 12 July 2016).

### ***Contradictions and hidden layers of reality***

Later that morning, deep in the camp, I again meet with a group of young Sudanese migrants clustered around a small, dirt common area between their several tents, where they cook and eat their meals, sharing food provided by British and French volunteer groups. The previous day, I had instinctively refrained from asking for interviews. Today, the second day, having shared a couple of meals and hung out with the migrants, several Sudanese agreed to sit for interviews individually in the relative privacy of their tents.

Toto, one of the Sudanese migrants in the camp, agrees to an interview. His candidness opens a window to the inner world that African migrants feel, but rarely reveal. In a 45-minute interview in a stand up tent, empty except for another sleeping Sudanese migrant, he tells his story of strength, resilience – and vulnerability and loneliness. A member of the anti-government Sudanese Liberation Movement, his village had been destroyed two years earlier by government-supported militia. His parents fled to the mountains where he later found them. “I got the idea it is easy to go to Europe, the land of tolerance. They [European countries] will give you your rights.” Therefore, Toto, who had taken some university classes studying broadcasting, fled to Libya, where he worked nine months as a house servant: “It was the most horrible time. They [Libyans] are primitive: they deal with us like an animal. They shout at your face”.

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<sup>37</sup> One man somehow managed to walk the 26 miles to the United Kingdom in the narrow space between wall and tracks, avoiding being sucked under the wheels by speeding trains. Once in the United Kingdom he was allowed to apply for asylum.

After nine months, he escaped: “I opened the door and said I was going to the market”.

After surviving a typically harrowing five hours on an over-crowded rubber raft on the Mediterranean Sea before his rescue, he was forced by officials in Sicily to be fingerprinted. Instead of staying in Italy until his asylum case could be heard, he headed north. On his fifth attempt to avoid French border guards (each time he was sent back to Italy) he managed to elude them and ended up in the Calais camp. Suddenly, he paused his narrative – and cried. “My wife...is she alive?” He was married only two months before he decided to run away. We are both silent for a few moments. No words seem appropriate (Toto, Sudanese, interview, face-to-face, Calais, 13 July 2016).

In interviews with African migrants over the years, I have discovered several layers of reality.<sup>38</sup>

**Layer 1: Uncertainty, distrust.** The first layer when meeting a researcher was caution and uncertainty and sometimes plain distrust. Who is this person who wants information from me: an undercover immigration official?

**Layer 2: Avoidance of painful memories.** Once over the first barrier or layer, there is often a second layer: avoidance of painful details of the torture and other mistreatment experienced in Libya and on the migration journey, and the loneliness and fear of being on one’s own, forced to form new and uncertain networks in order to survive. Some would look away, one waved his hand slowly in front of his face, others made general comments and went no further. Gradually some migrants opened up, perhaps as they got to know me or as I got bolder.

**Layer 3: Candidness.** Another layer is candidness. Once confidence in the interviewer was established, migrants were often willing to share painful details of their dangerous crossing

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<sup>38</sup> This section does not claim to be a professional psychological explanation. It is simply what this researcher observed first-hand over several summers of interviews with African migrants.

of the Sahara desert, Libya and the Mediterranean Sea, recalling their sheer terror of knowing that they could die at any moment.

**Layer 4: Pretence.** Typically, African migrants' Facebook pages create a façade that is an image of success: photos of themselves in front of fancy cars and hotels, well dressed and with friends.<sup>39</sup> It is not a lie, but only part of the truth; it is their public image. These images are of real people, real places, but they do not tell the real story of their struggle. Migrants generally struggle to get permission to stay, to find work, and to survive. Most live in poverty, ranging from life in dirty, abandoned houses with no power or running water, to more comfortable living on reception programme stipends that provided only for the purchase of bare minimum necessities.

**Layer 5: Loneliness and vulnerability.** The final layer (and there may be others that I never reached) is loneliness and vulnerability. Toto revealed this layer. Far from home, family, the security of loved ones, having no place of their own, no familiar network of friends they can rely on during their journeys, African migrants who were vulnerable on their journeys are also vulnerable in Europe. They are outsiders, observers of a society in which many feel unwelcome.

A year earlier, I had seen that same loneliness and vulnerability that Toto expressed in the sad expression of Lamin, an African migrant from the Gambia. We met in a farm labour camp of wooden-framed cardboard 'houses' and shops near Foggia, in southern Italy. As the African migrants returned from the fields, with dark dirt stains on their pants and shoes, I am struck by the slowness of their gait and what appears to be a slight stoop as they walk toward their plastic bound houses, ready for an outdoor shower. Some of the young migrant workers explain that their back aches, their legs are sore and they are just plain tired. 'Exhausted' might be a better term, given the wilting heat that recently left a 47 year-old African farm labourer migrant dead.

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<sup>39</sup> The author is Facebook friends with numerous African migrants.

In the late afternoon shade of trees at the edge of the camp, Lamin agrees to a photo on the condition of not using his name. Migrants refused to be photographed near the slum-like shacks of the camp to avoid the off chance that someone back home might see them living in such conditions. In person, and in the photo, Lamin looked deeply sad, and reminisced about his family back home: “I saw people coming back from Europe with fine clothes and things”. He was not doing well in the Gambia, and left during a period of political repression. He decided to head to Libya where he had heard there were jobs, but continued on to Italy. Once in Italy, he was unable to find steady work. He had just finished a full day of tomato picking and was aching: “My back hurts, my legs, my arms. This is hard work”. He repeats the phrase about hard work several times. He talks of his children back home. Lamin’s dreams of a better life to help his family have faded. He complains that he is trapped: undocumented, with little formal education (he is vague, but apparently started secondary school). He speaks only a little Italian. “If I could only find a good job”, he says (Lamin, Gambian, interview, face-to-face, Foggia, 29 July 2015).

In the same migrant farm camp, Ali, from Niger, shows me photos of himself on his cell phone. “I’ve changed”, he said, “My friends when they came to the camp said they barely recognized me”. The photos show a slightly heavier version of himself, but, more importantly, dressed in fancy clothes. He had some kind of job working in a restaurant. Another photo shows him in sunglasses and dressed well. Tonight he is wearing an ordinary t-shirt. The one he wore earlier this afternoon had written on it in English ‘No pain, no gain’ (Ali, from Niger, interview, face-to-face, Foggia, 29 July 2015).

### ***Dreams of helping themselves – and others***

A typical theme among migrants interviewed was the desire to find a way to help their family at home, and sometimes others, in the future. Perhaps it was the hardships they survived that made them think of being generous. Sometimes the goal was political. In the migrant camp outside Calais, Adam, a former member of the rebel Sudanese Liberation Movement, explains that he wants to help the Sudanese



people “change the regime because it is a dictatorship”. On 26 April 2004, he said, the government’s militia came to his village in Sudan on horses, killing his brother and sister. His parents fled and were still living in a refugee camp (Adam, Sudanese, interview, face-to-face, Calais, 12 July 2016).

Ivie, from Nigeria, said, “I want to become a nurse; I want to save lives. I just pray my dream comes true”. As we sit in a former church courtyard in Perugia, Ivie is wearing black jeans and a pink sweatshirt. She sets her small backpack down on a stone ledge. After only a few minutes, she says, “I had no one” (referring to when she was in Nigeria). She starts to cry and pulls a handkerchief from her pack (Ivie, Nigeria, interview, face-to-face, Perugia, 25 May 2016).

Tolessa, the Ethiopian teenager (then 16) interviewed in the alley camp in Rome, had not lost his hope for the future. He said his fellow Oromo had suffered in Ethiopia. Then in a multi-goal narrative about his plans, he said: “I have a lot of dreams. My wish is English. God willing I will go to Paris. I like Paris. I like football. My dream is playing in the UK. I want to make a film about Oromo history” (Tolessa, Ethiopian, interview, face-to-face, Rome, 16 July 2016).

### ***Looking forward, not back***

African migrants interviewed during the first few years of this research (2014–2016) were focused on their dream of getting permission to stay in Europe, some as a second home with plans to return home periodically or bring their family to Europe. As some received permission to stay and a few found entry-level jobs, their focus began shifting to making a life in Italy. One of those, Mokoba, fled Mali in 2013 for fear of his life, during his third year of university, after running afoul of the then political leadership. In 2015, he was actually leaving Libya on a ship for Australia when he spotted one of the overcrowded rafts with migrants leaving Libya for Italy. Preferring to be with Africans, he asked to leave the safety of the ship and was allowed to board the raft, despite the dangers.

We are sitting in the courtyard of a former church in Perugia, Italy in 2018. Mokoba is wearing a grey shirt and jeans; he pushes his sunglasses up onto his sputnik hairdo. “You decide to live or die”, he says, energetically (Mokoba, Malian, interview, face-to-face, Perugia, 16 July 2018). After he secured a five-year renewable, permit to stay in Italy he began volunteering as a court translator for migrants and helping two migrant reception programmes: “It makes me happy to help my brothers and sisters. They [many of them] didn’t go to school”. Today he uses the Internet to try to help migrants find small jobs. Mokoba has many Italian friends, one of whom helped him enrol in a nine-month course near Perugia, Italy at the Università dei Sapori (University of Flavors). Today, Mokoba, an African migrant who risked his life for a new and safe start in Europe, helps make Italy’s popular ice cream, gelato.

## **Conclusion**

The narratives of the African refugees and migrants reaching Italy and France demand a closer look at the failure of origin, transit and receiving states to protect their human rights. They also demand a more complex explanation than traditional push and pull theories of migration to explain their dangerous, multi-directional journeys, with their ever-changing social networks.

In order to gain a greater understanding of what drives refugees, the differences among them and the unique situation of their circumstances we need to hear their stories. There is a great need to listen to the stories of refugees and to discover their personal experiences, which are unique and distinct. I have learnt that it takes effort to bring out those stories. In the course of this research I discovered that a relationship needs to be built in order to gain access to the personal stories of refugees. I identified the following processes:

Layer 1: Uncertainty, distrust (caution about the intentions of the listener)

Layer 2: Avoidance of painful memories (difficulty telling traumatising events and experiences to the listener)

Layer 3: Candidness (opening up once trust is established)

Layer 4: Pretence (make believe in order to not be seen as a failure in the eyes of the listener)

Layer 5: Loneliness and vulnerability (revealing loneliness and vulnerability to the listener)

Beyond the theoretical arguments, the experience of listening to the stories of refugees, brought me to conclude that we need to put more effort into listening to their voices, to see them as individuals with a personal story, and to allow us, as listeners, to understand their courage and desperation, their ambitions and dreams, their vulnerability and strengths – as members of the fabric of mankind.

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# Desperate Journeys: The Need for Trauma Support for Refugees

*Selam Kidane & Mia Stokemans*

### Introduction

On 3 October 2013 a boat went down off the Italian island of Lampedusa killing 366 people, 360 of which were Eritrea refugees<sup>40</sup> (Davies, 2013). The incident was by far the most devastating, even in a region where such deaths are a regular occurrence. Tens of thousands of refugees are known to have died making the same journey to Europe's southern borders in the past 20 years. The 2018 risk analysis by Frontex concludes that the sea, especially the Mediterranean Sea, will remain the most active route for the illegal crossing of the external borders of the European Union (EU), as well as one of the most dangerous for refugees (Frontex, 2018). The EU's policy of deterring refugees does not seem to have stemmed the flow of desperate refugees from

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*The critical flaw in Europe's migration policies is the logic that underpins them – that refugees' decisions about migration are rational. But fleeing is not a rational process and often happens as a result of traumatising events, which can prompt refugees to take life threatening risks. This study examines the possibility of alleviating the worst symptoms of post-traumatic stress by using an app offering psycho-social support in refugee camps in Ethiopia. The study finds that psycho-social support can decrease trauma levels and significantly increase social and economic resilience among refugees.*

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<sup>40</sup> The word 'refugee' is used here in a non-technical sense to mean a person who has fled his/her country of origin either out of fear for their safety or in search of a better life, and is used interchangeable with the word 'migrant', which is also used in a general sense.

endangering themselves in an attempt to reach Europe (Mackintosh, 2017).

One of the victims of the Lampedusa disaster was Yohanna, a young woman who is believed to have been about 20 years old. She was seven months pregnant and her baby boy was born as she drowned. The premature baby was found still attached to her, when divers finally pulled their corpses from the wreck. The diver who pulled her body out describes how shocked he was by the discovery and how the experience left him unable to sleep (Roberts, 2013). A Guardian newspaper article relates how rescuers found the two in the prow of the boat, after they broke through what was described as “a wall of bodies”, including another woman pressing a young child to her chest and a teenage boy wearing a T-shirt emblazoned with the word ‘Italia’. Rescuers tied Yohanna’s body with a rope to other bodies and then rose with them from the depths of the sea to the light where they realised that she had a baby nestled in her clothes. It was a disaster unlike any they had ever experienced (Davies, 2013). And, yet, despite the enormous risks and devastating outcomes policymakers continued to cite the desire for economic advantages as the prime cause of migration. In the Prime Minister’s Questions in June 2015, David Cameron told the United Kingdom Parliament that: “The vast majority of people setting off into the Mediterranean are not asylum seekers, but seeking a better life”. Cameron claimed these people are primarily economic migrants, rather than people seeking refuge from war or persecution, though he provided no evidence to support this claim (Mephram, 2015). No one seems to want to understand what causes these people to take the risks they continue to take in search for protection and prospects.

However, the danger at sea is not the only, nor necessarily the biggest, risk the refugees face on their journey. The desert route through North Africa is riddled with trafficking networks and terrorist groups intent on capitalising on the desperation of refugees. In 2015, Islamic State (ISIS) beheaded and shot 30 Ethiopians and Eritreans and released a video showing the whole event (Catholic News Agency, 2018). News of disappearing and wrecked boats and lists of the



people who have died and are missing circulate rapidly on Ethiopian and Eritrean websites and social media. Yet, this information does not seem to deter the next group of refugees from tempting their fate.

Similar to the deterrents put in place by EU policymakers, the actions of terrorist do not seem to stop the refugees. Nor do the traffickers who sell refugees in open slave markets in Libya (Naib, 2018). The risks that refugees take to obtain what they perceive as protection and prospects seem to outweigh the benefits they actually receive by far much too.

It seems that the critical flaw in Europe's migration policies is the logic that underpins them. There is an undeniable tendency to downplay the devastating impact of war and political violence and take a harsh approach to asylum seekers by removing the economic incentives that are assumed to be 'pulling them' to Europe. This policy is based on one of the oldest models of migration – the 'push-pull' model (Ravenstein, 1889). This theory predicts the level of migration based on objective indicators such as the distance, population, and economic opportunities between the source and destination location. In this model, migration decisions are determined using 'plus' and 'minus' analysis (Lee, 1966; Passaris, 1989). The push-pull model assumes rational decision making that takes only economic opportunities and threats into account.

### **Research question and objectives**

As will be explained in this chapter, the glaring omission in the push-pull theory is the impact of traumatic experiences on the push side, particularly their impact on rational decision making. For instance, in the case of Eritrea, many credible reports into human rights abuses in Eritrea (Amnesty International, 2008; Human Rights Watch, 2009), including the United Nations Human Rights Council's Commission of Inquiry on Human Rights in Eritrea (UN Human Rights Council, 2015), establish the existence of an atmosphere of extreme political repression, including torture and inhumane treatment perpetrated against ordinary citizens. Torture, political violence and armed

conflict, whether targeted at an individual or towards the population at large, pose an immense threat to people on various levels (Modvig & Jaranson, 2004). Indeed there is ample evidence suggesting that, aside from resulting in physical injury or death, political violence, including torture, constitutes a traumatic threat to the integrity of the self (Chapman & Gavrin, 1999).

This chapter states that most people exposed to trauma will experience stress responses such as avoidance, sleep disturbances, hyper-arousal and hyper-vigilance. These are adaptive reactions that prepare the survivor to deal with ongoing risks (Chrousos & Gold, 1992; Tsigos & Chrousos, 2002). Repeated or constant activation of the stress response on the body and brain, known as allostatic load (McEwen, 2003), which corresponds to post-traumatic stress, creates a state of fear, hopelessness or horror in the individual in response to the threat of injury or death (Yehuda, 2002). In this chapter, we will argue that these threats push people into flight mode, which overrides the rational decision-making process, irrespective of the high risks involved in migration. If this is the case, providing information about the risks of migration will not stop refugees from migrating, as this information is not processed due to the flight mode they are in, caused by the traumatic experiences. Hence, the main research question to be answered in this chapter is: *Can trauma support for refugees decrease trauma levels and increase social and economic resilience?* This research question will be investigated in a refugee camp in Ethiopia that gives shelter to many traumatised Eritrean refugees.

The aim of the research is, first and foremost, to draw attention to the effect trauma has on the decision-making process of refugees experiencing post-traumatic stress. The effect of trauma is largely ignored in the scientific discourse about migration, and plays no role in migration policies. However, in order to design effective policies or interventions targeted at traumatised refugees, one should realise that they do not always react rationally, have a low capacity to take in information, and are less capable of processing information. The second aim of the research is to establish the effectiveness of a trauma

counselling programme being implement in refugee camps in Ethiopia.

In the following sections we will first discuss the theoretical framework, which provides a base for the empirical study reported on in this chapter. Then the research method is presented followed by the results of the research. The next section discusses the effectiveness and usability of the trauma counselling programme designed for this study in targeting refugees. This is followed by a brief conclusion, which also looks at the implications of the study for designing interventions targeted at refugees or migration policies.

## **Theoretical framework**

The section presents the theoretical framework, which consists of the key concepts used in answering the research question, namely: the trauma of Eritrean refugees, social economic resilience, and the psychological effects of trauma on the decision to migrate.

### ***Trauma of refugees***

Research into the levels of post-traumatic stress disorder (PTSD) in Eritreans has revealed an alarming level in many Eritrean refugee communities and communities inside Eritrea (Kidane & Van Reisen, 2017). The World Health Organization estimates that in situations of armed conflict, 10% of the people who experience traumatic events will have serious mental health problems. The most common conditions are depression, anxiety, insomnia and psychosomatic problems (such as back pain and stomach aches). Furthermore, another 10% will develop behaviours that hinder their ability to function effectively (World Health Organization, 2001). One would expect traumatic events resulting from conflict to be a common experience of people in refugee camps, which may engender strong negative feelings and result in lower social and economic resilience for those involved.

The psychological symptoms resulting from trauma are persistent and simultaneously damage the victim's self-esteem as well as their trust in fellow human beings (Barudy, 1989). Studies of refugee

populations indicate levels of depression and PTSD ranging from 40 to 70% (Baingana, 2003). Although this rate may be compounded by displacement, it indicates the possibility that a significant proportion of people in communities affected by conflict and political violence are debilitated by psychiatric illnesses or severe psychological reactions to trauma (Silove, Ekblad & Mollica, 2000). The impact of trauma on individual lives can also translate into a situation where the whole community succumbs to maladaptation, which is detrimental to the community's wellbeing in the long term and can result in collective trauma (Chang, 2017).

Collective trauma is defined as the effect felt by many in the aftermath of a traumatic event. It is a blow to the basic fabric of social life and damages the bonds that hold people together, impairing their sense of community (Erikson, 1976). Collective trauma impairs the ability of people to react to threats and opportunities, causing them to become trapped in cycles of vulnerability (Fullilove, 2013). In fact, many modern intra-state conflicts deliberately inflict traumatic events on many members of a community to induce collective trauma, in order to control these communities (Blin, 2011).

### ***Social and economic resilience***

Social and economic resilience is not well defined in the literature (Van Reisen, Stokmans, Nakazibwe, Baluka & Vallejo, 2019). According to Van Reisen *et al.*, (2019), social resilience refers to an individual's perception of his/her abilities, their social embeddedness in the community, as well as their trust in government. Economic resilience refers to perceived income security. In this study we relate social and economic resilience to the agency of an individual, that is, the human capacity to act based on understanding of the world (Emirbayer & Mische, 1998). We define it as the ability to cope with and recover from the hazards and traumas experienced (see Bergstrand, Mayer, Brumback, & Zhang, 2015).

### ***Psychological effects of trauma on decision to migrate***

Researchers have found that a traumatic experience has an effect on the victim's cognitive processes and functioning, including cognitive

appraisal, cognitive schemas, symptom expression, and symptom resolution, as well as their behavioural action and adaptive strategies in response to danger (Lerner & Kennedy, 2000). This has at least two consequences for the lives of refugees. Firstly, PTSD negatively affects their social and economic resilience and, secondly, it affects their decision-making ability (Collier & Hoeffler, 1999). We will discuss both effects successively.

As indicated above, traumatic experiences and PTSD carry with them strong negative feelings. People regard feelings as information, with which they evaluate their situation (Schwarz & Clore, 2007). Strong negative feelings indicate that the current situation might be dangerous and the individual can be especially receptive to negative information that backs up that feeling (Norman, 1990). This effect will only diminish if a person realises that the negative feelings have nothing to do with the situation at hand, but are caused by a negative state of mind (Schwarz, 2011). Negative feelings caused by a traumatic event can be characterised as a negative mood, such as a depression (Schwarz & Clore, 2007). In such cases, it is difficult to realise that the negative feeling is not causally link to the situation at hand, as moods have a more general impact than emotions (Schwarz, 2011). According to this line of reasoning, refugees with PTSD will perceive fewer opportunities in their current situation and are expected to score low in terms of social and economic resilience.

As decision making is a complex process that requires the ability to recognise and evaluate the probability and consequences of each available alternative, it can be expected that it is also affected by traumatic experiences. This suggestion is supported by research, which indicates that people often do not make decisions on the basis of the information available, even if they are not traumatised (Payne, Bettman & Johnson, 1993; Kahneman, 2011; Thaler, 2015). A large number of studies have shown that affective feelings can exert substantial influence on judgment (Schwartz & Clore, 2007; Cohen, Pham & Andrade, 2008; Isen, 2001; Pham, 2004). In particular, it has been shown that the influence of feelings typically increases in situations where ability to process information is reduced by various

factors, including cognitive load (Shiv & Fedorikhin, 1999). It seems that a decrease in processing ability (such as associated with PTSD) results in feelings being substituted for substantive information, which requires more cognitive resources to process (Avnet, Tuan, Pham, & Stephen, 2012).

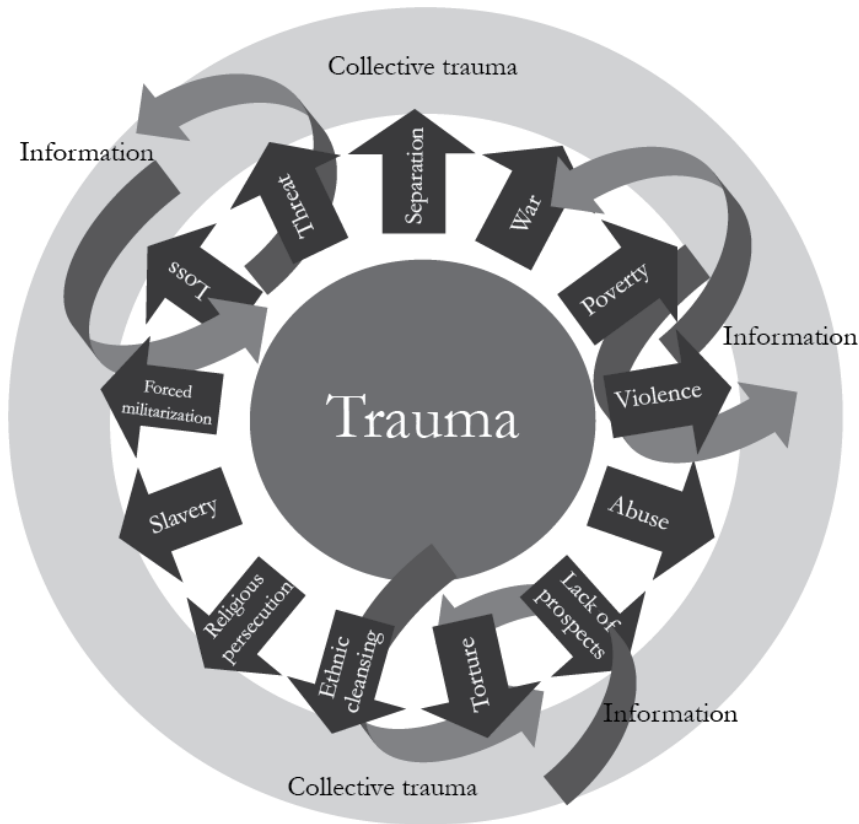
Generally speaking, most studies identify symptoms of PTSD as factors in increased risk-taking behaviour (Ben-Zur & Zeinder, 2009; Rheingold, Acierno, & Resnick, 2004; Tull, Weiss & McDermott, 2016). However, Augsburger and Elbert (2017), in a pioneering research using a computer-based task to assess risk behaviour in displaced individuals with extremely high levels of traumatic experiences, found that high risk-taking behaviour was not related to organised violence, such as war and torture. This study concluded that the association between risk-taking behaviour and traumatic stress might depend on the particular risk and be affected by culturally different concepts of risk behaviour, education and societal values.

The effects of strong negative feelings on cognitive processes such as information processing and decision making can be explained by dual process theories (Chaiken & Trope, 1999; Stanovich & West, 2000; Evans, 2006; Kahneman, 2011; Evans & Stanovich, 2013). These theories assume that information is processed and evaluated by two different systems: a cognitive system that requires a lot of processing capacity and an affective system that requires almost no processing capacity (Kahneman, 2011). Information is always processed by the affective system first and results in an indication of what to do based on a 'gut feeling'. The cognitive system will only interrupt this decision if the decision is evaluated as inappropriate. In that case, the information is processed by the cognitive system more thoroughly, taking pros and cons into consideration (Kahneman, 2011). According to this theory, refugees will, in the first instance, react according to their gut feeling. Due to the traumatic experience, this gut feeling may be extremely negative and strongly indicate that the refugee should flee. The decision to flee what is perceived as a dangerous situation seems appropriate and the cognitive system sees no need to process information about the pros and cons of migrating.

This can explain why refugees migrate, despite information about the dangers that can be encountered on their journey. Due to their strong negative feelings, migrating seems to be a wise decision that needs no close consideration of the pros and cons. Information about the dangers is simply ignored.

Although information processing might remain hampered by trauma during the flight of refugees, factual information about routes, destinations and facilitators is crucial and so refugees are very invested in staying connected with each other, despite the technological challenges involved. A study into information and communication technology (ICT) (Kidane, 2016) conducted as part of an initiative related to this research found that most people considered their fellow refugees as the best source of information regarding most things (in contrast to official information and members of the host community). The study also identified that much interaction and information exchange takes place on social media, where information is shared on a range of issues. Regular topics of discussion ranged from money and work to family and health. Migration was also discussed, but safety and security seem not to be discussed as much as other topics.

Taken together, the above account shows that the little substantive information that finds its way to refugees on the move seems to come from fellow refugees, who are also most likely hampered by diminished cognitive capacity as a result of individual and collective trauma, and who potentially rely on their feelings to make decisions about their safety and prospects. In fact, it can be concluded that decision making is not only hampered by individual trauma (e.g. PTSD), but also by collective trauma (see Figure 12.1).



*Figure 12.1 Information exchange in refugee communities*

This leads to a situation where refugees are unable or unwilling to process all the substantive information available to them, as this would require more cognitive resources than currently available to them due to individual and collective trauma. Meanwhile, they rely on their feelings of fear and despair to make crucial decisions on their prospects and safety. For factual information, they rely on their community, which may also be affected by individual and collective trauma. It follows that one should put the impact of traumatic ‘push’ factors that debilitate information processing, and the absence of adequate information, which pushes victims to over-depend on their feelings to make a decision, at the heart of discussions on refugees and their decisions to take enormous risks to obtain what they perceive as better protection and prospects for themselves and their



families. In this light, the objective of providing protection to refugees at the earliest safe point should include dealing with the trauma that might be underpinning their decision to move further, often taking shocking risks.

## **Research method**

In order to investigate the research question, an experimental study was carried out in refugee camps in Ethiopia in spring 2017. This section briefly describes the methods used for the selection of participants, design of the study, Self Help Low Cost Post Traumatic Stress (SHLCPTS) programme, instruments used and ethical considerations. More can be found on this research report in Van Reisen, Nakazibwe, Stokmans, Vallejo and Kidane (2018) and Kidane and Stokmans (2018).

### ***Selection of participants***

As this research explores some extremely difficult experiences, participants needed to be willing to participate in the programme, as well as able to reflect on their experiences and communicate that reflection to the researchers, while remaining as near to the norms of their community as possible (Allen, 1971). Taking these considerations into account, participants were selected using purposive sampling approaches, which are described more extensively in Kidane and Stokmans (2018). Local research assistants were recruited and asked to draw a list of potential participants. The list was then finalised by the research team.

### ***Design of the study***

The research design can be characterised as true experimental (with random assignment of the videos to groups of participants and pre- and post-testing) carried out in a natural setting. Participants were randomly assigned to the trauma support programme. However, it would have been unethical and impractical to have a control group who received no trauma support (Bonell *et al.*, 2011), because it would have denied trauma support to about half of the participants, even after they came in contact with, and opened up to, people who could potentially give them support. In addition, it would have been

impractical as the intervention relied on an app available on a mobile phone, so it would have been impossible to stop people from sharing their newfound knowledge and skills. So, it was decided that half of the participants would receive seven videos, while the other half would receive only two. The participants in the second group would be given the remaining videos at the conclusion of the study, together with an allowance to access them.

Some refugees received additional livelihood support from non-governmental organisations (NGOs) in the camps; those refugees, as well as the refugees who did not receive livelihood support, were asked to participate in the study and randomly assigned to take part in either a short two session video or a longer seven session video. Figure 12.2 shows the distribution of participants across the groups.

2 educational videos; without livelihood support (n=36)	2 educational videos; 5 coaching exercises videos; without livelihood support (n=35)
2 educational videos; with livelihood support (n=14)	2 educational videos; 5 coaching exercises videos; with livelihood support (n=18)

*Figure 12.2. Distribution of research participants*

***The trauma support programme (SHLCPTS)***

A problem with trauma support in poor post-disaster contexts is that it is costly and reliant on Western experts or local clinicians (Kidane & Stokmans, 2018). In order to overcome some of these difficulties, the SHLCPTS programme was developed. The intervention was inspired by the eye movement desensitisation reprocessing (EMDR) therapy. EMDR works by getting victims of traumatic stress to focus intensely on the emotions, sensations and meaning of their traumatic experiences in a safe setting, while engaging them in a bilateral

stimulation. The approach was first developed by Francine Shapiro in 1988 and has since been found to be an effective treatment for PTSD across many fields. A full description of this programme is given in Van Reisen *et al.* (2018). The application of this programme consisted of three components:

- Component 1: Two educational video sessions to raise participants' awareness of their symptoms and the causes of these symptoms
- Component 2: Five coaching and exercises video sessions on techniques to gain control over distressing PTSD symptoms
- Component 3: A session that encouraged participants to share their experiences with members of their community

The SHLCPTS programme was delivered via a mobile phone app. This mode of delivery suited the highly-mobile population in the camp, most of whom had a mobile phone. However, there were connectivity problems. Therefore, the app was uploaded to the mobile phones of the research assistants and shared with participants via Bluetooth using an app called SHAREit (Chapter 6, *Journeys of Youth in Digital Africa: Pulled by Connectivity*, by Rick Schoenmaeckers).

### ***Measurement scales***

The pre-test and post-test interviews focused on three topics: level of individual trauma, social capital as a proxy for collective trauma, and social and economic resilience. Level of individual trauma was measured using an adapted version of the Impact of Event Scale-Revised (IES-R) (Horowitz, Wilner, & Alvarez, 1979). Our experience with the IES-R in a study in Uganda indicated problems with its length (Van Reisen *et al.*, 2018). So it was decided to develop a shorter version that would be more user-friendly in an ICT context. To ensure the validity of this short version, the three constructs of the IES-R (intrusion, avoidance and hyperarousal) are all included (as suggested by Thoresen *et al.*, 2010). We selected at least two items from each subscale according to the highest inter-item correlation, as found in the Uganda study (Van Reisen *et al.*, 2018) and their face validity (i.e., the item makes sense as a measure of the construct in the eyes of the researcher) (Neuman, 2011). In addition, items that were

considered particularly relevant to refugees in a camp were also included. This resulted in seven items for the short version of the IES-R (Kidane & Stokmans, 2018).

It is important to measure social capital, as studies have been consistent in finding that chronic civil war can lead to the depletion of social capital (Kawachi & Subramanian, 2006; Wind & Komproe, 2012). Furthermore, one of the effects of collective trauma is that it damages the bonds that hold people together (Erikson, 1976) – in other words, it damages social capital. Given this relationship between social capital and collective trauma, loss of social capital is useful in measuring collective trauma (Somasundaram, 2014).

The social capital scale used in this study, was developed by Dmitri Williams (Department of Speech Communication University of Illinois at Urbana-Champaign), and is known as the Internet Social Capital Scale, or ISCS (Williams, 2006). The scale was constructed in recognition of the fact that an increased level of social interaction now occurs online and happens in parallel, and conjunction, with offline interaction. It includes community networks, relationships, and civic engagement based on norms of reciprocity and trust in others who facilitate cooperation and coordination for mutual benefit (Cullen & Whiteford, 2001).

Given our understanding of the continuous information exchanges across refugee communities and the impacts of collective trauma, it was crucial to capture the quality of the social capital held by refugees, which also impacts on the quality of information exchanges across communities. The more meaningful and deep the relationships (social capital), the greater the possibilities for exchanging information, other than traumatic information that affirms the need for a ‘fight or flight’ response.

Social and economic resilience (SER) was conceptualised as ‘social resilience’, pertaining to an individual’s abilities, their social embeddedness in the community and trust in the government, and economic resilience, referring to their perception of income security.

In this study we made use of an adapted version of the SER tool used in the Uganda research (Van Reisen *et al.*, 2018). In this tool the individual's social resilience was established using several statements regarding 'capability' (to pay bills, get information, acquire skills, and in terms of communication skills), 'empowerment' (to act independently and out of free will, as well as improved self-esteem) and 'worry' (about all kind of things). The social embeddedness of social resilience is operationalised by one indicator: 'subjective/social', which refers to the bonds an individual has with the family, community and the leadership of the community. Trust in the government is captured by 'structural/system', which taps into the person's rights and access to services. 'Economic resilience' is operationalised as the perceived ability to make, save and manage money.

The SER tool was adjusted to the current context in which the participants were individuals living in a refugee camp. To secure the validity of this short version, we selected at least three items from each of the six subscales of the SER tool (income, empowerment, structural/system, worry, capability, and social). In order to do so, we looked at the inter-item correlations reported in the Uganda study (Van Reisen *et al.*, 2018) and checked whether the items were relevant for refugees in a camp (e.g., items relating to income from work had to be modified as most camp residents do not work). Some selected items were adjusted based on an intimate knowledge of the context and an understanding of cultural and linguistic nuances.

### ***Ethical considerations***

As mentioned above, it was felt to be unethical and impractical to leave respondents who came into contact with the research team without any support. Therefore, consideration was given to this in the context of the Eritrean refugee camps in Ethiopia, where services are extremely restricted, and the research design altered to take this into account. In addition, there was concern over the potential to re-traumatise participants who were asked to reflect on traumatic experiences. To mitigate this risk, researchers identified potential services (within the extremely limited the camp setting) that could

provide ongoing support to participants who were finding participation in the study overwhelming. Informed consent was sought from every participant and all personal information gathered was anonymised with designated codes that split the person's identity from the data. The data was then stored in accordance with Tilburg University's data management procedures.

## Results

In this section we explore whether the SHLCPTS programme was effective in reducing trauma levels, and whether this enhanced social and economic resilience. In addition, we look at the applicability of the trauma support services used in this research.

### *Did the SHLCPTS reduce traumatic stress?*

In this research, individual trauma was indicated by post-traumatic stress, measured by a short version of the IES-R, and collective trauma was measured by the ISCS. For both trauma levels, the effect of the SHLCPTS programme was explored by means of a 2 (full programme: seven videos; short programme: two videos) x 2 (livelihood support: yes, no) x 2 (time: pre- and post-test) repeated-measure multivariate analysis of variance (MANOVA), with trauma support and livelihood support as between-subject factors and time as a within-subject factor.

If the dependent variable was post-traumatic stress, measured on the IES-R short version, the results indicate that post-traumatic stress changed between the first (pre-test) and second (post-test) measurement ( $F(1, 90) = 64.594, p < 0.01$ ).<sup>41</sup> This indicates that post-traumatic stress changed during the research period. The interaction time\*SHLCPTS is significant ( $F(1, 90) = 91.80, p < 0.01$ ), which

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<sup>41</sup> An ANOVA makes use of an F distribution to test the significance of the difference between the groups involved. The extent the groups differ is indicated by an F-value (F) and its significance depends on the degrees of freedom that goes along with this test. The degrees of freedom are indicated between brackets just after the F (df1, df2). Df1 is related to the number of groups involved in the comparison and df2 is related to the number of respondents included in the comparison (Hair, Anderson, Tatham & Black, 1998).

indicates that during the research the change in post-traumatic stress was not equal for the two groups of participants (the two and seven video conditions). Inspection of the estimated means indicates that those who received the seven video programme reported less PTSD during the second measurement. Moreover, the interactions time\*livelihood support and time\*SHLCPTS\*livelihood were not significant ( $F(1, 90) = 0.00, p = 0.995$ ;  $F(1, 90) = 0.801, p = 0.373$ , respectively).

In the case of collective trauma, measured by the ISCS, we conducted two analyses: one for online social capital and one for offline social capital as the dependent variable. If the dependent variable is online social capital, the results indicate a significant main effect of time ( $F(1, 90) = 14.859, p < 0.01$ ). This indicates that, overall, social capital online changed during the research period. The interaction time\*SHLCPTS is significant ( $F(1, 90) = 32.203, p < 0.01$ ), which indicates that during the research the change in social capital online is not equal for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher social scores. The results for the interactions time\*livelihood support and time\*SHLCPTS\*livelihood were not significant ( $F(1, 90) = 0.675, p = 0.413$ ;  $F(1, 90) = 2.719, p = 0.103$ , respectively).

If the dependent variable is offline social capital, the results show a significant main effect of time ( $F(1, 90) = 55.409, p < 0.01$ ). This indicates that, overall, social capital offline changed during the research period. The interaction time\*SHLCPTS is significant ( $F(1, 90) = 82.733, p < 0.01$ ), which indicates that during the research the change in social capital offline is not equal for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos reported higher social capital offline. The results for the interactions time\*livelihood support and time\*SHLCPTS\*livelihood are not significant ( $F(1, 90) = 0.359, p = 0.551$ ;  $F(1, 91) = 1.109, p = 0.295$ , respectively).

So, the results indicate that post-traumatic stress levels, as well as collective trauma levels, decreased due to the SHLCPTS, consisting of two educational videos and five coaching and exercises videos. The same effect was not established by means of only the educational videos (the two video condition) or livelihood support.

***Did the SHLCPTS increase social and economic resilience?***

In this research, social and economic resilience was operationalised using six subscales: income, empowerment, structural/system, worry, capability, and social. To explore the effect of the SHLCPTS programme on each of these dependent variables, a 2 (full programme: seven videos; short programme: two videos) x 2 (livelihood support: yes, no) x 2 (time: pre- and post-test measurement) repeated-measure MANOVA was conducted, with trauma support and livelihood support as between-subject factors and time as a within-subject factor.

Regarding the dependent variable income, the results indicate that the perception of income did not change between the first (pre-test) and second measurement (post-test) ( $F(1, 91) = 0.358, p < 0.551$ ). So, in general, the perception of income did not change during the research. However, the interaction time\*SHLCPTS is significant ( $F(1, 91) = 15.084, p < 0.01$ ), which indicates that during the research the perception of income did change for the two as well as the seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher income scores and those who received two videos reported lower income scores during the second measurement. However, the interaction between time\*livelihood was not significant ( $F(1, 91) = 1.112, p = 0.294$ ), which indicates that livelihood support did not alter the perception of participants of income. Finally, the (three-way) interaction time\*SHLCPTS\*livelihood is not significant ( $F(1, 91) = 0.842, p = 0.361$ ). So, receiving both the livelihood programme as well as the SHLCPTS does not result in a multiplier effect.

For empowerment, the results indicate that the main effect of time is significant ( $F(1, 91) = 17.662, p < 0.01$ ). This indicates that, overall,



the scores for empowerment changed during the research. The interaction time\*SHLCPTS is significant ( $F(1, 91) = 42.344, p < 0.01$ ) and indicates that during the research empowerment did not change equally for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher empowerment scores than those who received only two videos. The results for the interactions time\*livelihood support is not significant ( $F(1, 91) = 0.069, p = 0.793$ ); neither is the three-way interaction time\*SHLCPTS\*livelihood ( $F(1, 91) = 1.921, p = 0.169$ ).

Regarding the subscale structural/system, the results indicate that the main effect of time is significant ( $F(1, 91) = 23.480, p < 0.01$ ). This indicates that, overall, the scores for system changed during the research. The interaction time\*SHLCPTS is significant ( $F(1, 91) = 38.632, p < 0.01$ ), which indicates that during the research the scores for system did not change equally for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher system scores. The two-way interaction time\*livelihood support and the three-way interaction time\*SHLCPTS\*livelihood are not significant ( $F(1, 91) = 1.983, p = 0.162$ ;  $F(1, 91) = 0.311, p = 0.579$ , respectively).

For worry, similar results were found. The results indicate that the main effect of time is significant ( $F(1, 91) = 5.090, p = 0.026$ ), indicating that; overall, the scores for worry changed during the research. The interaction time\*SHLCPTS is significant ( $F(1, 91) = 13.438, p < 0.01$ ), which indicates that during the research the scores for worry did not change equally for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported less worry. The two-way interaction time\*livelihood support and the three-way interaction time\*SHLCPTS\*livelihood are not significant ( $F(1, 91) = 0.368, p = 0.545$ ;  $F(1, 91) = 0.644, p = 0.424$ , respectively).

Regarding the subscale capability, the results indicate that the main effect of time is significant ( $F(1, 91) = 21.708, p < 0.01$ ). This indicates that, overall, the scores for capability changed during the research. The interaction time\*SHLCPTS is significant ( $F(1, 91) = 69.565, p < 0.01$ ), which indicates that during the research the scores for capability did not change equally for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher capability scores. Again, the two-way interaction time\*livelihood support and the three-way interaction time\*SHLCPTS\*livelihood are not significant ( $F(1, 91) = 0.644, p = 0.424$ ;  $F(1, 91) = 0.644, p = 0.424$ , respectively).

Regarding the subscale social, the results indicate that the main effect of time is significant ( $F(1, 91) = 9.105, p < 0.01$ ). This indicates that, overall, the scores for social changed during the research. The interaction time\*SHLCPTS is significant ( $F(1, 91) = 22.474, p < 0.01$ ), which indicates that during the research the scores for social did not change equally for the two and seven video conditions. Inspection of the estimated means indicates that those who received seven videos of SHLCPTS reported higher social scores. The two-way interaction time\*livelihood support and the three-way interaction time\*SHLCPTS\*livelihood are not significant ( $F(1, 91) = 0.808, p = 0.371$ ;  $F(1, 91) = 0.091, p = 0.763$ , respectively).

In summary, the results indicate that the social and economic resilience of refugees increased due to the SHLCPTS programme, which consisted of two educational videos and five coaching and exercises videos, and that this effect was not established by the educational videos alone. In addition, livelihood support did not have any significant effect on social and economic resilience. Furthermore, none of the three-way interactions time\*SHLCPTS\*livelihood were significant indicating that the impact of receiving both SHLCPTS and livelihood support is not larger than the sum of each programme independently (no multiplier effect). Remarkably, the SHLCPTS programme resulted in improvements to the participants' perceptions of their income levels, even when actual income levels stayed the

same and even where provision of livelihood support had no such an effect.

### ***Suitability of the SHLCPTS as an app in a refugee camp***

The results in terms of psychosocial improvements indicate the potential of the trauma support delivery approach used in the SHSCPTS programme. Indeed focus group discussions, as well as individual feedback, highlighted the main advantages of delivering trauma support via ICTs (for a full report see Kidane & Stokmans, 2018). The ability to choose your own time and space was a great advantage, reinforcing the idea of regaining control over one's own healing. The ability to obtain information and treatment in your own language was another advantage raised by many. Finally, the ability to go over things again and obtain additional information on aspects that were not initially clear was another advantage of the approach.

However, the approach was not without its problems. Delivering a service via an app and through social media proved difficult, and even impossible in some cases, due to lack of connectivity and the unreliability of the weak connection in the camp for downloading videos. Alternatives suggested by the refugees themselves to address some of these concerns included downloading all the videos to one phone (from a memory card) and then sharing them using Bluetooth. This worked well and resolved much of the technical hurdles, but it also meant that the interactive aspect of the service was lost. Participants could no longer leave messages and feedback, as was the original idea.

This led to an additional and more serious problem: participants felt alone, as they were processing potentially difficult material by themselves without the interactive features of the app. This gave rise to the possibility of participants dropping out altogether or at least losing the motivation to fully process traumatic memories. Many participants found the resourcing techniques (breathing exercises and 'safe calm place') more attractive than the bilateral stimulation, which requires greater commitment and deeper engagement to focus on and

process traumatic memories. Feedback from one of the most severely traumatised participants captured this well during the interview:

*...It [the SHLCPTS programme] is really helpful. It made sense to me, it touched everything I felt and was happening to me and, eventually, the butterfly bugs were helpful too, but I felt physically tired every time I did them. I really hated how it initially made me feel; I hated your voice on the video. There were times when I felt physically ill, but then I started to notice I was calmer and less anxious. I started sleeping better and now I see how it helped. But it really is tough and there should be a contact person to tell you it will be ok in the end. (A, interview, Hitsats, 14 August 2017)*

Without major improvements to the technology, delivering the whole SHLCPTS programme via ICT risks either a high dropout rate or unnecessary distress for those who carry on with the programme.

## **Discussion**

Much of the individual trauma found in the camps can be described as complex PTSD, as it has resulted from prolonged exposure to traumatic events in the context of conflict and political violence. Trauma treatment literature is consistent that the phase-oriented approach we took in developing the trauma intervention is most effective in such circumstances (Briere & Scott, 2006; Brown, Schefflin, & Hammond, 1998; Courtois & Ford, 2009; Ford, Courtois, Steele, Van der Hart, & Nijenhuis, 2005; Van der Hart, Nijenhuis, & Steele, 2006). The objective of the intervention was to both relieve the symptoms of PTSD and help the refugees develop the skills to improve their functioning and relationships.

One clear advantage inherent in the EMDR technique used in the SHLCPTS programme is the opportunity to focus on the traumatic experiences and associated beliefs and behaviours that hold victims back. The programme helps the brain to process the traumatic memory, enabling the person to resume normal information processing (Shapiro, 2007), addressing the alterations to the ability to process contextual information, including information related to

danger and safety, caused by PTSD. This means that with the lowering of trauma levels, that refugees would be able to assess their prospects and protection in their current location, taking into account all available contextual information, rather than basing their decision on the emotional fight-flight response. The results of this study support this line of reasoning. The full seven-session programme enhances social and economic resilience and perception of income, although this did not necessarily change objectively.

The research did not specifically ask about imminent decisions pertaining to secondary migration, as this is seldom answered truthfully in formal circumstances; however, there was plenty of evidence during discussions to suggest a gradual ability to take in and process contextual information. One such example came at the end of a focus group discussion in Hitsats refugee camp. The participant, a young man who was part of the group who took up the full programme, hesitantly asked: “this may not be relevant, but ever since listening to you on the videos I have been wondering if in Europe, where you live, there are traumatic events and if people there also suffer from PTSD?” (Kidane & Stokmans, 2018). Nearly everyone in the group was interested in the answer to this. The question and the enthusiasm to hear the answer was a reflection of their increased capacity to begin taking in relevant information.

Perhaps surprisingly, neither trauma levels, nor social and economic wellbeing, was impacted on by the availability of livelihood support. This is surprising given the link between resources and resilience. It seems that the little livelihood support available in the camps is not perceived by the recipients as contributing to their social and economic resilience, nor is livelihood support currently contributing to protection against the impacts of trauma or collective trauma, as measured by social capital.

## **Conclusion**

Post-traumatic stress is not only the result of fear-inducing circumstance, it also creates a state of fear and this explains that

continuous threats push refugees into a continuous flight mode. Such a state of mind results in what Kahneman refers to as a ‘thinking fast’ mode, which is no longer a rational decision-making process. We have argued that if this is the case, providing information about the risks of migration will aggravate the negative mind-set and increase the risk of further flight. The main research question of this research was: *Can trauma support for refugees decrease trauma levels and increase social and economic resilience?* It was investigated with an experimental set up of a treatment provided on the mobile phone in a refugee camp in Ethiopia where Eritrean refugees are protected. The majority of the refugees had high levels of trauma, as measured in this research.

The programme, called Self Help Low Cos Post Traumatic Stress programme (SHLCPTS) was provided through seven short videos offered on a mobile phone. Despite the shortness of the programme (given the high levels of traumatic stress and its complex nature), as well as the difficulties associated with delivering therapy through ICT, the programme was successful in decreasing trauma levels and increasing social economic resilience. It can be concluded that the SHLCPTS programme did decrease levels of individual trauma and collective trauma (operationalised as social capital), and increase the participants’ perceived social and economic resilience. Treating PTSD had positive impacts on mental health and perceptions of socio-economic status, as well as community-wide relationships.

The results further show that the full seven-session programme of treatment was significantly more effective than the short two-session programme in reducing individual and collective trauma and in enhancing social economic resilience. Based on these results it can be determined that it is not sufficient to educate refugees about PTSD (component 1, two videos treatment), but that treatment must include coaching and actions to relate the treatment to the social network of the participant (component 2 and 3, full seven videos treatment).

The findings of this study have wider implications for migration policy. Increasing the obstacles for refugees seeking protection will only further increase the stress on their mental health, increasing risk-

taking ways to seek protection. Therefore, in designing interventions, trauma counselling should be recognised as necessary in order to enhance the social and economic resilience of refugees suffering from PTSD and, thereby, their ability to cope with and recover from the hazards they have experienced. We recommend that each rehabilitation intervention targeted at refugees suffering from PTSD should start with trauma counselling. The critical flaw in current European migration policies is the rationale that refugees' decisions about migration are rationally based on push and pull factors, whilst in the reality of lived experiences, fleeing is not a rational process and often happens in the context of severely traumatising events, which, left untreated, can prompt refugees to take life threatening risks.

One of the barriers to delivering trauma support in emergency contexts, such as the Eritrean refugee camps in Ethiopia, is the level of resources required for mental health services. This research has proved that even a short self-help programme focused on treatment of PTSD delivered by a mobile phone app can make a significant difference to decrease trauma and increase resilience.

Would a brief trauma support delivered on her phone, in her language, have prevented Yohanna, the young woman who drowned as she gave birth from making the decision to embark on that ill-fated journey to Lampedusa in October 2013? It is difficult to conclude one way or another. However, what is clear is that without the opportunity to deal with the chronic PTSD resulting from experiences endured as a result of violence and conflict, many refugees will continue to make decisions devoid of appropriate information, relying heavily on their emotional response, which is overwhelmed by PTSD. The study has shown that investment in psycho-social support can be cost effective and that it will render positive results by increasing the socio-economic resilience of refugees. It is argued that this will help in strengthening their capacity to make informed decisions. It follows that this would decrease panic-driven ill-informed journeys.

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# Identifying Survivors of Torture: “I Never Told What Happened to Me in the Sinai”<sup>42</sup>

*Sigal Rozen*

### Introduction

This chapter focuses on the conduct of the Israeli government, specifically the Israeli immigration authorities, towards asylum seekers<sup>43</sup>, mostly from Eritrea, but also from Ethiopia, Sudan and other countries, who are survivors of Sinai torture camps and victims of human trafficking and slavery in the Sinai desert. It reviews policy changes since 2009 and describes the situation of these survivors up to 2016, seven years after the first survivor arrived in Israel (Physicians for Human Rights-Israel, 2010).

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*Human rights organisations estimate that there are around 4,000 survivors of Sinai torture camps in Israel today. However, survivors of trafficking and slavery end up incarcerated with other refugees and migrants under Israel’s harsh law for ‘infiltrators’. These survivors need to be identified and provided with support, including health and social benefits, in order to help them rehabilitate and reintegrate into society. In line with international law, they need to be recognised as victims of torture and human trafficking and offered long-term protection, as well as access to retributive justice.*

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<sup>42</sup> This chapter was originally published in Hebrew: Rozen, S. (2017). I never told what happened to me in Sinai. *Hagira-Israel Journal of Migration*, Volume 7, 2017 (translated and edited by Danna Har-Gil). Available from: <https://bit.ly/2yu1NVR> (accessed 13 March 2019).

<sup>43</sup> As of 2018, Israel has officially recognised only 10 Eritrean and 1 Sudanese asylum seekers as refugees, who receive the rights and benefits inherent to this status. Although thousands of others have applied for asylum, their status is still either undetermined or defined as temporary protection. For this reason, they are referred to as ‘asylum seekers’, and not ‘refugees’, throughout this chapter.

Human rights organisations estimate that 4,000 survivors of torture camps remain in Israel today. According to the Ministry of Justice's Office of the National Anti-Trafficking Coordinator, there are approximately 3,000 victims of Sinai torture residing in Israel (Dominitz, D., Coordinator of the Anti-Trafficking Unit, Knesset Subcommittee on the Elimination of Trafficking in Women, 7 March 2018).<sup>44</sup> And, according to the United Nations High Commissioner for Refugee, approximately 7,000 Eritrean refugees were victims of torture in the Sinai from 2010 to 2012 (Israeli State Comptroller, 2014; UNHCR, personal communication, 2014). Most of the torture camp survivors entered Israel in 2011, when 17,306 asylum seekers arrived (Population Immigration and Border Authority, 2014). A report published by Europe External Policy Advisors (EEPA) and Tilburg University, estimated that over 4,000 asylum seekers did not survive the journey to Israel and died in the desert between 2008 and 2012 (Van Reisen, Estefanos, & Rijken, 2012).

Between 2010 and 2012, Physicians for Human Rights-Israel collected testimonies from more than 1,300 camp survivors who visited their open clinic. These testimonies shed light on the extent of this phenomenon.<sup>45</sup> Analysis of the information collected from these survivors revealed that 7.2% of them were kidnapped from refugee camps in Sudan and Ethiopia and brought involuntarily to the Sinai and Israel; 91% were transferred from captor to captor ('bought' and 'sold') between three to six different smuggling/trafficking groups; 24% endured severe physical and psychological abuse at the hands of their captors;<sup>46</sup> 59% had severe nutritional deficiencies; and 53% reported having been denied access to water.<sup>47</sup>

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<sup>44</sup> The information was provided during a visit by the Subcommittee on the Elimination of Trafficking in Women to south Tel Aviv on 7 March 2018.

<sup>45</sup> Most of the figures are based on an analysis of 890 testimonies of Eritreans and Ethiopians (511 men and 469 women) collected in interviews conducted by Physicians for Human Rights-Israel between November 2010 and May 2012.

<sup>46</sup> This abuse included beating, whipping, burning, singeing, electric shock, burial (alive) in sand or dirt, hanging from limbs, exposure to sun, sexual abuse, threat of execution, shooting, and threat of organ extraction for transplants.

<sup>47</sup> Based on the testimonies of 1,142 Eritreans, Sudanese and Ethiopians collected during interviews conducted by Physicians for Human Rights-Israel between November 2010 and May 2012.



*Figure 13.1. H., Eritrean asylum seeker kidnapped from Sudan and tortured in Sinai until his family paid USD 30,000 for his release; photographs taken in Tel Aviv on 18 May 2012, 22 days after his release.*

Photographs: Sigal Rozen

With the completion of the border fence between Egypt and Israel in the middle of 2012, asylum seekers stopped coming to Israel almost completely. Those who reached the border were forced to wait on the

Egyptian side of the fence until the Israel Defence Forces contacted the Egyptian forces who took them to prisons in Egypt, from where they were usually deported back to their countries of origin or to Ethiopia. Soldiers serving at the border at this time stated that entry to Israel was permitted only to survivors of severe abuse. In an interview to the daily newspaper, Yediot Aharonot, a soldier in the reserves stationed at the border described how the situation with the survivors was handled: “It’s true that sometimes it is unpleasant to see people with wounds and thin as skeletons, but they might compromise state security, and what we do is very important in our eyes” (Yahav & Siver, 2012).

The Israeli State Comptroller Report clarified:

*A torture victim who was not held in conditions of slavery will not be recognized as a human trafficking victim as defined by punitive laws. Thus, if the detainees suffered inhumane torture but were not forced to work or provide any type of services, including sexual services, they will not be recognized as victims of human trafficking, though their immense suffering should not be overlooked, and will receive minimal state services, as received by the entire foreign population. (Israeli State Comptroller, 2014)*

The purpose of this chapter is to describe the conduct of the state authorities in Israel towards survivors of the torture camps, among whom are survivors of trafficking and slavery. It also elaborates on why most of these survivors are not recognised as such and do not enjoy the rights they deserve according to the international conventions signed by Israel and under the national laws of Israel.

## **Methodology**

The data in this chapter is comprised of primary as well as secondary research. The information and data presented was collected primarily by the volunteers and employees of the Hotline for Refugees and Migrants (HRM). This is non-profit organisation for rights of migrants and refugees in Israel.



The staff of HRM went regularly (on average every two weeks) to visit Israeli detention centres in which asylum seekers are held. The material from these visits has been recorded through interview reports, observation reports and other communications. The HRM files are located in their offices. This study is based on an analysis of these files.

In addition, various unpublished documents and testimonies were analysed for the purpose of this research. These include documents related to hearing protocols from the Detention Review Tribunal of torture survivors transferred by the Tribunal adjudicators to the Anti-trafficking Unit for examination and data collected during visit by the Subcommittee on the Elimination of Trafficking in Women to south Tel Aviv and Jaffa, as well as testimonies collected during interviews conducted by Physicians for Human Rights-Israel.

The secondary research has been conducted through a systematic desk research of legal documents, court cases, reports and other relevant publications. The documents are separately referred to in the text, unless these are part of the HRM files, in which case they are referred to as such. The author has the original files. Given the sensitive nature of this research, all names of torture and human trafficking survivors and asylum seekers are withheld. The names are known to the author.

### **Definitions: Human trafficking, slavery and torture**

This section provides definitions of human trafficking, slavery and torture, as per international law and the laws of Israel.

#### ***Human trafficking***

In Israel, the Prohibition of Human Trafficking Law defines human trafficking as selling or buying a human being, or carrying out a transaction involving a human being, with or without barter (State of Israel, 1977). This definition is limited in comparison to that in the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational

Organized Crime, see United Nations, 2000). The Prohibition of Human Trafficking Law forbids trading in persons, or negotiating to trade in persons, that would bring the person into a state of slavery, forced labour or prostitution, or for committing a sexual offence against that person (State of Israel, 1977, Article 377A).

### ***Slavery***

The Universal Declaration of Human Rights states that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (United Nations, 2017, Article 4). Since that statement was made, slavery has been prohibited by a long list of International Human Rights instruments.<sup>48</sup> In addition, the Prohibition of Human Trafficking Law in Israel prohibits “holding a person for the purpose of providing services or labour, including sex, holding a person in a state in which they are being treated as property, including control of their life and the abrogation of their liberties” (State of Israel, 1977, Article 375A). The legal definition of forced labour is “the use of force or other means of pressure, or threats, or compliance obtained fraudulently, with or without payment” (State of Israel, 1977, Article 376).

### ***Torture***

The Convention Against Torture (UN General Assembly, 1984) defines torture as where “An act by pain or suffering, whether physical or psychological, is intentionally inflicted upon a person”. The right to be free from torture is one of the core fundamental rights in international law, and one of the legal principles granted the status of customary law, which is binding upon every state in the world. As well as the Convention Against Torture, torture is also prohibited by the International Covenant on Civil and Political Rights (UN General Assembly, 1966a). Both conventions were signed by the State of Israel, although neither is guaranteed by Israeli law.

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<sup>48</sup> Among these International Human Rights instruments are Article 8 of the International Covenant on Civil and Political Rights (UN General Assembly, 1966a) and Articles 5–8 of the International Covenant on Economic, Social and Cultural Rights (UN General Assembly, 1966b) and more.

The main obstacle in persuading the Israeli authorities to recognise the survivors of Sinai torture camps as survivors of torture under international law is that they are non-Israeli survivors who were tortured on Egyptian soil by Egyptian citizens. The Convention Against Torture only applies: "...where such pain or suffering is caused by the approval or acquiescence of a public official or other person serving in an official position or in his solicitation" (UN General Assembly, 1984, Article 1). Israeli government officials claim that survivors of the torture camps in the Sinai are not included in the Convention's definition because they have been tortured by Egyptian citizens and not by Egyptian officials, despite evidence of the involvement of the Egyptian authorities in the existence of the torture camps, or at least evidence of their 'silent consent' to their existence (Human Rights Watch, 2014).

Article 14 of the Convention Against Torture imposes upon its signatories the obligation of rehabilitating survivors of torture in their territory (UN General Assembly, 1984). The UN Committee Against Torture has determined that the states signatory to the Convention are required to establish accessible and available facilities for survivors of torture, as soon as possible after being examined by a physician, and to provide them with rehabilitation services to regain their independence as well as their physical, mental, social and professional capacities. Furthermore, signatories must establish programmes for the identification of survivors, which offer medical, psychological, legal and social aid (United Nations Committee Against Torture, 2012, para. 11–15).

The distinction between slavery and torture is not simple. According to Israeli law, for a person to be recognised as a survivor of slavery, and to be referred to a shelter for trafficking survivors, the Police Anti-Trafficking Unit must be convinced that *prima facie* proof exists that a crime involving human trafficking or slavery has been

committed (Decision 2806, State of Israel, 2002).<sup>49</sup> For example, a person kidnapped from a refugee camp in Sudan, sold to captors in the Sinai for cash, bound in chains and severely tortured for a year will not be recognised as a slavery survivor. If that person was required to prepare food for the captors, wash their clothes or work in their fields for at least a few weeks, it is likely that he or she will be recognised as a survivor of slavery. If that person is raped two or three times during captivity, they are unlikely to be recognised as a slavery survivor. If one or more persons rapes them regularly, they are more likely to be recognised as a slavery survivor for providing sexual services (State of Israel, 2006; Rozen, 2012).

Since the survivors of torture camps began arriving in Israel, the distinction has become clearer. However, the requirement of prima facie evidence is sometimes a liability: the Police Anti-Trafficking Unit only recognises prima facie evidence in which the survivors described the torture they underwent and the services they provided in the first interview conducted by the border control officers and the adjudicators of the Detention Review Tribunal. The Police Unit does not attribute enough importance to the fact that these first interviews do not usually cover the events in the Sinai. In addition, the manner of inquiry by the border control officers and the various tribunal adjudicators does not encourage asylum seekers to talk about their experiences (Rozen, 2012).

### **Procedures for the absorption of torture camp survivors**

In 2010, Maria Rabinovitch, a researcher at the Knesset Research and Information Centre, explained why only a few of survivors of torture and rape reported their experiences to Israeli authorities:

*From the border, asylum seekers are transferred to the Interior Ministry's Refugees and Infiltrators unit, which is actually the first to question them. This unit has the*

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<sup>49</sup> Decision 2806 by the State of Israel regarding human trafficking for the purposes of prostitution states that a shelter should be established "...for all victims of human trafficking for whom the first and foremost offenses against them are trafficking in the prostitution trade, or similar offenses" (State of Israel, 2002).

*first opportunity to notice any signs of problems. However, this does not usually happen because the women are not willing to talk, and those doing the questioning are mostly men. In addition, the questionnaire used in these interviews (to which we gained access) included no questions about the health and mental status of the women.* (Knesset Subcommittee on the Elimination of Trafficking in Women, 2010)

As explained previously, the State of Israel only feels compelled to locate and identify survivors of slavery, and no efforts are made to locate and identify torture survivors who did not provide services for their captors. This section will detail the absorption procedures of the Israeli authorities, including the methods of locating and identifying the survivors of the Sinai torture camps who provided services to their captors and are, therefore, entitled to be recognised as survivors of slavery (Hacker & Cohen, 2012).

Before completion of the border fence in 2012, asylum seekers, including survivors of torture, crossed into Israel and waited for the Israel Defence Forces military patrol on Route 10, which would transfer them to a nearby military base. When there were enough asylum seekers to fill a bus, they would be handed over to the Israel Prison Service, which then transferred them to Saharonim Prison. There, after being registered, they were taken by bus to Soroka Hospital for medical examination and then returned to Saharonim. Survivors of torture and slavery who reached the border with visible injuries or who were in a state of malnutrition were immediately hospitalised at Soroka and returned to prison when their condition improved. After 2012, the process of absorption remained similar, but the medical examinations were conducted at Saharonim (HRM files, Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014). Since the end of 2016 up until the end of April 2019, due to the border fence and the Israeli Defence Force push-back policy, not a single person has crossed Israel's southern border illegally (Population Immigration and Border Authority, 2019).

Many of the survivors of the torture camps entered Israel shortly before or during the period of Amendment No. 3 to the Anti-

Infiltration Law, under which they were detained at Saharonim Prison, a facility with 2,000 beds. During that time, four social workers were employed at the prison, one of whom spoke Tigrinya, the language of most of the survivors. A hearing was held for the detainees by the Border Control Office within seven working days of their entry into Israel (Anti-Infiltration Law, State of Israel, 2012, Article 30[a]A). If the detainees showed overt signs of severe torture, the doctor might suggest that they meet with a social worker. If not, the first person to speak to them was the border control officer, an official of the Interior Ministry who was authorised to issue a detention and removal order and continue their administrative detention, or to set conditions for their release from custody (Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014).

On 19 February 2012, as a result of tremendous efforts by the National Anti-Trafficking Unit in the Ministry of Justice, the Israel Prison Service introduced a procedure for identifying victims of trafficking and conditions of slavery. Within 15 days, with only one Tigrinya speaking social worker, 24 victims of torture were identified. However, most of them received no treatment because they were not defined as slavery victims. On 7 March 2012, the Ministry of Welfare reported that it was waiting for the conclusions of the government Subcommittee on the Elimination of Trafficking to decide how to deal with the issue of torture survivors (Protocol of the Subcommittee on the Elimination of Trafficking in Women, State of Israel, 2012). However, in the seven years that have passed since, no treatment has been offered to torture survivors who did not provide services to their captors.

According to the procedure, when a border control officer, adjudicator of the Detention Review Tribunal or a social worker suspects that a detainee is a survivor of slavery they must notify the Legal Aid Department at the Ministry of Justice. The Department sends a lawyer to interview the detainee and to examine whether they are merely a survivor of torture or had also been forced to provide services to traffickers, making them a survivor of slavery. The lawyer documents the testimony of the survivor, includes their own legal

opinion, and transfers it to the Legal Aid Department, which then transfers it to the Police Anti-Trafficking Unit. The Unit decides whether the person will be recognised as a survivor of slavery. If the survivor is recognised as a survivor of slavery, and there is a space available in the shelter for trafficking and slavery survivors, the Detention Review Tribunal releases them to the shelter (Israeli law provides the same rights to shelter for victims of slavery and trafficking alike) (State of Israel, 1977).

Despite the tremendous efforts and the strenuous work of the Legal Aid Department, most survivors of the torture camps do not enjoy legal representation, because, according to their own testimony, although they were severely tortured, they did not provide services to the traffickers. Of the 5,000–7,000 torture camp survivors who arrived in Israel between 2009 and 2012 (Israeli State Comptroller, 2014), only about 500 had been recognised as survivors of trafficking and slavery by the end of 2018 (Dominitz, D., Coordinator of the Anti-Trafficking Unit, Knesset Subcommittee on the Elimination of Trafficking in Women, personal communication, 7 March 2018).

An examination of the minutes of the Border Control Office's hearings and the Detention Review Tribunal<sup>50</sup> regarding the camp survivors shows that, in most cases, survivors refrain from telling the authorities what happened to them. For example, in a review of protocols carried out by HRM, of the 1,543 asylum seekers who entered Israel in June-September 2012, only 30 (less than 2%) protocols of torture survivors were referred by the Detention Review Tribunal to the authorities to ascertain whether they were survivors of slavery (Rozen, 2012). However, interviews conducted by UNHCR in Israel revealed that, of 33 asylum seekers who arrived in Israel in November 2012, 16 (48%) were tortured in camps in Sinai (UNHCR, 2012).

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<sup>50</sup> HRM reviewed 30 hearing protocols from the Detention Review Tribunal of torture survivors transferred by the Tribunal adjudicators to the Anti-trafficking Unit for examination, between June and September 2012 (out of 1,543 asylum seekers who entered during these months).

Additional evidence of a lack of reporting by authorities can be found in the data collected by the open clinic run by Physicians for Human Rights-Israel. Of the 1,996 women who arrived in Israel through the Sinai in 2011, only 54 complained at Saharonim of sexual assault in the Sinai (Zohar, S., Knesset Subcommittee on the Elimination of Trafficking in Women, 15 July 2012).<sup>51</sup> This means that less than 3% of the women claimed, in the presence of Israeli authorities, that they were sexually assaulted. That same year, Physicians for Human Rights-Israel referred 1,585 women to gynaecologists and assisted in 21 abortions. The number reflects all referrals to gynaecologists provided by the Open Clinic run by Physicians for Human Rights. Most of these patients were from Eritrea and Sudan (Rozen, 2012).

Not all the women who applied to Physicians for Human Rights-Israel came from the Egyptian border, and not every asylum seeker who needed gynaecological treatment was necessarily a survivor of rape. However, at the same time, although all the survivors of rape reached Saharonim, not all found their way to the Physicians for Human Rights-Israel Open Clinic after their release from prison. The huge gap between the number of rape survivors located and identified by the Israeli authorities in prison and those located and identified by Physicians for Human Rights-Israel reveals the failure of the system in 2011 to identify survivors of slavery, even though they were entitled to assistance and rehabilitation by law.

### **Identification of slavery survivors**

*I'm a religious person. I grew up in a church ... I never told what happened to me in the Sinai. It is very hard to talk about it even now, with you. How could I talk about it with a stranger I do not know? How could I expose myself to someone I do not know who comes to me for the first time and asks me to talk about what happened to me? (S.M., interview with Alexandra Roth-Ganor, HRM, Saharonim, 26 March 2015)*

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<sup>51</sup> This information was provided by Sigalit Zohar, an attorney from the Legal Aid Department, during a visit by the Subcommittee on the Elimination of Trafficking in Women to the Physicians for Human Rights Open Clinic in Jaffa on 15 July 2012.



These words, which testify to the difficulty survivors of torture camps have in sharing their experiences, were expressed very emotionally by one of the survivors to an HRM activist after several lengthy meetings and conversations between the two. This section specifies the reasons for the huge gap between the number of actual survivors of slavery and their number reflected in the official interviews conducted with asylum seekers.

A rare news report broadcast on Channel 2 News at the end of 2011 followed the first steps of Sudanese and Eritrean asylum seekers in Saharonim Prison and makes it clear why most of them chose not to share their experiences of captivity in the Sinai. Not only did the Channel 2 camera unit accompany the arrival of the ‘infiltrators’ from the military base to Saharonim and document the activity of the immigration officers in the prison, it also revealed the names and exposed the faces of dozens of Sudanese and Eritreans, violating basic interview protocol and the interviewee’s right to privacy (Channel 2 TV, 2011).

During the interview, Amir Peretz, head of border control at Saharonim at that time, never addressed the asylum seeker directly, did not identify himself to the asylum seeker or explain his authority, nor did he explain to the asylum seeker the purpose of the interview and its possible consequences. He spoke only to Anat, the translator. Peretz also allowed the reporter, Danny Kushmaro, to interrupt and pose questions for the camera and the viewers.

Much can also be learnt from this report about the problems involved in translation between asylum seekers and immigration authorities: Peretz asked Anat to ask Tedros, the asylum seeker (who did not want to be identified on camera, but whose wishes were ignored), if the Bedouins treated him well during the two weeks he spent in the Sinai. Tedros replied in Tigrinya: “They did not beat me” (in Tigrinya, *aytharemkun*). Anat, instead of providing a simple, direct translation, said “There was no problem, they brought them by car to the border, and close to the border they got off, and were told ‘go’”. Berihu, another asylum seeker from Eritrea, was also summoned for an

interview. To the same question, Beriḥu answered: “There is no one who does not say ‘Israel’ after opening his eyes” (in Tigrinya, *kulu ayini zḥqob Israel zḥbl yelen*). However, a simple, literal translation was not enough for Anat, who said, as though translating Beriḥu’s exact words: “All Eritreans want to come to Israel, and anyone who opens his eyes, meaning as soon as he can, everyone wants to come to Israel”. The conduct of the border control officer and the flawed translation services revealed in the report clearly explain why so few torture survivors share their experiences with the authorities.

Although more survivors have shared their experiences of torture and slavery with the Detention Review Tribunal adjudicators than with the border control officers, many are still unwilling to share this information with the adjudicators for several reasons. According to the Public Defenders’ report on the legal treatment of asylum seekers in Saharonim Prison in 2011, the number of adjudicators and their working hours had not been adjusted to the number of detainees. Consequently, the court found it difficult to keep up with the heavy workload (about 100 hearings per day, 4 times the number of hearings conducted by an adjudicator today). In the same year, additional facilities were allocated for the use of the court, which was a significant improvement. However, the holding conditions during the waiting period were deemed inappropriate: the asylum seekers had to wait in very crowded ‘waiting pens’, long and narrow cells similar to a cage, while sitting on the floor (Israeli Public Defender’s Office, 2011). These conditions while awaiting a hearing, combined with overworked adjudicators, did not encourage the survivors to elaborate on their experiences. For example, during a visit to Saharonim Prison in July 2012, a UNHCR staff member identified five survivors of slavery and torture who did not mention their experiences to the Border Police or the Detention Review Tribunal (Zohar, S., Knesset Subcommittee on the Elimination of Trafficking in Women, 15 July 2012).<sup>52</sup>

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<sup>52</sup> This information was provided by Sigalit Zohar, an attorney from the Legal Aid Department, during a visit by the Subcommittee on the Elimination of Trafficking in Women to the Physicians for Human Rights Open Clinic in Jaffa on 15 July 2012.

The adjudicators, who had to conduct about 100 hearings a day during these years, used a fixed format of protocols and a fixed text for the detainees' statements, some even written before they were brought before the adjudicator. Thus, of the 30 protocols that the adjudicators chose to transfer to the Police Anti-Trafficking Unit, all the minutes of the hearing by Adjudicator Dorfman had an identical opening sentence: "I am a citizen of Eritrea". The opening sentence in the minutes of Adjudicators Silberschmidt, Halabga and Raja, is also identical: "I am not represented".<sup>53</sup>

A total of 17 of the 30 protocols indicate that the survivors said they came to Israel to work. All the survivors who said they had been kidnapped declared this before Adjudicator Dorfman and this is reflected in his protocols. It is possible that survivors who appeared before other adjudicators were also kidnapped from refugee camps in Sudan and Eritrea, but unless the adjudicator specifically asked about the circumstances of their arrival, these details were not mentioned.

A total of 21 of the 30 protocols were written by Adjudicator Dorfman. In these 21 protocols, 11 survivors reported that they had been kidnapped without any intention of coming to Israel, while 9 allegedly declared, "I came to Israel to work". All the survivors brought before Adjudicator Silberschmidt were quoted as saying: "I came to Israel to live and work". All detainees brought before Adjudicator Halabga were attributed as saying "I arrived in Israel for the purpose of work". The identical wording of the detainees' statements is evidence of the great burden placed on the adjudicators, a burden that caused them to 'copy and paste' the detainee's words before they were spoken, and sometimes even caused them to forget to erase the words if the detainee did not say them. The heavy workload discouraged adjudicators from dwelling on and discussing problems and difficulties that detainees did not bring up themselves (Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 &

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<sup>53</sup> HRM reviewed 30 hearing protocols from the Detention Review Tribunal of torture survivors transferred by the Tribunal adjudicators to the Anti-trafficking Unit for examination, between June to September 2012 (out of 1,543 asylum seekers who entered during these months).

2014). Of those 30 survivors, only 6 (4 women and 2 men) were ultimately recognised as survivors of slavery. During 2012, only one of the men (of the 6 who were recognised) was transferred to a shelter. The 4 women and another man waited in prison until 2013, when they were finally transferred to a shelter (HRM files, Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014).

Survivors of torture camps who provided services to their captors often failed to mention the services they were forced to provide. When HRM representatives asked the camp survivors to clarify why they did not say that they worked for their captors in the desert, most of the survivors did not understand the question. Even when asked about torture, they talked about it only to clarify the source of their distress or injuries. Survivors working in the traffickers' fields, building their homes, or providing cooking, cleaning, or translation services reported that hard work was actually a relief in their routine during captivity. Most of them welcomed the opportunity to be free from the chains that restrained them day and night. They were happy to leave the cramped, stuffy compound, where they were chained with many others, some of whom had died and whose bodies still remained in the chains. The work, at least, released them from the sickening smell of the bodies. Because many reported being trapped in underground structures, often with their eyes covered throughout their long captivity, going out to work was an opportunity to see the light of day. During the long months of captivity, the physical torture was many times worse and, therefore, they did not think it was important to describe the services they provided the traffickers (HRM files, Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014).

Even when the right questions were asked in the right language, many survivors did not understand them correctly. For example, a number of survivors answered me in the negative when asked whether they worked for their captors. However, when I asked them to describe their daily routine in captivity, night construction work was added to the schedule. In another case, preparing food for the detainees and their captors was part of the routine. When I explained to the

interviewees that if they prepared food or did construction work under the orders of their captors, they did indeed work, they rejected this: preparing food was not considered a job, as the food was for them as well. A detainee who was engaged in construction work, for example, claimed that it was not work, because he had not received a salary for it. Sexual abuse is even more difficult to report for the survivors of the torture camps in the Sinai. Even when they were asked and understood that reporting sexual abuse would promote their release from detention, many did not dare, and still do not dare to report it, because of the shame involved. These examples illustrate why relying on old protocols when discussing the experiences of slavery survivors, who now seek recognition of their status, is unreasonable (HRM files, Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014).

### **Imprisonment of torture survivors under the Entry to Israel Law**

*The Bedouin smugglers who promised to transfer us to Israel abused us badly. They tortured my partner before my eyes; they slowly burned parts of his body until he died of his wounds. His body was thrown to the road. I was raped and severely beaten by the smugglers. (P.M.H., interview with HRM, Saharonim, 22 July 2009)*

P.M.H., a 28-year-old asylum seeker who fled Eritrea with her partner and was the victim of trafficking in the Sinai, is one of only six women who told HRM volunteers in 2009 about instances of rape on the way to Israel. Like the other asylum seekers, P.M.H. was held in administrative detention in Saharonim for illegal entry and stay in Israel, under the Entry to Israel Law (State of Israel, 1952).<sup>54</sup> The period of detention and the date of release of asylum seekers was not stated specifically, but can be determined by the number of new asylum seekers entering Israel and, hence, the demand for the 2,000 beds in Saharonim. The detention, which allows for the detention of asylum seekers, is ordered by border control officers and is subject to judicial review by the Detention Review Tribunal within 4 days, and periodic review every 30 days (State of Israel, 1952).

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<sup>54</sup> P.M.H. was released from prison in September 2009.

Although there were still no guidelines for the treatment of trafficking and slavery survivors from the Sinai at that time, a Detention Review Tribunal adjudicator referred P.M.H. to a social worker in Saharonim. He later accepted HRM's request to release the woman to a shelter run by a private non-profit organisation in northern Israel.

The following experience was reported by asylum seekers (two sisters) from Ethiopia to HRM volunteers in Saharonim, the bruises still fresh on their bodies, before their detention began in June 2009.

*I am 26 years old and my sister is 21 years old ... Two attackers entered the place where we slept and said that since we refused to have sexual relations with them, we will no longer receive drinking water ... The attackers ordered to deny us food and drink. The newly-arrived Bedouins also beat us and demanded that we have sex with them in exchange for water [...]. (A.T.T. and A.T.T., interview with HRM, Saharonim, 7 July 2009)<sup>55</sup>*

HRM requested that the sisters be transferred from the remote Saharonim Prison to Givon Prison, and that an attorney from the Legal Aid Department in the Ministry of Justice be appointed to them.<sup>56</sup> When an attorney failed to be appointed, HRM requested that the Tribunal release them, and in September 2009, the two were released from prison (Hotline for Refugees and Migrants, 2009, 2010, 2011, 2012, 2013 & 2014).

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<sup>55</sup> These sisters were released from prison in September 2009.

<sup>56</sup> HRM's request was based on the Legal Aid Law, 1972, which was amended according to the Law for the Prevention of Human Trafficking 2003. The amendment ensures that legal aid is provided to all trafficking victims, whether or not they testify against their traffickers. In addition, this amendment stated that legal aid can be provided in stages. During the first stage legal aid was provided to women in the Maagen shelter, and only until 1 August 2006. As of April 2006, legal aid was provided to all trafficking victims, including those detained in immigration detention facilities. On 29 October 2006, the Law against Human Trafficking came into force. At the same time a temporary law was implemented, extending legal aid to victims of slavery trafficking.

## **Government policy on the rights of torture survivors**

In 2010, the severity and extent of the torture camp situation in the Sinai became clear. Serious indictments for extortion, holding people in conditions of slavery and human trafficking were filed in January 2010 by the Jerusalem Magistrate's Court against Negassi Habtai, an Eritrean citizen, and Fitwi Mahari, an Ethiopian immigrant. The indictments raised awareness of the phenomenon. According to the indictments, the two were part of an Egyptian-Eritrean gang that took asylum seekers as hostages and tortured them, while extorting their relatives for ransom for their release (Hananel, 2010).

In the absence of clear guidelines, torture survivors were sometimes released by the Detention Review Tribunal to a private shelter run by volunteers, funded by a messianic Jewish community in northern Israel. Sometimes the release involved difficulties: M.S., a citizen of Eritrea, was raped and severely tortured in the Sinai (M.S., interview with HRM, Saharonim, 3 January 2010), however, the Detention Review Tribunal rejected HRM's request to release her to the shelter, because the adjudicator said that she could receive appropriate medical treatment in the Israel Prison Service clinic. HRM submitted another request to the Tribunal, which demanded a psychiatric opinion, following which the adjudicator ruled that she would be released for 60 days, and even authorised an extension, at the end of which M.S. would have to return to prison (Rozen, Leibowitz & Bornstein, 2010).

On 8 June 2010, HRM initiated a discussion in the Knesset Subcommittee on the Elimination of Trafficking in Women, and accompanied M.S. to speak before the committee members. Rachel Gershuni, head of the Anti-Trafficking Unit in the Ministry of Justice, and an attorney who has, for many years, fought for recognition of the rights of survivors of trafficking and slavery, made it clear that M.S. was entitled to the status of trafficking survivor:

*M.S.'s case, which we have just heard, is a case I have reviewed and reached the conclusion that there is a suspicion of slavery here. Why? Not because she was*

*raped ... In order for this to be slavery, several conditions must exist, as is in her case, such as being treated as property, being held for three weeks without a chance to leave, being raped by several people, and being claimed as property: the Bedouin who held her said "you are mine forever". These are clear signs that she has been objectified, treated as property, controlled, deprived of liberty. Although it is a short period, it can be regarded as slavery, which is why she was transferred to this shelter. (Knesset Subcommittee on the Elimination of Trafficking in Women, 2010)*

Gershuni's words, and perhaps the fact that M.S. gave her testimony before the Knesset Committee, helped to prevent M.S. from being returned to prison and to be granted recognition as a survivor of slavery.<sup>57</sup> Her words encouraged committee chairwoman, MK Orit Zuaretz, to summarise the matter saying: "We are moving in the direction of understanding the need for an additional shelter that will provide a different solution for victims who are refugees and migrants who come here through the border; this is another requirement" (Knesset Subcommittee on the Elimination of Trafficking in Women, 2010).

Indeed, in the course of 2010, 11 survivors of slavery from the Sinai were recognised and transferred to shelters (Atlas & Maagen Shelters, 2015). In contrast, survivors of torture who arrived in the same period were detained in Saharonim in conditions described by the Public Defender's Office as miserable, overcrowded and unsanitary (Israeli Public Defender's Office, 2011, p. 68).

### **The incarceration of asylum seekers, including survivors of trafficking, torture and slavery**

*Because of the experience involved in seeking asylum and the traumatic events often preceding their escape, asylum seekers may suffer symptoms of psychological illnesses such as trauma, depression, anxiety and aggression. When examining the necessity of detention, such factors must be taken into consideration. (UNHCR, 2012)*

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<sup>57</sup> M.S. was released from prison on 15 March 2010.



This section describes the laws that have allowed, and still allow, the detention of torture survivors and details the enormous difficulties involved in locating, identifying and releasing those survivors over the years.

In 2010 and 2011, the Israeli government decided to take significant measures to “stop infiltration” from Egypt (Natan, 2011). These included building a fence along the border and a detention camp capable of holding thousands, as well as punitive measures against employers of asylum seekers (Rozen, 2012).<sup>58</sup> In addition, legislation was enacted that would allow the prolonged detention of asylum seekers (Natan, 2011). These decisions began to affect asylum seekers in Israel in the middle of 2012, when the construction of the fence was completed, the capacity of Saharonim was doubled, and Amendment 3 to the Anti-Infiltration Law came into effect (Sabar & Tsurkov, 2015).

In 2011, a record number of 17,306 asylum seekers entered Israel from the Sinai (Population Immigration and Border Authority, 2014), and the practice of trafficking for ransom was thriving. In the absence of places for detainees, the Immigration Authority was forced to release detainees from Saharonim after a very short period. However, the conditions of detention may have been traumatic for the survivors of the crowded Sinai camps. The report of the Public Defender’s Office, which reviewed prison conditions in 2011–2012, showed that in Saharonim, each detainee was allocated 2.1 square metres (Israeli Public Defender’s Office, 2013, p. 10), while the regulatory minimum area deemed as an appropriate standard is 4.5 square metres (Israeli Public Defender’s Office, 2013, p. 5). This is at odds with standard living space in prisons in western countries, which is 8.8 square metres per prisoner (Israeli Public Defender’s Office, 2013, p. 4).

Between 2012 and 2015, the Knesset passed three major amendments to the Anti-Infiltration Law aimed at deterring those trying to enter

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<sup>58</sup> Until June 2012, Saharonim prison had 8 sections of tents, each of which held 250 prisoners. In June 2012, additional new wings were added that replaced the tent sections. Each of the new wings could hold 500 prisoners.

Israel from Egypt and encouraging the departure of those already in Israel. In January 2012, Amendment 3 to the Anti-Infiltration Law was enacted (State of Israel, 2012), although it has been postponed from coming into force repeatedly since 2006 due to severe public criticism. Unfortunately, years of systematic incitement of public opinion against asylum seekers by decision makers and politicians has steered the public to accept the law, which has undergone a number of amendments (Tsurkov, 2012). Amendment 3 of the law (State of Israel, 2012) allowed a detention period of three years for asylum seekers who did not enter through a regular border crossing. Those coming from an enemy state could be detained indefinitely.

A petition by human rights organisations led to the annulment of the amendment in September 2013 (Israel High Court of Justice, 2013b) and the enactment of Amendment 4 within three months in a hasty proceeding. Amendment 4 reduced the detention term to one year, but established the Holot facility, where ‘infiltrators’ released from Saharonim and ‘infiltrators’ summoned from around the country could be detained indefinitely (State of Israel, 2013). Human rights organisations again petitioned the High Court of Justice, which annulled Amendment 4 (Israel High Court of Justice, 2014a). In 2014, another amendment, aimed at preventing infiltration and ensuring the departure of ‘infiltrators’ from Israel, was enacted in less than three months. This amendment reduced the period of detention for new ‘infiltrators’ from one year to three months and restricted the period of detention in Holot to 20 months. The law included economic sanctions against ‘infiltrators’ who had yet to be sent to Holot, and their employers. Human rights organisations filed a petition against the law. In August 2015, the High Court of Justice rejected the petition, but reduced the maximum period of detention at Holot to 12 months (Israel High Court of Justice, 2015). On 8 February 2016, the Knesset amended the law accordingly (Hartman, 2016).

During the 15 months in which Amendment 3 was implemented, only 136 people were released from detention (Israel High Court of Justice, 2013a). The law allowed the Border Control Office to release ‘infiltrators’ if the officer was convinced that incarceration was

detrimental to their health (State of Israel, 2012, Section 30A[b]1). Despite the serious medical problems exhibited by some of the detainees, HRM was unable to secure the release of any detainees on the basis of this section. HRM's efforts, in cooperation with the Physicians for Human Rights-Israel, to bring volunteer doctors to the prison to examine the detainees were unsuccessful, and requests for the release of torture camp survivors were denied on the grounds that torture does not constitute a special humanitarian cause for release (Beersheva District Court, 2013a).

The story of Waldo from Eritrea illustrates the difficulties faced by the survivors of the Sinai torture camps. Waldo arrived in Israel on 21 July 2012 after being tortured, beaten, and burned for many months in the Sinai. After his family raised the ransom required for his release, he reached the Israeli border and was transferred to Saharonim Prison. After the Detention Review Tribunal refused to consider torture as a humanitarian cause for his release, HRM attorney Raya Meiler appealed to the District Court of Beersheva. District Court Judge Bitan agreed with the Tribunal, stating:

*The harassment and torture of infiltrators on their way to Israel is a widespread phenomenon. To view this as a special humanitarian case, there must be a connection to the mental state of the infiltrator which would justify his release.* (Beersheva District Court, 2013a)

Judge Bitan rejected HRM's appeal and attorney Meiler then turned to the Supreme Court, where Judge Fogelman returned the case for re-examination by the Detention Review Tribunal, ruling:

*There is therefore no place to rule categorically that abduction, imprisonment, torture and other abuses suffered by many of those who made their way from Africa to Israel are not 'special humanitarian reasons' which provide grounds for release from custody. Each case must be examined individually, based on its specific circumstances.* (High Court of Justice, 2013a, 1689/13)

In accordance with the opinion of a social worker in Saharonim, Detention Review Tribunal adjudicator Marat Dorfman agreed to

release Waldo. The Immigration Authority, however, appealed the decision to transfer the case to the District Court of Beersheva (Beersheva District Court, 2013b). Honourable Judge Dovrat accepted the state's appeal and cancelled the decision to release Waldo, but criticised the examination conducted at the prison in English and determined that he would be re-examined. After the examination, the adjudicator again decided to release him. On 27 June 2013, Waldo was released after 11 months of detention at Saharonim (Detention Review Tribunal, 2013a).

During the 15 months of the law's implementation, HRM was able to obtain the release of only five survivors of the torture camps. In 2013, HRM succeeded in having 14 survivors of slavery recognised. The average period between the day of detention and release to a shelter was six months. When the law was annulled in September 2013, 149 survivors of torture were still held at Saharonim, the vast majority of them for over a year (UNHCR, 2013). After several explicit requests submitted by HRM to the Detention Review Tribunal, many of them were released, while others were released when the law was annulled, regardless of their being survivors of torture (HRM files, Hotline for Refugees and Migrants, 2012 & 2013).

In December 2013, approximately 500 asylum seekers, among them survivors of torture camps, were transferred from Saharonim Prison to the Holot facility, a violation by the Immigration Authority of the High Court's instructions to release them (Israel High Court of Justice, 2013b). In 2014, the procedure for recognising slavery survivors among the asylum seekers had not yet been fully implemented. In 2014, HRM volunteers and employees in Saharonim and the Holot identified 87 survivors of torture who had been detained for over two years. HRM succeeded in releasing 42 survivors of torture camps. Two were released due to a petition sent on their behalf to the District Court, while the others were released on 6 November 2014, only because they were part of a group of 138 petitioners who had been detained for more than two years, unrelated to the fact that they were torture survivors (Israel High Court of Justice, 2014c). A total of 29 of the 87 camp survivors provided

services to their captors (HRM files, Hotline for Refugees and Migrants, 2014).

In 2014, after more than two years in prison, at least five torture survivors identified by HRM surrendered to the intense pressure exerted on them while in Saharonim and chose to leave Israel ‘voluntarily’; their fates remain unknown. During the Passover holiday of 2014, three survivors of the torture camps left Israel, at least one of whom was entitled to the status of survivor of slavery (HRM files, Hotline for Refugees and Migrants, 2014). N.M.S. entered Israel on 23 January 2012 and was detained in Saharonim. In all of the 13 Detention Review Tribunal hearings on his case carried out in Tigrinya, the Eritrean language, he insisted he was a citizen of Eritrea. The Immigration Authority claimed that he was an Ethiopian citizen. In February 2014, N.M.S. told HRM’s volunteers:

*I was in Sinai for a month. They beat me in the head a lot. I have marks of the blows. Every night they took us to work. We built the houses of the Rashida (the smugglers, members of the Rashida tribe). I did not tell this to the Interior Ministry because they did not ask me. They only ask all the time if I want to go back to Ethiopia. (N.M.S., interview with HRM, Saharonim, 5 February 2014)*

On 23 February 2014, HRM sent a request for his release to the adjudicator, but a month later N.M.S. gave in and left Israel ‘voluntarily’, after two years and two months in Saharonim.

Other survivors, F.A.M. and J.I., did not even intend to come to Israel. They were abducted from Kassala on the Sudanese border in 2012, held in various torture camps and released along the Israeli border after their ransom was paid in August 2012. They also succumbed to the pressure and returned to Eritrea in March 2014, after a year and five months in prison (HRM files, Hotline for Refugees and Migrants, 2014).

Due to the efforts of the Anti-Trafficking Unit, Amendment No. 3 to the Anti-Infiltration and Assurance of the Departure of Infiltrators from Israel Law specifies that survivors of trafficking and slavery will

not be sent to Holot (State of Israel, 2012, Section 32D, Article 6C). However, this law does not grant the right to liberty to survivors of torture who have not worked for their captors. These survivors are sent to Holot like other asylum seekers. To clarify the difficulties involved in releasing survivors of slavery from detention, let us describe the sequence of events in the case of one of them.

S.M., an Eritrean citizen, entered Israel in September 2011 and was released in November 2015 after more than four years in Saharonim.

*[...] There was severe violence in the Sinai. Every morning they would ask us to call [family members] to get the money ... When I was in the second bus, they took me to work in the building at night ... I worked for two weeks every day from eight in the evening until two or three in the morning. Because of all the torture and beatings I got, I became very ill, my whole body swelled up, my mouth too. The children of the smugglers who guarded us with rifles decided not to take me to work anymore ... I could not sit because they burned me in the back ... I sat naked because I was so wounded that I could not wear clothes. I did not tell anyone what happened to me. I was never asked the way you are asking me. (S.M., interview with Alexandra Roth-Ganor, HRM, Saharonim, 26 March 2015)*

In April 2015, Emi Saar, head of the HRM human trafficking combat team, sent a request to the Police Anti-Trafficking Unit to recognize S.M. as a slavery survivor, but the request was denied. In October 2015, after the head of the Police Unit was replaced, Saar sent another request. In December 2015, S.M. was finally recognised as a slavery survivor, released from Saharonim Prison and transferred to a shelter (HRM files, Hotline for Refugees and Migrants, 2015a).

During 2015, HRM referred 28 slavery survivors who worked for their captors to the Police Anti-Trafficking Unit; 19 of them (13 men and 6 women) were recognised as survivors during that year. In 2015, additional difficulties arose in preventing the transfer of survivors of torture and slavery from Saharonim to Holot. Although Holot had only 3,360 beds, the Immigration Authority admitted it sent no fewer than 12,425 asylum seekers there during 2015, among them at least 2,000 survivors of the torture camps (Bureau of Democracy, Human

Rights and Labor, 2017; HRM files, Hotline for Refugees and Migrants, 2015a).

Survivors' testimonies reveal a disturbing picture of how torture survivors who were incarcerated for long periods were re-detained in Holot, while the authorities overlooked the fact that some of them provided services to their captors and were, therefore, entitled to recognition as survivors of slavery. During 2015, 235 survivors of the torture camps in the Sinai turned to HRM after being sent to Holot, of whom about 200 were detained there (HRM files, Hotline for Refugees and Migrants, 2015a). Although authorities referred to the Holot facility as an 'open stay centre', the High Court of Justice recognised it as a detention facility, in which stay must be limited to a maximum of one year (Israel High Court of Justice, 2015). Although the detainees of Holot could leave the facility during most hours of the day, the conditions in the facility exacerbated the post-traumatic stress symptoms of survivors suffering from this disorder. The authority of the Border Control Office to send asylum seekers to Holot in cases where their health, including mental health, might deteriorate due to their stay there, could be limited (State of Israel, 2012, Anti-Infiltration Law, Section 32D[b]), but in any case the Border Control Office was in no hurry to grant any requests that might result in detainees not being sent to Holot due to medical conditions.

Many survivors cannot explain why staying in Holot worsened their sense of vulnerability and mental state. Yet the following picture emerges from their testimonies: the facility is isolated, located on the Egyptian border, and surrounded by barbed wire. The desert landscape is identical to the landscape in the Sinai. The sounds of sudden and powerful gunfire are often heard from nearby Israel Defence Forces bases and military zones, reminiscent of the sounds of the shootings which killed their friends in the Sinai. From 10 pm at night to 6 am in the morning, Holot inmates are locked in different sections of the facility. The biometric controls required to pass from one section to another, or to leave the facility, are not in operation at night, and the sense of confinement is suffocating. Because of the

cold desert nights, especially in the winter, detainees often stay in their rooms, 10 crowded together in 5 bunk beds per room. During the day, they are forced into long queues in the dining room, the Immigration Authority Office (when they need any of their services), and sometimes even at the exit and entrance to the facility, especially when there are visitors coming to meet them.

The crowding increases the survivors' sense of trauma. Armed uniformed wardens guard the detainees and control their daily lives. Sometimes they raid the detainees' rooms to search for hot water kettles, ovens, and other prohibited equipment (Hotline for Refugees and Migrants, 2015b). The sudden entry of armed men triggers flashbacks to camps in the Sinai, where their captors would enter and wake them for another round of torture. Sudanese detainees and Arab-speaking guards in Holot reminded the Eritrean prisoners of their captors' language. Even survivors of torture who were not confined to Holot, but who were merely summoned for a hearing, waiting many hours in line, reported that their condition had worsened due to the conditions they encountered at the facility (HRM files, Hotline for Refugees and Migrants, 2014 & 2015a).

The conduct of the Immigration Authority in M.Y.W.'s case is a good example of the way it conducts the summoning of torture survivors to Holot. M.Y.W., 29, was abducted from the Eritrean-Sudanese border to the Sinai at the end of 2010, severely tortured for nine months and then dumped in July 2011, unconscious and in a serious medical condition on the Egyptian-Israeli border. He was taken by the Israel Defence Force to Soroka Hospital and, after his condition improved, was detained for two years and four months starting in November 2013. He was released with hundreds of other Eritreans following a High Court decision (Israel High Court of Justice, 2013). In November 2015, M.Y.W. was summoned to Holot. He turned to HRM, which referred him to a clinical social worker who specialises in psychotherapy. After examining his condition, the expert noted that sending him to Holot would constitute a real risk to his mental health, after which HRM sent a request to the Detention Review Tribunal, accompanied by the professional opinion. The request was



not answered and HRM filed an appeal that was accepted by the Court of Appeals and M.Y.W. was temporarily prevented from being detained in Holot (Beersheva District Court of Appeals, 2015).

M.Y.W.'s situation is similar to the other 235 people who reached out to HRM during the course of 2015, requesting that their summons to the Holot facility be cancelled. However, due to lack of resources, HRM could not handle all the requests and many of the survivors were detained there. Those who could not bear the thought of returning to detention and could not hire legal services decided not to answer the summons to Holot, risking difficulties in finding work in the absence of a visa, arrest and detention in Saharonim Prison (HRM files, Hotline for Refugees and Migrants, 2014 & 2015a).

Camp survivors found it more difficult than other asylum seekers to return to detention facilities. Burdened with a strong sense of debt to relatives who raised tens of thousands of dollars to pay the ransom that saved their lives, they found it hard to return to a facility where they could not work to pay back that money, even in part. This great sense of debt was added to the anxiety brought on by conditions at Holot, which reminded them of the torture camps (HRM files, Hotline for Refugees and Migrants, 2014 & 2015a). And despite the impressive achievements of the Ministry of Justice's Anti-Trafficking Unit in removing survivors of slavery from the list of those summoned to that facility (State of Israel, 2012, Anti-Infiltration Law Section 32D of Article 6C), survivors of slavery were still being legally summoned to Holot.

The hearing prior to being sent to Holot was an opportunity to reveal the details of the situation they had suffered in the Sinai and perhaps avoid being sent there. However, the way hearings were conducted prevented asylum seekers from doing so. HRM representatives attended many hearings during 2015 and found it difficult to understand how torture survivors were expected to describe what they had undergone in the actual hearing conditions. This is how the hearings were described by Ofer Attar, a volunteer from HRM:

*Sometimes two interviews are conducted simultaneously in the same small room. A man or woman is required to talk about their intimate relationship, while at the same time another person must explain his trauma following the torture, extortion and rape he experienced in the Sinai torture camps on the way to Israel. This happens while officials enter and leave constantly, with a hostile attitude. The officials' basic position is that they are being lied to. (Attar, 2015)*

The following is how a border control officer spoke at a hearing held for B., who was summoned to Holot after a year and a half in Saharonim:

*I do not accept your words. I have examined the minutes of your hearings in the Detention Review Tribunal at Saharonim, and not once you did you claim that you were raped ... They [officials at Saharonim] are all liars and you are telling the truth? (Border Control Office, 2015)*

Having finally found the courage to tell the border control officer that he had been raped in the Sinai, it is not hard to imagine how this reaction would discourage the detainee from insisting on the matter. Experience shows that even when asylum seekers attend hearings at the Immigration Authority accompanied by an assertive human rights activist, the protocol does not reflect what is said at the hearing.

At a hearing in which I represented a Hebrew-speaking asylum seeker in January 2015, an interpreter was not needed, but when the border control officer asked him, "Were you at the shelter?" the interviewee did not understand what he meant. Despite speaking Hebrew well, he also did not know the words 'trafficking' and 'slavery'. He recognised the word 'victim', but instinctively rejected the idea that he was the victim of something. I made it clear to the border control officer that the questions were not clear to anyone who was not an expert on the subject of trafficking, even if he was a victim of it. The border control officer, who typed the protocol using two fingers during the hearing, omitted many facts that were shared by the interviewee. When I confronted him with their absence from the protocol, he claimed that those things were unimportant and, therefore, he did not type them. Only after I insisted on their importance did the officer agree to add

some of the facts to the protocol that was typed in Hebrew. During the hearing, many officials entered and left the room to ask questions and search for documents.

This description explains why, even when the asylum seekers are brave enough to talk about what they went through in the Sinai, when examining the minutes of their hearings, one realises that the things they managed to say, sometimes at a very high psychological cost, were never recorded. When things are not recorded in the protocol, the result is a border control officer who attacks the frightened asylum seeker with “I have examined the minutes of your hearings in the Detention Review Tribunal at Saharonim, and not once did you claim that you were raped” (Border Control Office, 2015).

**Identification of victims of torture by non-governmental organisations**

Despite the many difficulties experienced by camp survivors in communicating their experiences, and despite the fact that immigration officials and the Detention Review Tribunal do not, in most cases, identify the survivors of slavery among them, the proportion of camp survivors in the Sinai among the inhabitants of the shelters continued to grow. Table 13.1 shows the numbers of survivors admitted to shelters in 2010–2015 (information provided to HRM by Atlas & Maagen Shelters, 2015).

*Table 13.1. Survivors of torture camps admitted to shelters in Israel 2010–2015*

Year	Number of men	Number of women
2010	6	5
2011	7	6
2012	25	21
2013	24	37
2014	21	30
2014	21	30
2015	27	9
Source: Atlas & Maagen Shelters, 2015		

In 2014, state authorities reported that they identified 4 survivors of slavery from the Sinai in detention. HRM identified 29 slavery survivors in detention that year and referred them to the Anti-Trafficking Police Unit. As a result, 8 were recognised and released (see *Trafficking in Persons Report*, US State Department, 2014). Of the 27 men who survived the camps and resided in the shelter in 2016, HRM located and referred 16. Of the 9 female Sinai survivors who were admitted during 2015, HRM located and referred 7. In effect, more than half of the survivors of torture camps in the Sinai who were in the shelters during 2016 were located and referred by HRM, a non-governmental organisation (NGO) whose entry into detention facilities is limited and is not supported by state authorities.

In 2015, the Anti-Trafficking Police Unit identified 27 men and 8 women as survivors of slavery – 35 survivors of slavery from the Sinai in total (Tene-Gilad, H., Ministry of Justice, personal communication, by email, 16 January, 2016). During that year, HRM identified and referred 28 survivors of slavery to the Police Unit, of whom 19 were recognised by the end of 2015. The Aid Organization for Refugees and Asylum Seekers (ASSAF) referred 7 survivors of slavery, 6 of whom were recognised. UNHCR referred 6, 3 of whom were recognised. Of the 35 survivors of Sinai camps recognised as survivors of slavery in 2015, NGOs identified, interviewed and prepared applications for at least 28, 80% of whom would not have been recognised were it not for the activities of these organisations who, in the absence of government bodies to carry out this responsibility, took it upon themselves to locate survivors and conduct interviews. In recent years, these groups have also located and investigated supporting witnesses in cases where the testimony of the survivor is not reflected in the hearing protocols.

## **Conclusion**

The research presented in this chapter aims to describe how the state authorities in Israel treat survivors of the torture camps in the Sinai. The question is why most of these survivors are not recognised as survivors of torture, human trafficking and slavery.

In Israel, those recognised as survivors of slavery receive rehabilitation services in shelters; survivors of torture are not entitled to any support. Based on careful assessment, some 4,000 camp survivors remain in Israel, among them several dozen in dire mental and health condition. These survivors should have been housed in shelters such as Atlas and Maagen. Several hundred more camp survivors would benefit from psychological and psychiatric services. For the vast majority, greater stability in their lives and the possibility of working legally would help their rehabilitation. The requirement of renewing their permit to stay once every two months while standing in endless queues, is degrading and inhumane.

In Israel, the survivors of human trafficking, slavery and torture are in urgent need of support. Currently, they do not enjoy protection under Israel's national laws or the international conventions signed by Israel. At the very least, Israeli authorities should promote the rapid identification and location of survivors of torture, human trafficking and slavery, release them from detention and regularise their status, assess their mental and health status, and provide rehabilitation services to those in need. Much work remains to be done by the Anti-Trafficking Unit of the Ministry of Justice, which should speed up the recognition of survivors of the torture camps and promote their rights.

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**Part III.**  
**Psychological**  
**Impact of Ongoing**  
**Trauma**



### Refugee Parenting in Ethiopia and the Netherlands: Being an Eritrean Parent Outside the Country

*Bénédicte Mouton, Rick Schoenmaeckers & Mirjam Van Reisen*

#### Introduction

An estimated 20,000 Eritreans live in the Netherlands, constituting the second largest group of asylum seekers in the country after Syrians (Sterckx, Fessehazion, & Teklemariam, 2018). Among them, many have experienced post-traumatic stress (PTS) symptoms due to traumatic experiences. These are related to direct or indirect exposure to death, torture, sexual abuse, and deprivation, both before and during their migration journeys, particularly in relation to human trafficking (Van Reisen & Mawere, 2017). But PTS can also be prolonged by post-migration stressors related to acculturation, even after arriving in a safe place (e.g., not understanding the language, finding a job and housing, going to school or studying, caring for the family with insufficient finances, etc.) (Deater-Deckard *et al.*, 2018). Acculturation is defined as a complex intra- and inter-personal process by which an individual who comes into contact with one or more additional cultures modifies her or his own behaviour,

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*Refugee parents often experience post-traumatic stress due to their past experiences, but how does this affect their parenting? Surprisingly, this study found a high level of parental self-efficacy among Eritrean refugee parents in the Netherlands and Ethiopia. However, this raises concerns about the emotion regulation skills of refugee parents, who have a high level of emotional control and may have learnt to value self-reliance, which can impact on the socio-emotional development of their children. This requires further research as it may affect the long-term development of children of refugee parents and contribute to generational trauma.*

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beliefs and self-constructs (including identity) in ways that may be adaptive or maladaptive. Understanding a new language and accepting new family representations and other ways of thinking and doing can be a source of major stress for refugee parents (Deater-Deckard *et al.*, 2018).

Beyond individual trauma, the issue of collective trauma is also at stake for Eritrean refugees. Collective trauma is defined as “a socially constructed process with an impact on the identity of the group and its individual members” (Kidane & Stokmans, 2018, p. 21). This concept of collective trauma implies that trauma could be passed on to the next generation, notably through the family system and parents in particular. Research has documented that traumatic stressors experienced by one member of a family (e.g., a parent) may impact on all members, which is known as secondary traumatisation or the intergenerational transmission of trauma (Sherman, Gress Smith, Straits-Troster, Larsen, & Gewirtz, 2016). This transmission is particularly strong in the relationship between parents and children, through parenting. The concept of parenting covers both parenting behaviour (e.g., providing instrumental care such as feeding, clothing, nursing, emotional support, explaining and monitoring rules) and parental cognitions (e.g., beliefs and expectations about parenting and child development, sense of competence or satisfaction as a parent, etc.) (Baumrind, 1971).

This study explores some of the manifestations of collective trauma in the Eritrean refugee population by focusing on the issue of parenting. The research question in this explorative study is: *To what extent is the efficacy experienced by parents in parenting affected by PTS among Eritrean refugee communities in the Netherlands and Ethiopia?*

First, we investigate the literature on the intergenerational process of trauma, focusing on the relationship between a parent’s PTS and their parenting and the possible impact on children’s mental health (see Figure 14.1).



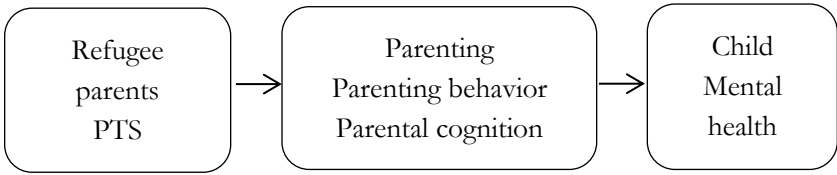


Figure 14.1. Theoretical model of intergenerational trauma

Then, we explore the specific impact of PTS on parental cognition, looking particularly at refugee parents’ feelings of competence as a parent and their sense of safety and control, all related to the concept of agency. When applied to parenting, this concept of agency can be investigated through parental self-efficacy (PSE), which can be described as beliefs that parents have about their ability to positively influence their child’s development (Coleman & Karraker, 2003). According to Bandura, this belief is nourished by four sources: past experiences (performance accomplishment), comparison to others (vicarious experiences), feedback from others, and physiological and emotional state (Bandura, 1977). We will investigate if, and to what extent, these sources are made use of by the study population (see Figure 14.2).

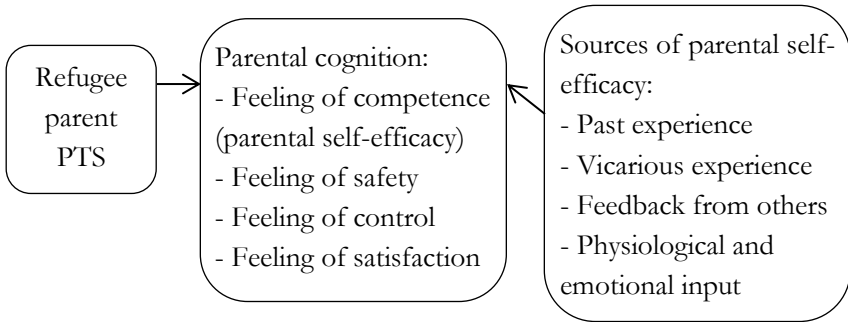


Figure 14.2. Theoretical model of the relationship between trauma and parental cognition

Finally, qualitative data is collected through interviews with Eritrean refugee parents to explore parenting by focusing on parental cognition and, in particular, their parental self-efficacy. The study

aims to contribute to our understanding of the needs of refugee families and to provide relevant support for these families.

## **Trauma, parenting and child development**

The latest research on refugee parenting confirms that PTS affects child development. Bryant *et al.* (2018) analysed 394 refugee parents in Australia, coming mostly from Afghanistan and Iraq. They studied the effect of refugee caregivers' previous trauma and ongoing stressors on current PTS and how this influences their parenting behaviour and, consequently, child mental health. They found that:

*PTS in refugees is associated with harsh parenting styles, leading to adverse effects on their children's mental health. Programmes to enhance refugee children's mental health should account for PTS in parents and caregivers, and the parenting behaviours that these children are exposed to. (Bryant et al., 2018, p. 249)*

These results describe the two dimensions of parenting affected by PTS. First, PTS may impact on parents by leading to harsher parenting practices (i.e., hitting, shouting at the child), lower warmth (i.e., limited manifestation of affection or positive comments to the child) and lower availability of the parent for the child's needs (i.e., weak understanding of the child's needs and limited care and emotional support for the child), as we will detail later in this chapter. In this way, PTS may also impact on the child's mental health indirectly, mostly in terms of emotional disorders (i.e., difficulty in regulating emotions, depression, hyperarousal) and externalising behaviour (i.e., aggression, non-compliance, inattention, hyperactivity).

However, other studies (Graham, Minhas, & Paxton, 2016) identified an 'academic resilience' or positive deviance in children from a refugee background, who had better mental health than would be predicted based on their life experience and social situation. These authors show mixed evidence on the impact of trauma on the child's cognition and school outcomes, depending on the type of trauma. Collective trauma related to genocide or discrimination had no impact

on cognitive test results, whereas secondary trauma related to parental war experience improved reasoning, processing speed and working memory. According to these authors, academic resilience is found when trauma becomes part of individual motivational narratives and teachers are supportive. They also mention a possible survival bias, based on the assumption that the most resilient successfully migrate.

After several years, the negative impact on children identified in some research tends to diminish, as shown by Zwi *et al.* (2018). In an Australian longitudinal study, they showed that refugee children's development was comparable to that of children from the general population after three years. The only remaining difficulties related to language or cognitive development, partly due to acculturation, adaptation to a new culture and language.

A recent meta-analysis on parenting in times of war (Eltanamy, Leijten, Jak, & Overbeek, 2019) looked at complementary knowledge on these issues by investigating the impact of the exposure of parents to war on their parenting and child development. They found that war-exposed parents showed less warmth and more harshness towards their children. This partly mediated the association between war exposure and child adjustment (measured in terms of PTS, depression, anxiety, social problems and externalising behaviour). Interestingly, the authors identified that the nature of war-related trauma affected parenting differently. Parents showed harshness, hostility, inconsistency and less warmth in highly-dangerous settings, but more warmth and overprotection when living under threat.

## **The specific impact of trauma on parental self-efficacy**

### ***Parental self-efficacy and parenting***

Parental self-efficacy is defined as parents' perceived self-competence in their role. In other words, beliefs that parents have about their ability to positively influence their child's development. It covers the beliefs, thoughts, values and expectations that are activated when one is in charge of a child's upbringing (Coleman & Karraker, 2003; Meunier & Roskam, 2007).

Based on the social learning theory of Bandura (1977), self-efficacy is a key concept that helps in understanding the transaction between an individual and his environment. It relates to the concept of human agency, defined as an intentional behaviour reflecting one's general feeling to be able to influence his or her environment (Bandura, 1989). As such, self-efficacy contributes to predicting behaviour and persistence in times of adversity, "the stronger the perceived self-efficacy, the more active the efforts" (Bandura, 1977, p. 194). This is of particular interest in the field of parenting, considering that all parents encounter difficulty with their child at some point or another. It is an indicator of parental engagement, satisfaction and adjustment in parenting tasks (Meunier & Roskam, 2009).

In opposition to the idea of a maternal instinct or a personality characteristic, PSE is related to experiences lived by the parent with his or her child. It is not acquired once and for all, but questioned continuously and modifiable (Coleman & Karraker, 2000). In social learning theory (Bandura, 1989), four factors influence beliefs about parental self-efficacy. The first factor is performance accomplishments, which encompasses all past and present successes and failures experienced by the parent in his or her relationship with the child. Compared to the other three, this factor is considered the most influential (Kendall & Bloomfield, 2005). The second factor relates to vicarious experiences; it is an evaluation process based on observing other parents engaged in similar parenting tasks. In comparison with these model parents, who may strive or succeed as well, the parent evaluates his or her own capacity to overcome difficulties. The most influential models often belong to the family and close social networks. The third factor is verbal persuasion based on feedback received by parents from close and significant people. These comments deal with the way they practice their parenting, their child's characteristics and the quality of their interactions. For instance, negative statements from a teacher about their child's difficult behaviour in class tend to weaken PSE. In contrast, receiving positive comments about the same child from a friend strengthens it. The influence of verbal persuasion varies according to the feedback provider's characteristics: the more legitimate, competent, reliable

and close to the parent, the more his or her influence. The fourth and last factor relates to the parent's emotional and physiological state. Anger, irritation or frustration felt anticipatively about an interaction with the child can diminish PSE. For instance, a parent daily confronted with tension at meal or bedtime can anticipatively feel a cardiac acceleration or stomach ache. The anxious anticipation of a negative interaction with the child, felt at the physiological level, reduces the perception that parents have of their own skills to overcome difficulties in this situation.

A link between high parental self-efficacy and positive parenting practices has been well documented (Leerkes & Crockenberg, 2002; Márk-Ribiczey, Miklósi & Szabó, 2016; Sevigny & Loutzenhiser, 2010; Sierau, Lehmann & Jungmann, 2011; Teti & Cole, 2011; Teti, O'Connell & Reiner, 1996; Trifan, 2015). Parents who feel competent more often provide a positive educative environment, characterised by a high level of support and a low level of negative control. Support relates to affection, warmth, engagement and support provided by the parent, while negative control relates to psychological control, harsh punishment, ignorance, guilt induction and inconsistent discipline. Such parents will use less harsh punitive practices and prefer consistent and predictable discipline (Trifan, 2015). Parents who feel competent engage more in educative tasks and interactions with their child. Their satisfaction is higher, their stress less, and their persistence stronger when faced with difficult situations than parents with low self-efficacy (Deković *et al.*, 2010).

Thanks to its influence on parental behaviour, PSE also indirectly affects child behaviour. It can be seen as a distal variable that directly influences parents' behaviour and then indirectly affects their child's behaviour. A high PSE favours the use of positive parenting, which in turn favours the child's behavioural adjustment. Moreover, a child's positive behaviour, in a retroactive cycle, contributes to reinforcing PSE. On the contrary, when a parent faces a child's non-compliance, agitation or aggressiveness on a daily basis, they come to doubt their ability to reach their parenting goals and to positively influence their child's development. Parents develop a more and more negative

perception of their own skills, and this directly influences their behaviour (Coleman & Karraker, 2003; Hoza & Owens, 2000; Jones & Prinz, 2005; Primack *et al.*, 2012; Slagt, Deković, De Haan, Van den Akker & Prinzie, 2012).

### ***Post-traumatic stress and parenting***

Post-traumatic stress can be understood as a set of symptoms such as re-experiencing the trauma, avoidance, negative moods and cognitions, and automatic hyperarousal, as well as other co-morbid conditions such as depression, anxiety, substance abuse or somatisation (Horeh & Brown, 2018). Beyond these symptoms, PTS affects information processes and may lead to cognitive bias, particularly negative ones (Creech & Misca, 2017). Chronic stress tends to make people more likely to process information automatically and habitually, instead of in a controlled and flexible manner.

In terms of parenting practices, research describes PTS as a risk factor for altered parenting capacities. Parents tend to become overprotective (Bryant *et al.*, 2018), over reactive, feel anger, use harsh practices with their children (hitting, shouting, slapping) and are less warm (Eltanamy *et al.*, 2019). A reversal of parent-child roles, or 'parentification' is also observed. This occurs when children are worried about their parents and take over some parenting responsibility on a daily basis. Several meta-analyses show a relationship between the negative mental state of parents and their children's psychological problems. Lambert, Holzer, and Hasbun (2014) reported a significant effect of parental PTS on child mental health ( $r=0.35$ ), similarly to Van Ijzendoorn, Bakermans-Kranenburg and Sagi-Schwartz (2003) who analysed 32 studies on the children of Holocaust survivors, and Hershkowitz, Dekel, Fridkin, and Freedman (2017), in his study of 200 trauma experienced civilian parents in Israel.

Some authors explain the impact of parent PTS on childhood difficulties through a PTS-biological pathway, showing biological processes for the intergenerational transmission of stress. In their

review, Bowers and Yehuda (2016) identified the intergenerational transmission of stress via in utero effects and gametes. In a study on rodents, Debiec and Sullivan (2014) documented the social transmission of mother-to-infant fear. This transmission takes place through an increase in the stress hormone corticosterone and amygdala activation, which induces a cue-specific fear learning. The authors show that specific fears may be transferred across generations through maternal emotional communication and the infant's associative learning mechanisms.

Complementary to this, other authors have explained the impact of parent PTS on childhood difficulties through the PTS-harsh parenting pathway (Bryant *et al.*, 2018), combined with a reduced understanding of the child's needs and weakened emotional availability due to a limited reflexive functioning. Parents are less able to understand their child's behaviour in context and are at risk of making negative attributions (Milner, 2000; Milner & Crouch, 2013). When asked about their child's behaviour, parents may report more negative behaviour than is true in reality, because of the negative cognitive bias inherent to PTS (Creech & Misca, 2017).

The cognitive behavioural interpersonal theory (C-BIT) of PTS is an interesting model applicable to family functioning, which contributes to understanding the impact of parent PTS on child development through parental cognition. It emphasises the role of three processes that both maintain PTS symptoms and negatively impact on family functioning (Creech & Misca, 2017). First, behavioural avoidance and accommodation can be described as coping strategies for flashbacks and intrusive thoughts, contributing to the automatic emotional activation of the parent. In such cases, the emotion regulation skills of parents may be hampered by this uncontrolled emotional activation. This can lead to over-reactivity or, the opposite, avoidance and laxness about the child's behaviour or its effects. In reaction, children may modify their own actions and reactions to limit the reminders that cause their parents trauma-related distress (e.g., avoiding group activities because a parent finds crowds distressing or providing practical and emotional support), as detailed in the

qualitative study by Sherman *et al.* (2016). The second process described in the C-BIT model relates to cognitive processes and thematic content, referring to rigid and maladaptive schemas about past experience, trust, control or intimacy. Attention bias toward threat and amplified attention on safety may lead to overprotective parenting. These maladaptive schemas also affect parental self-efficacy through a negative bias about one's worthiness as a parent. The last process relates to emotional disturbances, such as blunted positive emotions or increased anger, sadness, guilt or shame, which can lead to behavioural avoidance. A meta-analysis showed a medium effect ( $r=.35$ ) of parental PTS on child emotional distress and behavioural problems (Lambert *et al.*, 2014). Effects are particularly strong when parents have experienced torture, with children exhibiting more anxiety, depression, PTS, attention deficits and behaviour disorders than children from parents who experienced violence, but not torture (Daud, Skoglund & Rydelius, 2005).

Yet, results from meta-analyses on parental transmission of trauma through parenting practices remain mixed and there are several limitations due to the small size and specificity of samples. It is also important to differentiate between parents who have been neglected or abused as a child (because of the war or a high-stress level in their own parents), from those who had a childhood without neglect or abuse and experienced trauma later as adults.

In conclusion, secondary traumatisation or intergenerational transmission of trauma from parent to child has been widely documented. Yet, research on the parental cognitive processes remains limited. It seems that PTS does not affect parents' satisfaction with their family life, with no relation found between PTS and parental satisfaction (Hershkowitz *et al.*, 2017). In terms of parental self-efficacy beliefs, exposure to war may reduce parental self-efficacy, in particular their beliefs about their ability to provide safety for their children, which is compromised in war time (Eltanamy *et al.*, 2019). But empirical evidence suggests that heightened exposure is not necessarily associated with lower PSE, but sometimes higher PSE. In a study of 293 Israeli fathers (Pagorek-



Eshel & Dekel, 2015), the authors found that fathers exposed to political violence reported higher levels of PSE in times of threatened security than non-exposed fathers did. This high PSE contributed to paternal involvement in concrete and emotional care. Elements of strength and resilience are also identified in parents who have experienced trauma, through a positive perception of one's capacity to survive in very difficult times (Eltanamy *et al.*, 2019): "Such increased perceptions of resilience might translate into increased self-efficacy beliefs which is evident among parents who rely less on maladaptive parenting practices". According to this author, some families may be able to cope adequately with the stress and challenges of war exposure, and:

*...some parents may even change for the better, with increased positive parenting as a consequence. While there is evidence to suggest that war exposure might contribute to adverse parenting practices, there is also evidence to question whether this is indeed the general pattern for all war-related families.* (Eltanamy *et al.*, 2019, p.5)

## **Method**

For the qualitative part of this study, semi-structured interviews were conducted with Eritrean refugee parents in Ethiopia and the Netherlands (11 interviews) and experts on the Eritrean population in these places (2 interviews and 1 workshop). The interviews focused on parents' PTS (not depression or anxiety) and on parental cognition (not parenting behaviour). The impact on the child is not explored. Based on previous research on refugee parents, low parental self-efficacy and limited feelings of safety, control and satisfaction were expected.

## ***Sample***

Parents were selected for face-to-face interviews according to the following inclusion criteria: They had to be a parent (mother or father) of at least one living child under 18, Eritrean, refugees in Ethiopia or the Netherlands, and had experienced trauma. The parents interviewed (n=11; 6 mothers and 5 fathers) were 31-years old on average and had between 1 and 5 children. Their children were 9-years old on average and two-thirds of them were boys (see Table

14.1). Most of the children of the sample parents (n=28) were born in Eritrea, only a few were born in Ethiopia or Sudan during the migration and two in the Netherlands. One of the interviewed fathers was expecting his second child. The great majority of these children now live with both parents in Ethiopia or the Netherlands. Often, the father left Eritrea first, leaving his family behind for several months, travelling through Ethiopia, Sudan, the Sinai (Egypt), Libya and Italy. Most of the mothers left Eritrea later with their children to join the fathers and stayed in camps in Ethiopia for several months, sometimes more than a year, before arriving in the Netherlands in the last six months. Two parents were still separated from several of their children, who remained in Ethiopia or Eritrea awaiting family reunion. The preliminary findings of this study were discussed with two experts on Eritrea and Eritreans in camps in Ethiopia, as well as with the participants of a workshop on Eritrea in December 2018.

*Table 14.1. Socio-demographic statistics of the sample group*

	Mothers (n=6)	Fathers (n=5)	Total (N=11)
Parent's gender	54.5%	45.5%	100%
Parent's age (years; average and range)	29.5 [21–42]	34 [26–44]	31.5 [21–44]
Number of children (n=28; average and range)	2.8 [1–5]	2.5 [1–5]	2.6 [1–5]
Children's age (years; average and range)	8 [0–24]	9 [0–17]	9 [0–24]
Children's gender (boys)	71%	63%	68%
Country of residence:			
- Netherlands	83%	80%	82%
- Ethiopia (camps)	7%	20%	18%

***Procedure***

The interviews took place between August and December 2018 in Ethiopia (2 in Hitsats refugee camp), the Netherlands (5 in parents' homes, 4 in the Central Agency for the Reception of Asylum Seekers) and Belgium (expert interviews, as well as a workshop). Most of the

interviews were conducted in Dutch, English or Tigrigna with an interpreter. The interviews with parents were conducted face-to-face based on a semi-structured questionnaire by Bénédicte Mouton and Rick Schoenmaeckers with the help of Klara Smits and Jakob Hagenberg. Each interview lasted between 45 to 90 minutes. Parents signed an informed consent form to participate and were guaranteed confidentiality. The data from the interviews has been anonymised and names, dates and places of the interviews are not detailed to guarantee confidentiality. The interviews with experts and the workshop were conducted in English by Bénédicte Mouton, Rick Schoenmaeckers, Jakob Hagenberg and Mirjam Van Reisen. All information is available from the authors on request.

The interviews covered the following four issues:

- Feelings about parental satisfaction, safety, control, competence
- Assessment of parental self-efficacy using the ‘me as a parent’ (MaaP) questionnaire (Hamilton, Matthews & Crawford, 2015)
- Sources of parental self-efficacy: past experience, vicarious experience, feedback from others, physiological and emotional input
- Assessment of level of trauma using the short version of the Impact of Events Scale (IES-Short), as used by Kidane and Stokmans (2018)

### ***Measures***

Parental self-efficacy was measured using the Maap questionnaire (Hamilton *et al.*, 2015). This self-report consists of 16 items using a 1–5 Likert type scale (from strongly disagree to strongly agree) measuring parental self-efficacy, personal agency, self-sufficiency and self-management. Scores can range from 16 to 80 on the total scale and 4 to 20 on each of the subscales. According to the authors, this shows good internal consistency for the total scale and separate subscales (Cronbach’s from  $\alpha=.85$  to  $.63$ ). Note, one mother could not be interviewed on this questionnaire because of time constraints.

Trauma was assessed using the IES-Short (Kidane & Stokmans, 2018). This scale is a 7-item self-reporting tool that measures intrusion, avoidance and hyperarousal. Scores range from 1 (not at all) to 5 (extremely), with a mean score as total score. In addition, the semi-structured questionnaire investigated parents' feelings of agency, safety, competence and satisfaction, as well as the four main sources of self-efficacy identified by Bandura (1977) (past experiences, vicarious experiences, feedback from others and physiological/emotional input) through open-ended questions and visual scales from 0 to 10.

## Results

The feelings expressed by most interviewees about being a parent were very positive: "I feel happy. When my child is happy, I am happy" (Mother#2, interview, Ethiopia, 27 August 2018). Only three parents expressed mixed feelings. A mother whose children are still in Ethiopia and with whom she has been separated for the last six months explained that it was a difficult situation for her, knowing that they were alone there in an unsafe situation, especially one of her girls. Here, being a good parent was related to being present with the family in times of hardship. Similarly, a father separated from three of his four children (captured or alone in Eritrea) explained that he did not feel entirely good because he could not see his children grow, live, eat, drink (Father#5, interview, the Netherlands, 22 September 2018). When not present with their children, the interviewed parents reported feeling scared, guilty and powerless.

One father also mentioned post-migration stressors. He expressed his happiness about being a father, but described stress due to the responsibility involved and lack of resources:

*Everybody looks up to me, they want things from me, nobody supports me. [...] when I got the second child, I got more stress. [...] The good side is to have a family, but to have a good family without anything is difficult. [...] They need clothes, food, to go to school. I think about that, next year, next month. This makes me very stressed.*

*I have stress, but what can I do? I continue with my stress.* (Father#1, interview, Ethiopia, 27 August 2018)

When asked about what makes a good parent, most parents highlighted the necessary skills it takes to parent, as well as warmth: “who cares for his child and who has love in his home is a good parent” (Mother#2, interview, Ethiopia, 27 August 2018). When specifically asked about skills compared to luck to explain what it takes to be a good parent, all parents interviewed clearly expressed the view that what makes a good parent is not luck or destiny, but possession of the skills to raise children. “My children are raised by my choices, not by luck”, explained one father (Father#1, interview, Ethiopia, 27 August 2018). “Sometimes it is difficult, it needs hard work, to see everything the child needs and for the child’s ambitions. Family making is a process, luck can be part of it, but it is mostly hard work”, said another father (Father#3, interview, the Netherlands, 12 September 18). “You need a good education to be a good father”, he continued. Several of them had religious beliefs, but insisted that “It is first because of us. If you do something, you get something from God” (Mother#7, interview, the Netherlands, 9 October 2018). Another mother explained “I do my best and God also contributes” (Mother#8, interview, the Netherlands, 9 October 2018).

Their feeling of safety was high. All interviewees, both in Ethiopia and the Netherlands, expressed a feeling of safety as a parent (between 8 and 10 on a scale from 0 to 10). They expressed very limited fear, only the fear that any parent would feel about their children (“that he falls or hurts himself, just life” (Mother#7, interview, the Netherlands, 9 October 2018). Similarly, feelings of control and satisfaction were highly rated (between 9 and 10): “I am happy because there is not more I can do” (Mother#2, interview, Ethiopia, 9 October 2018). “Here, I feel safe and free, I can do everything, I get attention and help” (Mother#10, interview, the Netherlands, 9 October 2018). Yet, some nuances were expressed in relation to this feeling of control. One mother separated from her children said that it was difficult, but she added: “I have to be in control because I am a mother, but it is difficult” (Mother#8

interview, the Netherlands, 9 October 2018). This may indicate a feeling of control perceived as a parental requirement, a ‘must-feel’ more than a genuine feeling of control, relating to a coping strategy for PTS.

These feelings of safety, control and satisfaction differed when we asked interviewees how they felt back in Eritrea. “In Eritrea, it was good and difficult. I was in the army but happy to have a child. But I could see my wife only once a year” (Father#6, interview, the Netherlands, 9 October 2018). Most mothers felt alone because of the absence of their husbands who had gone to the military. The feeling of safety of interviewed parents lowered to 0 and maximum 5 (out of 10). Fears were much larger, related to being alone for some mothers and scared for themselves, their children and their husband. The feeling of control as a parent seemed less strong too: “sometimes I controlled, not always” (Mother#7, interview, the Netherlands, 9 October 2018). But satisfaction and competence were positively evaluated even then. “The love I have for my children is the same here and in Eritrea” (Mother#9, interview, the Netherlands, 9 October 2018). But several mothers mentioned that, even though they did their “best as a mother; it was not always good there” (Mother#8, interview, the Netherlands, 9 October 2018). “It was not possible to be a good mother there. I could not control things, my children would go to the military<sup>59</sup> and I did not have enough money” (Mother#9, interview, Netherland, 9 October 2018). Another mother shared that, for her own mother who lived in Eritrea, “Being an Eritrean mother in Eritrea is to be a mother, but not have children” (workshop discussion, Belgium, 13 December 2018). Her mother had gone through the loss or disappearance of all her children. Some were sent to military service and died, some were imprisoned, and some were kidnapped from her home. Hence, she was mother, but without children.

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<sup>59</sup> In Eritrea, there is currently indefinite military service for anyone aged 17 or more (Sterckx *et al.*, 2018).

### ***High level of parental self-efficacy***

All parents said that they felt competent as a parent. In our sample, fathers had a higher level of self-efficacy than mothers and a lower level of trauma (see Table 14.2). One parent in the Ethiopian camp expressed a more nuanced feeling of competence in the domain of teaching her child: “I teach him as I can. I don’t know if this is enough, but I teach him” (Mother#2, interview, Ethiopia, 27 August 2018). She expressed feeling competent to teach her child about the world, at least until her child went to school. When asked about staying focused on the things they have to do as a parent, even when they have had an upsetting experience, most parents said that they could do it. The mother separated from her children explained: “[I try] to protect myself as much as possible. When it becomes difficult, I go outside to cry” (Mother#8, interview, the Netherlands, 9 October 2018).

Compared to norms in the general population (Hamilton *et al.*, 2015), the Eritrean parents interviewed here showed higher scores, 1.19 standard deviation above the mean for total score, 0.63 for mothers and 1.79 for fathers, respectively.

*Table 14.2. Results from the parental self-efficacy and trauma questionnaires (mean scores)*

	Mothers (n=5)	Fathers (n=5)	Total (n=10)
Parental self-efficacy:			
Self-efficacy	16.8	18.4	17.9
Self-sufficiency	17.0	18.4	17.7
Self-management	16.8	18.8	17.8
Parental agency	16.6	18.4	17.5
Total score	67.8	74.0	70.9
Trauma:			
Intrusion	3.40	4.00	3.50
Avoidance	3.50	4.00	3.60
Hyperarousal	3.00	2.33	2.90
<b>Total score</b>	<b>3.48</b>	<b>3.29</b>	<b>3.38</b>

Note: Parental self-efficacy was measured using the Maap questionnaire, which is a 16 items self-reporting tool using a 1–5 Likert type scale (from strongly disagree to strongly agree) measuring parental self-efficacy, personal agency, self-sufficiency and self-management. Scores can range from 16 to 80 on the total scale and 4 to 20 on each of the subscales. Trauma was assessed using the IES-Short scale, which is a 7-item self-reporting tool that measures intrusion, avoidance and hyperarousal. Scores range from 1 (not at all) to 5 (extremely), with a mean score as total score.

### ***Limited use of parental self-efficacy sources***

Most parents seemed to have limited access to past positive or negative experiences as a parent. Most responses were non-specific and global, demonstrating a global perception of their parenting. “I have always been happy as a mother” (Mother#11, interview, the Netherlands, 9 October 2018). “When I was a child, I thought I would be a good parent” (Mother#2, interview, Ethiopia, 27 August 2018). A father mentioned the delivery of his baby (which he heard on the phone) as a positive experience, which made him feel proud. Another father explained that he received a prize at school for supporting his child, which made him feel proud. “I play a great role in helping him” (Father#4, interview, the Netherlands, 15 September 2018). When asked about negative past experiences as parents, most interviewees said that they had never had a negative experience as parent. Only separation from their children was mentioned as a highly negative parenting experience. This was the case for the mother separated from her children, who clearly recalled the moment when she left her children as the worst moment of her life as a parent. Similarly, a father mentioned that when his wife and his child were in Sudan without him, “I was nothing for him. My child grew in Sudan and I was not good for them. But when they came, I felt I became a good leader of the family” (Father#1, interview, Ethiopia, 27 August 2018). One father felt sad because he was not able to give gifts on his children’s birthdays, because of lack of a job and income.

When asking about vicarious experiences, several parents mentioned that they had no model of a good parent. “I do not want to compare to others, I want to be self-reliant” explained a mother (Mother#11,



interview, the Netherlands, 9 October 2018). “They are no model. Everybody is different. I do my best” (Mother#9, interview, the Netherlands, 9 October 2018). When they reported a model, it was almost exclusively about their own mother or father, which is the case for most parents in the general population too. “My father is my model, he is a good father, he knows everything” (Father#1, interview, Ethiopia, 27 August 2018). “My mother! She is still alive, we talk on the phone every two weeks” (Mother#8, interview, the Netherlands, 9 October 2018). Only two parents mentioned other models: For one mother, Dutch mothers were a model. She explained: “When I came to the Netherlands, I said I have to become like Dutch mothers. To take responsibility for my children” (Mother#7, interview, the Netherlands, 9 October 2018). One father mentioned Obama as a role model, which could also be an illustration of this global perception of parenting, generalising life or political models to the specific field of parenting.

Most parents explained that they had limited communication with others about their parenting. They only discussed parenting with their husband or wife. A mother in Ethiopia explained that she discusses parenting only with her husband: “if he didn’t know about it, I discuss with him so he knows. We only discuss about living conditions, how to live” (Mother#2, interview, Ethiopia, 27 August 2018). The mother separated from her children expressed a different experience. She felt that it was “nice to talk to the other mothers, neighbours, to share experiences. They all left someone behind” (Mother#8, interview, the Netherlands, 9 October 2018). A father living in a camp in Ethiopia also mentioned that he talks “maybe with some older neighbours in our community, if we believe it is good, we use this in our house” (Father#1, interview, Ethiopia, 27 August 2018).

Almost all parents had no or very limited access to physiological and emotional sensations about parenting, only a very global perception: “In all parts of my body, I am happy” (Mother#2, interview, Ethiopia, 27 August 2018). When a body part was mentioned, it was most often the head: “My head is busy, I am stressed, I am troubled, I don’t understand what I am doing, I don’t feel in control” (Father#1,

interview, Ethiopia, 27 August 2018). For the separated mother, the main sensation was in her chest: “I am not calm in my chest” (Mother#8, interview, the Netherlands, 9 October 2018). A father mentioned his stomach as the part where he felt the pride of being a father.

### ***High level of trauma***

The level of trauma of parents in this sample can be considered as high, based on the means and cut-offs used in Kidane and Stokmans (2018) study in Ethiopia. We found similar findings about hyperarousal, being the scale where Eritrean parents score the lowest, demonstrating a high level of emotional control. A higher level of trauma is found in parents whose children were left behind in Eritrea or Ethiopia or in young mothers who left their own mother or father behind, illustrating the key issue of family separation.

## **Discussion**

Contrary to expectations, the Eritrean refugee parents interviewed in this study expressed a high level of parental self-efficacy and feelings of control, safety and satisfaction when living with their children. Their level of parental self-efficacy is higher than norms in the general population. It seems that family is perceived by Eritrean refugee parents as the first source of resilience, a “step in life, a step of best life”, explained a father (Father#3, interview, the Netherlands, 9 October 2018). However, parents who were separated from their children, awaiting family reunion, expressed more negative parental cognition.

Several hypotheses can be discussed to explain the high level of parental self-efficacy and feelings of control, safety and satisfaction reported in this study. First, the parenting beliefs of the Eritrean parents interviewed may be related to a perception of parenting as a role and a status, more than related to the actual daily experience with the child. In this view, parenting is about ‘being’ a parent (a static global concept), rather than ‘acting’ as parent (a dynamic specific experience) and may be less influenced by external elements (feedback from others, vicarious experience or role-models).

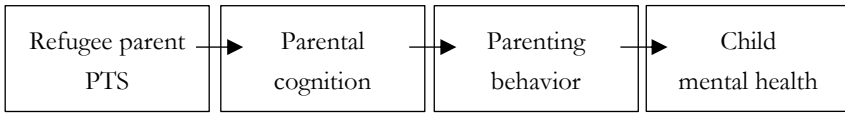
Another possible explanation for these positive parenting beliefs is related to the specificity of the Eritrean family culture. Many parents described being a parent as a genuine source of pride related to belonging to the community, their role in the group in Eritrean culture, characterised by its collective nature. Back in Eritrea, children are the main insurance for their parents, their ‘shoulders during old age’. In such a community family system, contrary to the nuclear family system, children are considered an investment. They are taught skills to look after animals, for instance, so that they can take on this task when their parents are too old to do it. Children are also raised with positive thinking (e.g., ‘you will become a pilot’) and parents encourage their education, with high expectations. That way, “they make parents hopeful” (Expert#1, expert meeting, the Netherlands, 23 December 2018).

The Eritrean political and social context may also contribute to such parental cognition. It is characterised by a high level of political control over the population, even outside the country (Sterckx *et al.*, 2018). In such a context, having a child is an achievement, a sign of protection (especially for girls for whom becoming pregnant is a way of avoiding the military service) and, for some parents, an expression of resistance to political intrusion into the family unit by the government. Being a parent can be the first element contributing to a feeling of control and a factor in resilience.

Trauma may also have affected these parents’ beliefs. As detailed earlier, trauma affects cognitive abilities and perceptions (Cunningham & Renk, 2018). The coping strategies put in place by traumatised parents may reinforce the necessity to have a positive perception of oneself, even if it is distorted. This positive cognitive bias may have contributed to these highly positive parenting beliefs. The comparison with their very difficult situation before migrating or to the situation of other parents who remain in their home country may contribute to a biased positive perception of their current parenting context. How can a parent express any negative feelings in such context?

Trauma may also explain the limited use of PSE resources. The parents interviewed had limited access to their past experiences (memories), positive or negative, and almost no access to any physiological sensations related to parenting. A PTS avoidance coping strategy may explain this. The parents interviewed also made little use of vicarious experience based on good parenting models, except their own parents who were sometimes dead. Trauma may have contributed to a learnt self-reliance or self-sufficiency strategy that contributed to their survival. This could also partly explain the fact that another source of PSE was rarely used: feedback from others. Most parents explained that they barely communicated with others about their children and themselves as a parent.

Besides the impact of trauma, the issue of mistrust in the Eritrean population may be another explanation. This issue of trust has been raised by many researchers interviewing Eritrean refugees in the Netherlands (Graf, 2018; Sterckx *et al.*, 2018). In Eritrean culture, the expression and sharing of negative impacts or thoughts is not valued. This was particularly strong among the mothers interviewed, who had only a limited possibility of expressing negative comments about parenting in the culture, in the presence of their husbands. But the experts interviewed in this study explained that this should not be perceived as a cultural characteristic of Eritreans, but rather as a “learnt lack of emotionality” in response to terror: “You don’t discuss the problems of your household with a neighbour, as it could be devastating for your child” (Expert#2, expert meeting, the Netherlands, 23 December 2018). In the last few decades, Eritreans have learnt that sharing emotions might be dangerous for them, but also for others. If one expresses a negative emotion (fear, anger, sadness), it can be interpreted as a criticism of the government, with the risk of retaliation by the government on relatives: “You risk punishment if you show your feelings. We cannot show compassion, we would put the lives of our relatives in danger. Your child could be kidnapped or killed just in front of you” (Expert#2, expert meeting, the Netherlands, 23 December 2018). It seems that self-censorship is internalised in most Eritrean households.



*Figure 14.3. Theoretical model of the relationship between parent trauma, parental cognition, parental behavior and child psychological health*

## **Conclusion**

This explorative study investigated to what extent the efficacy that parents experience in their parenting is affected by PTS among Eritrean refugee communities in the Netherlands and Ethiopia. Following a literature review, qualitative data was collected and analysed. The hypothesis was that efficacy was negatively affected by the high levels of PTS that new incoming Eritrean refugees experience, both as a result of individual trauma and collective trauma. The expectation was that people with high PTS would experience less positive efficacy in parenting and that this would contribute as intergenerationally transferred trauma into an element in collective trauma.

Contrary to expectations, the refugee parents interviewed in this qualitative study showed a high level of parental self-efficacy, except for parents separated from their children who face the most difficult situation in terms of parental cognition. For the other parents interviewed, the results are reassuring considering the fact that higher levels of self-efficacy are related to more positive parenting and more positive child development.

Yet, our results raise concerns about the emotion regulation skills of traumatised parents, for whom trust is yet to be experienced. Children may be at risk in terms of their socio-emotional development when they grow up with parents who do not share their emotions and have learnt to value self-reliance and exhibit a high level of emotional control. Emotional regulation is firstly about identifying and accepting emotions, and secondly about using strategies to reduce the

intensity of emotions when they are uncomfortable or not socially adapted. Children might learn implicitly and reproduce by imitation that one has to hide emotions, ignore them, and control them, entailing the risk of arousal.

Therefore, the issue here may not be how to increase parental self-efficacy, but how to improve the access of parents to the various sources of self-efficacy, which seem, paradoxically, to be underused. Increasing trust and communication with other parents, improving access to internal physiological and emotional states and increasing self-reflection on parenting experiences could be interesting ways forward for these traumatised parents. This could be particularly helpful in case of acculturation stressors.

But we have to keep in mind the possible challenges of an approach that aims at improving parenting through cognition. Eritrean refugee parents may have found a 'sufficiently good' enough way of parenting, even if it implies high emotional control and self-reliance. They may experience parenting as a safe place for them as parent and, by extension, for their child. Supporting parenting as a better place, and not only a safe place, through the objective of increased self-disclosure with others, could open up some difficulties for parents, if not accompanied and supported by mental healthcare professionals. A trade-off or balance has to be found between these two parenting goals by taking the time to build a trusting relationship with Eritrean parents.

These conclusions also lead to questions about the assessment of parental self-efficacy in traumatised parents by instruments used in the general population, such as the self-report questionnaire. Trauma may have impacted cognitive processes to such a degree that responding to this type of self-reflecting questions may be a difficult task for these parents. It clearly needs time and trust between the interviewees and the interviewer to access such internal processes. Parental cognition is complex and may not be easily accessible for such a population.

Yet, it would be adequate to find creative and respectful ways, considering the key role played by cognition on the relationship between parents and children and the intergenerational impact of trauma. Teti *et al.* underlined how parental self-efficacy serves as the “final common pathway” in the prediction of parenting behaviour and parental sensitivity towards the child in particular (Teti *et al.*, 1996). On this basis, these authors recommended that:

*...although the construct of self-efficacy in clinical experimental research is well established (Bandura, 1986), its importance as a determinant of parenting behaviour, and as a primary target of intervention in its own right, is still evolving. This is a positive trend and one that we hope continues.* (Teti *et al.*, 1996, p. 247)

In the specific context of parental trauma, some authors suggest that PSE is a complex cognitive construct which may vary in accordance with the specific situation parents are confronted with (Eltanamly *et al.*, 2019; Pagorek-Eshel & Dekel, 2015), but that it has a positive effect on parental involvement. It could also reduce the potential negative impact of acculturation stressors mentioned by some to the interviewed parents. PSE could, therefore, be targeted in support programmes for refugee parents, in complementarity with stress regulation, emotional regulation and attachment-based intervention (Juffer, Bakermans-Kranenburg, & Van Ijzendoorn, 2008). Such programmes could support refugee parents to respond to their young children’s emotional cues while at the same time attending their own emotional state, one of the main sources of PSE.

## **Limitations**

The qualitative part of this study explored several key issues in relation to refugee parenting in the Eritrean refugee population in Ethiopia and the Netherlands. However, it has several limitations. The first relates to its small sample size (11 interviewees) and the convenient nature of the sample, with a possible survival bias (the most resilient successfully migrate). It was not possible to use a robust selection method, due to the ethical and practical challenges of working with a highly vulnerable population (Graham *et al.*, 2016).

The second relates to the limited duration of interviews (45–60 minutes), which might not have been enough to build sufficient trust with the interviewee. A longer period of time or repeated interviews would be needed to build trust between the researchers and interviewees. Thirdly, the instruments used to measure parental self-efficacy were also questionable in terms of their universality. For instance, the interviewees were asked about ‘discussing parenting with others’ as a way to measure if Eritrean parents use the resource of feedback from others and vicarious experiences to feel good about themselves as parents. However, maybe exchange with others is done through different means, such as spending time together, watching the parenting of other mothers or fathers, and taking care of others’ children without explicitly discussing parenting. Lastly, the translation into three different languages (English-Dutch-Tigrigna) may have made it difficult for Eritrean parents to understand the questions, in particular when exploring cognition.

In further studies, it would be interesting to disentangle trauma and the sources of stress. Exposure to death or violence (direct versus indirect) may have different effects than displacement or acculturation. Acculturation stressors were not discussed specifically. One father expressed his stress as a father in relation to acculturation: “You have the role, the position but without the information, where to go when there is a problem. Also here ladies express more their needs. In Africa, as a father, you have to guess” (Father#4, interview, the Netherlands, 15 September 2018). A mother mentioned stress due to the freedom children have here (in playgrounds, for instance) with so many different people around them. Stress might be a better, or at least a complementary, measure than trauma alone.

Therefore, more in-depth research is necessary to explore the wider relationship between parental trauma and the parents’ relationship with their child, and the child’s psychological health, with a possibility to look at the mediational role of parental cognition.



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# Journeys of Trust and Hope: Unaccompanied Minors from Eritrea in Ethiopia and the Netherlands

*Rick Schoenmaeckers, Taba Al-Qasim & Carlotta Zanzottera*

### Introduction

The Netherlands has received a large number of unaccompanied minors from Eritrea, with 3,017 arriving between 2014 and 2017 (Immigratie-en

Naturalisatiedienst, 2016; 2017). They travel alone or in groups, either not accompanied by parents or guardians or separated from them. The journeys they have travelled are complex and full of danger. Many arrive traumatised because of what they have been through in Eritrea or during their travels (Sterckx, Fessehazion, & Teklemariam, 2018). When they arrive in the Netherlands, a new journey starts full of bureaucracy and legal procedures, which lead to stress and uncertainty among the young refugees.

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*This study looked at unaccompanied Eritrean refugee minors and their relationships with their caregivers in Ethiopia and the Netherlands. It found that there is misunderstanding and mistrust on both sides of the relationship, which affects the way the refugee minors receive and process information. The authors conclude that discussion of the issues that affect trust would improve the relationship between caregivers and minors. Understanding would provide a strong basis for forging better connections between caregivers and minors and improve the life satisfaction of the minors.*

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This chapter looks at the way in which these minors settle in the Netherlands after their dangerous journeys through the Horn of Africa. Differences are investigated in terms of personal relationships and trust at their first place of arrival after leaving Eritrea, the refugee camps in Ethiopia, and after settlement in the Netherlands. In

Ethiopia, the guardianship for unaccompanied refugee minors is with the Administration for Refugee and Returnee Affairs (ARRA) and the Norwegian Refugee Council. In the Netherlands, they fall under the authority of the Nidos Foundation (Schoenmaeckers, 2018; Nidos, 2018).

Eritrean refugees have particular difficulties when settling in the Netherlands. They often feel misunderstood and not taken seriously by institutions, and they can have difficulties participating in Dutch society and finding a job. This is partly to do with the fact that the majority have never received much education. They can read and write in their own language, but usually not much more than that. Apart from those who studied in bigger cities at one of the nine colleges in Eritrea, most of the arrivals in the Netherlands come from remote rural areas (Sterckx, Fessehazion, & Teklemariam, 2018).

Research among Eritrean unaccompanied minors in the Netherlands (Kulu-Glasgow, Noyon, Smit, & Shagiwal, 2018) shows similar findings. Additionally, Eritrean minors often have problems with trust and feel that they are not taken seriously by adults. Schoenmaeckers (2018) highlighted that most minors who leave Eritrea come from small border villages. Their education stops at the age of 17, when they are redirected to Sawa Military Training. As well as school, many have worked as shepherds and helped their mothers in the household. Practical or professional skills, other than working on the land and looking after cattle, are seldom acquired.

Eritreans have lived under constant surveillance and control by the state. In Eritrea, almost no-one can work or move freely. Family-members receive fines when their children escape the country and intimidation by government officials is a common method of control. This results in a culture of fear and secrecy, affecting young Eritreans and forcing them to leave the country (Van Reisen & Mawere, 2017). Most of the unaccompanied minors from Eritrea did not inform their parents at the time they left Eritrea, and only got in touch with them once they were outside the country (Chapter 6, *Journeys of Youth in Digital Africa: Pulled by Connectivity*, by Rick Schoenmaeckers). Van

Reisen, Al-Qasim, Zanzottera and Schoenmaeckers (2018) investigated the situation of the minors in the care-situation coordinated by Nidos. This research concluded that Eritrean minors suffer from the psychological burden resulting from the particularly harsh journeys they undertook and the ongoing uncertainty and hardships faced by their relatives in Eritrea. More particularly, the research investigated how the minors relate to the carers in their new home country. The research revealed serious trust deficits, which negatively affect the ability of the carers to guide the minors – who are often desperately in need of such guidance.

The research presented here builds on the investigation carried out by Van Reisen *et al.* (2018) in the Netherlands, but also studies the lack of trust observed in Eritrean unaccompanied minors, in part because of their journeys to the Netherlands. In order to do so, the situation of minors in the refugee camp of first arrival – Hitsats, in northern Ethiopia – was studied during a three-month period of field work. The findings of the field work in Hitsats were analysed alongside the findings of the research carried out in the Netherlands.

The design of this research is not just a comparative design in multiple settings. Many unaccompanied minors in the Netherlands have travelled through Hitsats camp, or the other three camps in northern Ethiopia. This research, therefore, allows the investigation of how issues of trust emerge and develop over time, as the minors travel through these different locations, towards the final destination (in this case the Netherlands). The study was carried out as ethnographic field research, making use of observations-in-presence, interviews and focus group discussions.

### **Feelings as information**

The chapter is based on the theoretical framework of Schwarz (2010), the feelings-as-information theory. This theory outlines how emotions, moods, metacognitive experiences, and bodily sensations influence one's feelings and judgements. Consequently, feelings are considered an important way of processing information. The way

information is received and processed, differs from person to person, as well as at different times and in different situations. If someone is in a good mood when receiving bad news, the news is processed differently than if they are in a bad mood. “The theory [of feelings-as-information] postulates that people attend to their feelings as a source of information, with different types of feelings, providing different types of information” (Schwarz, 2010, p. 8). Raghunathan and Pham (1999) outline how feelings interfere with one’s ability to process information. If people are sad or anxious, they might process information less systematically when making judgements or decisions. This is also reflected in people’s motivation to achieve tasks: sad or anxious people tend to choose emotionally rewarding options instead of the best option to achieve a certain result. Such decisions are made in order to ‘feel good’ at the specific moment, not necessarily to improve the long-term situation.

Jonas-Simpson (2001) highlighted how being misunderstood can lead to feelings of isolation and being disconnected – whereas being understood, can lead to feeling connected. Jonas-Simpson used psychology literature for her analysis. She outlined that the feeling of being understood is linked to receiving empathy. Receiving empathy makes one feel valued, cared for and accepted, and dissolves feelings of alienation. Consequently, Condon (2010) described how feeling misunderstood can lead to a feeling of being betrayed, disappointed, lonely, out of place, disregarded and judged. These feelings affect the way information is processed and consequently harm trust.

Unaccompanied minors from Eritrea have difficulty trusting adults, including the people who are supposed to take care of them. In Nidos, the minors are cared for by adults who work as social workers and guardians and who, subsequently, develop difficulties trusting the minors as well (Van Reisen *et al.*, 2018). Such a relationship can have a negative effect on the minor’s integration and participation in the host society, which automatically has a negative effect on their wellbeing.



Trust is defined in this research as a: “positive feeling about or evaluation of the intentions or behaviour of another, and conceptualize[d] ...as a discursively created emotion and practice which is based on the relations between the ‘trustor’ and the ‘trustee’” (Lyytinen, 2017, p. 489). Trust is, therefore, the basis for harmonious relationships. The ability of refugee children to trust adults to take care of them is often shaken by past experiences, such as experiences in their country of origin and during their migration journey, as a result of which a psychosocial crisis can develop, the symptoms of which can include a feeling of mistrust, self-doubt and inferiority (Lustig *et al.*, 2004).

Accordingly, this research looks at the role of feelings in the development of trust in the personal relationships of unaccompanied minors from Eritrea in Ethiopia and the Netherlands. It seeks to answer the following research question: *To what extent can the concept of feelings-as-information help explain trust (or lack of it) in the personal relationships of Eritrean unaccompanied minors on their migration trajectories and with their caregivers in the Netherlands?*

## **Context**

In Ethiopia, refugees from Eritrea arrive daily in the northern province of Tigray. The Eritrean refugee population in Tigray was 72,772 on 31 December 2018. Of this number, 10,540 were unaccompanied minors (UNHCR, 2018). They are provided with shelter and basic resources in four refugee camps: Mai Ayni, Shimelba, Adi Harush and Hitsats. Most unaccompanied minors stay in Hitsats. The children fall under the responsibility of ARRA; in Hitsats the Norwegian Refugee Council takes responsibility for the care of the children. They are housed in different care arrangements including foster, kinship and community care. Most minors live in community care. In this arrangement, they live together with 10 peers in houses of approximately 10 square metres in size. Social workers are employed by the Norwegian Refugee Council; they are refugees themselves and work with the children (Schoenmaeckers, 2018).

Most minors want to reach Europe or the United States via the legal registration and resettlement procedure of the United Nations High Commissioner of Refugees (UNHCR). However, registration for resettlement in Hitsats is for refugees aged 18 years and over. This means that the minors have to wait, sometimes many years, to register. After being registered, people have to wait an undefined period of time before being resettled – if they have a strong case. Minors who have resided in the camp for many years before turning 18-years old do not generally have a strong case, which means that their future involves many years of uncertainty. Additionally, family reunification processes outside Ethiopia are complex. Procedures are time consuming and minors can have difficulty getting in direct contact with the responsible officials from UNHCR. They also lack the assets to communicate easily and directly with family members abroad, which complicates the process further (Schoenmaeckers, 2018).

Between January 2014 and July 2017, 10 to 15% of all asylum applications in the Netherlands were from Eritreans, a total of 17,000 people. Although immigration and asylum policies are becoming more and more restrictive, most refugees from Eritrea are granted asylum in a relatively short period of time (Rath, 2009; Sterckx *et al.*, 2018). Whereas the majority of the Eritrean refugees arriving in the Netherlands are single young men, a considerable number are unaccompanied minors. Many of them become embroiled in a long and frustrating process of family reunification. Most of the time family reunification does not succeed due to missing documents. Such documents are absent because they were never issued in the small rural villages where the minors are from, or because were lost during their journey (Sterckx *et al.*, 2018; see Chapter 16, *Refugees' Right to Family Unity in Belgium and the Netherlands: 'Life is Nothing without Family'*, by Mirjam Van Reisen, Eva Berends, Lucie Delecolle, Jakob Hagenberg, Marco Paron Trivellato & Naomi Stocker).

In the Netherlands, unaccompanied refugee minors fall under the legal responsibility of Nidos. In 2017, 4,469 minors received guardianship from Nidos, of which 1,436 were unaccompanied

minors from Eritrea (Nidos, 2018). Nidos assigns a mentor and a guardian to each minor and provides accommodation. The different care arrangements in the Netherlands include foster and kinship care, as well as group care facilities. In the smaller units, children live in groups of 6 to 10 and receive care from their mentor 24-hours a day. In other living units, minors live more independently with 16 or 17 others. There is also campus housing, where approximately 80 to 100 minors live together.

## **Methodology**

The field work for this study was conducted in Ethiopia (by Rick Schoenmaeckers) and the Netherlands (by Taha Al-Qasim and Carlotta Zanzottera) from January to August 2017. In Ethiopia, the main part of the research was conducted in Hitsats Eritrean Refugee Camp, but data was also collected in Shimelba Eritrean Refugee Camp, Endabagoona Screening and Reception Centre and in the city of Shire. In the Netherlands, the field work was carried out in six refugee centres for unaccompanied minors, located in the centre, south, south-west and south-east of the Netherlands.

In Hitsats, 16 minors were interviewed. Focus group discussions and workshops were held with the same group of participants in two age groups: 12 to 14 and 15 to 17 years old. Most of the minors who participated in the study came from southern rural regions of Eritrea and belonged to the Christian Tigrinya ethnic group. Seven interviews were conducted with ARRA camp coordinating officers, UNHCR officials and officers from the Norwegian Refugee Council. In addition, informal interviews were conducted with officials of livelihood and relief providing non-governmental organisations (NGOs). Apart from one of the research coordinators who speaks the languages of the minors (Arabic and Tigrinya), the other researchers made use of translators during the field work. Particular precautions were taken to vouch for the integrity of the interpreters, who were asked to also assist in a cultural interpretation of the questions to build a conducive environment for the research. For this, the translators received training.

In the Netherlands, the first three respondents were selected together with Nidos. The rest were introduced by the participants using snowballing technique. In total, 25 minors, 11 guardians, 7 mentors, and 2 regional managers of Nidos were interviewed. Most of the minors were 17-years old and were Christian Tigrinyans. Most of them came from rural southern and central parts of Eritrea. A few of them belonged to the Muslim Tigre ethnic group, from western rural parts of Eritrea. Only two boys came from the cities of Keren and Asmara.

The data consists of transcripts of interviews and notes of observations, workshops and focus group discussions. The data was analysed with the use of the qualitative analysis program Atlas.Ti. During the first phase of the analysis, coding sessions helped to create structure in the data. Thereafter, thematic coding sessions made it possible to find related and coherent issues. Relational concept trees and a structured database were used to analyse the data in a comparative way between the different areas (Bryman, 2012).

### **Ethical considerations**

Parental consent is key when talking about ethical research on children (Morrow & Richards, 1996, p. 90). The issue in this research was that the parents of the participants were absent. Therefore, the legal guardians were carefully informed and their consent obtained. In Hitsats, the research was carried out with the approval of ARRA and the Norwegian Refugee Council and, in the Netherlands, with the approval of Nidos. Secondly, informed consent was carefully obtained from all participants. In this way, the autonomy and safety of the individual was respected and it was ensured that the participants were fully aware of what they were participating in (Ellis, Kia-Keating, Yusuf, Lincoln, & Nur, 2007). In addition, unaccompanied Eritrean minors are often traumatised; hence, they are a vulnerable group that should be approached carefully and ethically conscious (Van Reisen & Mawere, 2017). Therefore, the interpreters and translators who assisted during the research received

training on how to be ethically responsible while conducting research on unaccompanied minors.

### **Ethiopia: Trust in the refugee camps**

When minors from Eritrea decide to cross the border into Ethiopia, they enter a trajectory in which they encounter new experiences and difficulties. As soon as they are collected by the Ethiopian military after crossing the border, they are brought to the Endabagoona Screening and Reception Centre. During a visit by one of the researchers to Endabagoona, there was a new group of approximately 80 refugees, many young children, but also adults and the elderly. Some had arrived after days of dangerous travel to the border and others after a walk of just a few hours without any difficulties. All people sat in the sand on the ground and were looking around expressing fear and uncertainty. After Endabagoona, most unaccompanied minors are redirected to Hitsats.

In Hitsats they encounter new structures and people from different organisations. The people who the minors feel most confident with are the social workers. The social workers are mainly young refugees themselves and hold positions such as team leader and community leader for the unaccompanied minors. In these positions, they monitor and motivate the minors to go to school and intervene when there are arguments between minors. They are mentor figures to whom the minors can go whenever they encounter a problem or have a question. They are employed by the Norwegian Refugee Council and are paid a small salary for the work they do. The comfortable relationship between the minors and the social workers highlights the importance of equal relationships in which hierarchical differences are less dominant. The social workers live with the minors in their communities and spend much of their time with them. This, together with the fact that they are refugees themselves, makes them feel like 'one of them'. Consequently, this feeling creates a relationship in which trust comes naturally.

Power differences between the refugees and staff – other than social workers – in the camp are evidenced by clear demarcations. In Hitsats, this demarcation is physical, in the form of an unpaved road that splits the humanitarian organisations (in enclosed compounds) from the refugee dwellings. At the end of the road is Hitsats town, which is only accessible to refugees before 9 pm. When camp residents were invited by the researchers into the compounds of the NGOs, they denied the invitation, preferring to wait outside on ‘their’ side of the road. It could be observed that the refugees did not feel comfortable going into the NGO compounds, evidenced by their reluctance to enter.

Another example that emphasised the distance between the camp residents and the personnel of the humanitarian organisations is that during the field work in the camp, humanitarian staff barely walked around inside the camp, nor were they seen spending time with the refugees inside their communities. The personnel of these organisations, usually entered the camp in vehicles that took them to specific places inside the camp where they had planned activities or meetings.

Furthermore, camp policies include regulations on the times that the staff of humanitarian organisations can and cannot enter the camp. After sunset, the personnel of the organisations are not allowed to enter the camp because of possible danger, but the camp is full of young children and vulnerable people who are supposedly not susceptible to these dangers. These rules give the impression that ‘danger’ means something different for people who work for an NGO than for people who live inside the refugee camp, and that refugees are valued differently.

In Hitsats, the first interview that was conducted was with R. This interview took place in the company of the case manager from the Norwegian Refugee Council, who is in charge of unaccompanied minor coordination. The interview was difficult and R’s distrust was noticeable in her attitude and behaviour. Answers were whispering and were mainly ‘yes’, ‘no’ or socially-desirable responses. R did not

dare to speak freely about difficulties in the camp or topics like education. The case manager from the Norwegian Refugee Council recognised the behaviour and admitted that more information would not be provided by the minors if the interviews were conducted in his presence.

A gap in communication existed between NGOs and the refugees in Hitsats. For the young refugees, there is a clear division between officials of humanitarian organisations and the residents of Hitsats. Although officials did their utmost to make the communication as inclusive and equal as possible, the gap was palpable. This sense of discomfort with NGOs was not directly acknowledged by any of the respondents; however, certain thoughts about UNHCR were expressed. During his interview, M made his opinion about UNHCR clear:

*RS: Is there anything you miss here in the camp, anything that you would like to have?*

*M: I don't have any relatives in the camp, and also no parents, so I would like to register for a resettlement case, a UNHCR case. That is what I really want.*

*RS: Didn't you do that yet?*

*M: No.*

*RS: Why not?*

*M: They are not serious about the under-aged children.*

*RS: How do you know that?*

*M: Because other children, friends of mine, they have already been registered for two years and they did not get any response yet.*

*RS: But won't you try it yourself then?*

*M: Yes... eh... no.*

*RS: How do you see your near future? What will you do in the next couple of years?*

*M: I am only looking forward to my resettlement registration at the UNHCR.*

*RS: Are you going to wait until you are 18 then?*

*M: Yes.*

(M., interview with Schoenmaeckers, face-to-face, Hitsats, 5 July 2017)

M's confidence in UNHCR was limited. Certain ideas about UNHCR were common among the minors, who had little or no confidence in their procedures. Additionally, information about procedures or other issues was mainly spread by the refugees among themselves. Whenever minors were asked where they got their information from, they always said: "from people" or "from friends". Most information about the camp was also spread via backchannels. This is confirmed by Kulu-Glasgow *et al.* (2018), who reported that these informal sources of information shape the expectations and perceptions of minors of life in Europe. In addition, the minors received information from ARRA who drive through the camp with speakers on their vehicles to make important camp-related announcements.

The respondents also said that they received information from social workers. Personal issues or more intimate concerns were discussed with the social workers. The minors were generally positive about social workers and stated that they trust them more than the other officials who work in the camp. In the interview with Y, the following came forward:

*Y: I decided not to go to Libya and stay here. I will wait for a legal process.*

*RS: Are you already registered for a legal process?*

*Y: No.*

*RS: Why not?*

*Y: Firstly, I don't know where the UNHCR office is. Secondly, I don't know how I have to speak with them – how to speak, how to listen to them, I just don't know.*

*RS: But what is your plan than in order to end up in Germany eventually?*

*Y: I have decided to go to the team leader, and together we will go to the UNHCR office to register my case.*

*RS: Did you do that already, or are you planning to do that?*

*Y: I am planning to first discuss this with my team leader.*

*(Y., interview with Schoenmaeckers, face-to-face, Hitsats, 7 July 2017)*

Y is 12 years old, this means that he has to wait another 6 years in Hitsats before he can apply for resettlement. When he is 18, the probability that Y will have a strong case and be eligible for



resettlement is small, which reveals the hopelessness of the situation for minors.

Whereas confidence in UNHCR was low, whenever minors had relatives outside Africa, they assumed that eventually reunification would be realised. This was the case with A, he had been in Ethiopia for almost one and a half years and was waiting for reunification with his father in Germany:

RS: *You told me that you want to go to Germany, do you know how to get there?*

A: *My father, I am waiting for my father who will send a message to start the process. He will arrange it with UNHCR.*

RS: *So for now you will wait until you can go to Germany via the reunification process?*

A: *Yes.*

RS: *Do you know how long this will take?*

A: *One year.*

(A., interview with Schoenmaeckers, face-to-face, Hitsats, 5 July 2017)

This timespan was also estimated by many other interviewees, especially those waiting for reunification. Minors – as well as adults – do not have a clear idea of how long processes will take, because this information is not provided to them. Therefore, people guess how long it will take, based on the time it took the people around them to have their applications processed.

Regarding this issue, the data demonstrated that unaccompanied minors are too often left without an explanation about how legal procedures work. Therefore, they live in limbo, basing their understanding of the legal procedures and processes on guess work and asking peers or other refugees who are living in the same limbo for answers. These strategies for obtaining information are highly influenced by the way the minors feel – which determines the way in which information is perceived and processed (Schwarz, 2010).

The relative stability that minors had at home in their places of origin changes substantially when they arrive in the refugee camps. Back in

Eritrea, most of the children lived with their mothers and siblings. Their fathers were absent in their daily lives because they were serving in the National Service or had already left Eritrea. Back in Eritrea, the minors went to school, helped in the household and worked as shepherds or searched for gold. In Hitsats, they were usually unable to continue their education. They lived together with their peers and parental authority was absent. As only primary education was available in the camp at the time of the research, only the youngest children could go to school. However, there was no obligation to do so, hence, they could also decide not to go. If not attending school, the minors went to church, played with their friends or stayed in their houses.

In this setting, dependency and reliance on peers was evident. This reliance became clear in various situations. For instance, minors described how they supported and helped each other. The strong interdependence between the minors was expressed in several interviews. During one interview, M described how the young girls support each other:

RS: *Do you have any very bad experiences that maybe left a mark on your life, something very stressful?*

M: *I have a medical problem.*

RS: *Ok...*

M: *Whenever I am asleep, suddenly I wake up and walk outside. When this happens, my friends go outside and try to catch me and bring me back. When I am outside in the night a lot of stress is triggered.*

RS: *How has this left a mark on your life? Does it feel like a life-threatening situation for you? The sleepwalking I mean.*

M: *Yes. Sometimes I want to commit suicide.*

RS: *Does anybody know about this?*

M: *Yes, they know.*

RS: *Do you have psychological help?*

M: *No, but I use traditional water – like holy water. There is this religious place, traditional religious place, where they use this water, like a medicine. I am using this now for seven months.*

RS: *Is that helping you? Do you know the reason why you are so sad?*

M: *I think that... when I walk alone, someone is following me, like Satan; Satan is in me.*

RS: *Are you followed by Satan?*

M: *Yes.*

RS: *What does he do?*

M: *At midnight he makes me walk outside.*

RS: *Was this also in Eritrea or just here?*

M: *It started here.*

(M., interview with Schoenmaeckers, face-to-face, Hitsats, 6 July 2017)

The way M is dealing with her problem shows resilience. Stories like M's are not unique; other minors explained that friends of theirs were possessed by evil spirits such as *Buda* or *Zar*<sup>60</sup> and described how they help each other. One boy explained in detail how they tried to get a bad spirit out of their friend's system by using methods they had learnt back in their villages:

*When Buda attacks you, your friends have to grab you and ask you "who is the Buda inside you?". If you don't say who it is, they will punish you until you say it. We do it like this: We put water in your nose until you tell us, if necessary, we empty a whole jerry can in your nose! As soon as we know Buda's name, we will ask him to get out and leave.* (Focus group discussion, Schoenmaeckers with 4 respondents, face-to-face, Hitsats, 2 August 2017)

The method outlined above emphasises the need the minors feel to fight evil spirits and the effort they put into helping each other in such situations. Trust and loyalty between peers and friends was evident. As such, resilience, and reliance on each other carried the young refugees through difficult situations. Nevertheless, in the Ethiopian refugee camps, the unaccompanied minors from Eritrea live a life of uncertainty and hardship. The lack of basic resources (Schoenmaeckers, 2018) makes it even more difficult and is pushing

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<sup>60</sup> Buda and Zar are evil spirits that can take control of people. It is argued by Baye Berihun Asfaw that Zar is "haunting and controlling people and making them their own property" (Asfaw, 2015, p. 83). The Buda spirit is transmissible: "The evil spirit lives in people's the families. If a person is possessed by Buda, it takes seven years until one becomes capable of transmitting the evil spirit" (Asfaw, 2015, p. 84).

even the youngest refugees out of these situations. The next step many take is the dangerous and difficult journey to Sudan, Libya and Europe.

### **The Netherlands: Dealing with a new hierarchy**

In the refugee centres in the Netherlands the minors come across different hierarchical structures than in Hitsats camp. Minors in the Netherlands have to deal with many different practitioners: mentors, guardians, cultural mediators, translators, and lawyers, etc. This results in confusion in terms of roles and a distance between the minors and the (long chain of) caregivers. From the minors' perspective, the child-care system in the Netherlands is a fixed and structured hierarchy.

In addition, long and bureaucratic processes are encountered in the Netherlands. These processes bring with them difficulties for the minors in the new environment. The need of caregivers to fill in forms and documents in order to share a common guideline concerning guardianship is perceived as an imposition of the system on the minors. They reported feeling like 'objects of scrutiny', instead of subjects in charge of their own lives. Overly technical procedures, such as document finding and the filling out of forms, are experienced as alienating. Feeling like an object of scrutiny negatively affects these children. Consequently, such negative feelings might alter the information the minors receive from and about their caregivers, leading to a biased perspective (Schwarz, 2010).

Furthermore, the workload of guardians and mentors is experienced as too heavy, which makes spending quality time with their pupils an issue. The average caseload of one guardian can be up to 20 children. In the Netherlands, minors and caregivers reported that spending quality time and being around helps in building trust (Van Reisen *et al.*, 2018).

When the minors arrive in the Netherlands, the social context is completely new. For Dutch caregivers, the social context of the

unaccompanied minors from Eritrea is also new and relatively unknown. This dynamic brings with it misunderstandings, suspicions and, as a result, mistrust on both sides. The inability to understand and acknowledge each other's social context is explained in the words of the following two minors:

*If you question them [caregivers] about family reunification they say: bring the documents. But to get these documents [...] they don't know how we can, they don't have a clue about the problem. Our country's situation is extremely unique. They don't understand.* (S.A., interview with Al-Qasim, face-to-face, the Netherlands, 18 May 2017)

*We cannot talk to our parents, how are we supposed to get our documents here to start the procedures of family reunification? People here don't understand us. I don't think our mentors and guardians have a broad picture of our situation.* (SI, interview with Al-Qasim, face-to-face, the Netherlands, 19 May 2017)

These quotes show that the minors feel that they have to continually repeat the fact that it is impossible to obtain the documents required for the family reunification process, which leads to frustration and a feeling of being misunderstood. Additionally, it reveals the lack of familiarity of caregivers with the situation in Eritrea. However, these documents are required by law and caregivers can do little about this. The minors blame this requirement on the caregivers, which shows confusion in terms of their role and a lack of awareness of Dutch legal procedures.

The lack of information provided to the minors leads to 'one-way communication'. Minors are asked questions by the caregivers, but do not feel that they answer their questions. This leads to them feeling like an object of scrutiny:

*I tell you an instance: if you tell something to one mentor, she either writes it or tells it to her colleagues, even small things. In the complex where I live there is one mentor who keeps quiet and she is trustworthy. The others, if you tell them please do not tell, they would go straight and tell it: 'Bum'. But we know them one by one, who lies who keeps secrets and who is trustworthy. We study them like they study us. We*

*know them very well.* (B., interview with Al-Qasim, face-to-face, the Netherlands, 12 June 2017)

The minors said that they often feel that the caregivers give fixed answers. The following quote is an example:

*There is one bad thing about this country. They all operate at the same level. They share the information and they all know everything about us, they sit in a meeting and they talk about you only. And they agree with certain issues and on what to reply to you or what not to reply.* (B., interview with Al-Qasim, face-to-face, the Netherlands, 12 June 2017)

B and his peers assume that the information that they give is used against them. They feel that there is no room to manoeuvre in a system where caregivers share information with each other and give fixed answers. Additionally, unaccompanied minors from Eritrea bring their prior experiences of being intimidated by security officials in Eritrea to their experiences in the Netherlands, which generates fear and mistrust of Dutch officials. The result of the feeling of being scrutinised is secrecy on the part of the minors.

The guardians pointed out that trust is all about good communication. This begins with speaking the same language as well as cultural awareness. This was confirmed by the young respondents. The following quotes from two guardians clarified this:

*Sometimes we observe behaviour that we don't understand, also because of the environment they come from, Eritrea, is so different from the Netherlands, where I come from. So, what helps me is considering their behaviour and asking myself: why does she-he behave like that? For instance, I have felt like unaccompanied minors from Eritrea were rude while talking to me, later someone explains me that in Tigrinya there is a lack of words, therefore it is normal to express yourself like: "Do this! Do that!" This helps me all the time, I realise that this has nothing to do with me, but it is just their way of thinking or behaving.* (Guardian, interview with Al-Qasim, face-to-face, the Netherlands, 27 July 2017)

*Eating together or talking small talk in Tigrinya for instance 'Kemey alleka' – meaning how are you doing? 'Kemey haderka' – How was your night (did you sleep well) usually helps with getting close to each other.* (Guardian, interview with Al-Qasim, face-to-face, the Netherlands, 11 May 2017)

Cultural awareness is of the utmost importance in building trust (Van Reisen *et al.*, 2018). Caregivers gave examples of the causal link between trust and cultural awareness. They pointed out that there is a need for “[...] injecting culture in every bit of our thinking from the top down” (Guardian, interview with Al-Qasim, face-to-face, the Netherlands, 11 May 2017) and that avoiding labelling Eritreans as mistrusting, negotiating and ‘followers’ is crucial in building trust.

### **Resilience and aspirations: Strategic behaviour versus cooperation**

Kulu-Glasgow *et al.* (2018) point out that the majority of the unaccompanied minors envision a future in the Netherlands – no matter what the outcome of their asylum application is. This was also recognised by the researchers in this research; the minors did their best to integrate, participate and support each other where possible. Observations in the Netherlands, as well as in Ethiopia, showed how they support and care for each other in difficult situations. The minors help each other materially by lending each other money, but also psychologically during mourning rituals, by counselling each other and contributing financially in time of crisis when, for example, someone’s relative is the victim of human trafficking and ransom has to be paid. The respondents expressed hope and concern for their own and each other’s futures. One minor commented that:

*After a job interview, I realised that I have goals. I said to myself that I had to speak the language; that I cannot do without the language. Therefore, I took my schooling very seriously. I wanted to learn and be somebody.* (A., interview with Al-Qasim, face-to-face, the Netherlands, 11 May 2017)

The aspiration to take advantage of education opportunities to ensure success in the future was expressed by most minors. They were

concerned to be able to speak Dutch and English and had a sense of the need to prepare for future work and wellbeing in the host society.

Some emphasised the need to keep some private issues strategically to themselves. Such behaviour may be a legacy of their experiences of the political and social situation in Eritrea, where choosing secrecy and silence is considered a safer strategy than talking and self-revelation (Van Reisen *et al.*, 2018). However, the minors justified their approach as a strategy to deal with a system in which they feel scrutinised. For instance, one said:

*When it comes to holding secrets, mentors and guardians do not keep them [laughs]. In fact, they are right, it is their job. They must write reports. Personally, I don't talk or share some of my secrets with them.* (F., interview with Al-Qasim, face-to-face, the Netherlands, 9 August 2017)

Furthermore, the one-way communication that was experienced by the minors led them to study and observe mentors and guardians themselves. This behaviour was the minors' way to get the information they wanted. A guardian confirmed that minors did not want to share much with them:

*Sometimes their families are directly involved in the decisions they make here. Unaccompanied minors do not want to tell us the reasons for that, they don't want to talk about their families. So, when we say let's call the family together, they don't want to do it.* (M., interview, with Al-Qasim, face-to-face, the Netherlands, 25 May 2017)

Whereas some minors decided to not share much with their caregivers, others created narratives in order to find ways around the system. Such narratives were not always lies in order to obtain what the minors wanted, but were narratives created by family members or themselves that they had started to believe over time. One guardian explained:

*First, those are not lies. Sometimes, children have been sent away with a particular story which, as time passes, ends up being real in their mind even though the truth is*



*different. I give you an example: Once, something bad happened to a boy. In one hour, we got phone calls from everywhere, Italy, Austria, [...] asking what happened to the guy. When the boy came with us [Nidos], he stated: 'I don't have family, I am alone, help me'. When a boy claims that he doesn't have a family, I doubt it as I know it might not be true. (W., interview with Al-Qasim, face-to-face, the Netherlands, 4 May 2017)*

Such stories demonstrate that the minors deploy a range of coping mechanism aimed at preserving a degree of dignity and wellbeing. When the objectives of officials, humanitarian organisations and caregivers corresponded with those of the minors, cooperation from both sides was the chosen strategy. When the objectives of the officials and caregivers did not correspond with those of the minors, other strategies were observed. The imposition of the objectives of the officials of humanitarian organisations and caregivers on the minors resulted in the use of strategies to find cracks in the system. Such behaviour included secrecy and self-crafted narratives.

## **Conclusions**

The purpose of this research was to comparatively investigate the role of feelings in the development of trust in the personal relationships of unaccompanied minors from Eritrea in Ethiopia and the Netherlands by using the concept of feelings-as-information. It is important to remember that “There is nothing natural or automatic about trust. Trust grows and develops in every individual and is shaped by the environment in which a person interacts with other people” (Eisenhower & Blacher, 2006). Mutual understanding leads to connections between people (Jonas-Simpson, 2001). If people understand each other, feelings towards the other improve. Positive feelings lead to better judgements of life satisfaction (Schwarz, 2010).

The relationship with social workers in Hitsats (Ethiopia) were harmonious and based on trust. These social workers lived in the same situations as the minors, as they were refugees themselves. Mistrust appeared between unaccompanied minors and officials of humanitarian organisations in Hitsats, especially if information was

unclear and the objectives of what the care workers were doing was unclear to them. Information was spread among the minors themselves and they generally did not understand the procedures of the refugee agencies. They wanted to reach out to higher officials, but they did not know how and what they should tell them.

In the Netherlands, the minors, guardians and mentors were not all refugees themselves with the same rights and duties. The relationships of unaccompanied minors with Dutch caretakers in the Netherlands were more complex and mistrust between them was evident. Minors are not familiar with the roles of the caregivers in the Netherlands. Lack of understanding between them leads to feelings of frustration, being judged and disappointment – on both sides (Condon, 2010).

The relationship between the officials, guardians and mentors in The Netherlands was structured through a clear division in roles. The large number of officials and carers who wanted something from the minors seems to be the opposite from what was observed in Ethiopia, where attention from high officials was hard to get. This high degree of attention from officials in the Netherlands triggered distrust and a feeling among unaccompanied minors of being objects of scrutiny.

Distrust between officials of humanitarian organisations and minors, as well as between caregivers and the minors, was analysed through the theoretical lens of Schwarz (2010). Schwarz emphasises that the way information is received and processed is partly dependent on how someone feels. Hence, feelings are an important source of information. Negative feelings, caused by misunderstanding between different parties, was the main issue that emerged during the interviews with the minors and caregivers. Jonas-Simpson (2001) and Condon (2010) highlight that feeling misunderstood can lead to feelings of disappointment, betrayal or being judged. Feelings of being different and misunderstood were recognised among the minors, as well as among the caregivers. The way this information was subsequently processed led to mistrust among the minors and adults. This problem was greater in The Netherlands, then in Hitsats

(Ethiopia), where the cultural similarities were greater and where other refugees were involved as carers of unaccompanied minors. The resemblance of their situation helped to build trust amongst them.

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### Refugees' Right to Family Unity in Belgium and the Netherlands: 'Life is Nothing without Family'

*Mirjam Van Reisen, Eva Berends, Lucie Delecolle, Jakob Hagenberg, Marco Paron Trivellato & Naomi Stocker*

#### Introduction

The difficulties experienced in family reunification are frustrating the integration of Eritrean refugees in Europe. In addition to traumatic experiences during the journey, family fragmentation is traumatic as well. It contributes to the vulnerability of refugees' mental health and can, thus, pose a problem in the integration process (Berends, 2019). In her master's thesis, Eva Berends (2019) investigated the impact of family reunification on Eritrean refugees in the Netherlands. One respondent shared: "Life without family is nothing". These findings are confirmed by other evidence, including evidence collected by one of the authors in the following late night call:

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*Although refugees have a right to family reunification, less than a third of Eritrean applications are accepted in the Netherlands. Family reunification is largely inaccessible due to complex legal procedures and the inability of refugees to collect the documents required. This is compounded by the lack of diplomatic relations with Eritrea and the discretionary, and sometimes unjustified, practices of the authorities in both Europe and Eritrea. There is concern that the onerous legal requirements are causing the relatives of refugees to cross borders illegally and make payments for unobtainable documents, as well as fuelling unsafe and dangerous migration trajectories.*

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*You remember me, Professor? I am a friend of your late uncle. I realise it is late and that you are really busy. But I am a support buddy to an Eritrean refugee who has*

*received asylum here in the Netherlands. Professor, I don't know what to do anymore. We have been trying everything to get his wife and children to the Netherlands. He is sick and worried. Now, his wife and children have been taken to prison in Eritrea. His eldest daughter has fled, and she has been abducted in Sudan. She is so young! They are asking for USD 2,000 in ransom. Professor! What should I advise him? I don't know what to do anymore!* (Anon., personal communication with Van Reisen, telephone, August 2017, translated and paraphrased from Dutch)

It is impossible to overlook the emotional stress and frustration of the caller. And this situation is not an isolated case. While there are positive examples of families from Eritrea who have been able to reunite in Belgium and the Netherlands, there are also refugees for whom family reunification has failed or not yet materialised. Some lawyers complain of the large number of files of Eritrean refugees in which there has been no progress. When asked for an update on a certain case file, one lawyer shouted into the phone that it is “very, very difficult” (Anon., personal communication with Van Reisen, telephone, 6 March 2018). The family reunification files of Eritrean refugees appear to generate a lot of stress among all those involved.

For those who fail to achieve family reunification, the lives of their relatives is of major concern:

*I told you one bad news, dear, my wife has been in prison now for one month and some days – in Adi Abeyeto. There is one person who has offered to help me to give USD 1,500 [a bribe]. [...] Now they are asking for more money. Then I have to send some money for food for my children, EUR 200. [...] Yes, actually I don't have money, but I ask some people for credit and some people if they help me, its ok, and I send it because the children are not ok now.* (MT, personal communication with Van Reisen, WhatsApp, 2 July 2019)

In the subsequent conversation, MT, who is in Europe, explains that his wife in Eritrea is being punished by association for his activity on social media, which is not to the liking of the People's Front for Democracy and Justice (PFDJ), the ruling party in Eritrea, which

exercises control over the diaspora through intimidation and threats (Buysse, Van Reisen & Soomeren, 2017).

Although family reunification is well enshrined in international law, it is clear that this right is not accessible for many refugees. In preliminary conversations conducted for this study, it was suggested by knowledgeable resource persons that family reunification was even more difficult to obtain for refugees of Eritrean origin than others. In view of the concerns raised, this research was conducted to understand the circumstances leading to delays in the granting of applications for family reunification and problems with its accessibility by refugees – from the point of view of the refugees.

Living in the diaspora is inevitably a matter of living ‘here and there’ (Ong’ayo, 2019), with the added complexity that the cultures and political structures (what is required, allowed and possible) in both places seldom match. With this in mind, this chapter investigates the difficulties experienced by Eritrean refugees in Belgium and in the Netherlands in accessing the right to family reunification. The main research question is: *Is the right to family unity actually available in practice, through the procedure for family reunification, to Eritrean refugees in Belgium and the Netherlands?* In order to answer this question, this chapter looks at the legal requirements under international law, European law, and the national laws of the Netherlands and Belgium, before looking at how these requirements play out in practice (the constraints on family unification). Finally, some brief conclusions are drawn and recommendations put forward to address the problem.

### **The right to family reunification**

The Universal Declaration of Human Rights defines the family as “the natural and fundamental group unit of society” and goes on to say that it “is entitled to protection by society and the State” (UN General Assembly, 1948). This right is also enshrined in many other European and international human rights instruments, including the International Covenant on Civil and Political Rights, European

Convention on Human Rights, EU's Qualification Directive, and Charter of Fundamental Rights of the European Union.

Right to family life is a human right and it could be argued that it should be guaranteed for refugees especially, as they cannot enjoy this right in their country of origin, due to the risks of persecution that the refugee status encompasses. It is well known that the separation of family members may have devastating consequences for peoples' wellbeing. In this respect, Nils Muižnieks, Council of Europe Commissioner for Human Rights, stated that:

*Member states have a legal and moral obligation to ensure family reunification. International human rights standards require that people seeking protection can reunify with their families in an effective and timely manner. States must lift the many obstacles to family reunification and treat all people seeking protection equally.*  
(Council of Europe, n.d.)

Family reunification is the opportunity given to a foreign national – holding a valid residence permit – to be reunited with the members of his/her family, including a partner or spouse, minor children or the minor children of their partner or spouse. Family reunification is often the only way to guarantee respect for a refugee's right to family unity, after the separation caused by forced displacement and the inability of the refugee to return.

However, depending on the family link between the child and sponsor and the procedures involved, the criteria may be difficult or impossible to fulfil. For instance, if a family reunification process with a non-biological child is initiated, a formal adoption procedure has to be done. As the European Council on Refugees and Exiles (ECRE) report states:

*...as adoption is not a formal procedure in many countries, applicants are generally not able to support their file. This overlooks both cultural differences in family composition, as well as the context of forced migration where relatives may take custody of children left behind.* (ECRE, 2014, p. 23)



According to the ECRE report, “long separation can also damage the family structure and cause conflict when the family is reunited” (ECRE, 2014, p. 5). This report highlights the positive effects of family reunification, notably for wellbeing, but also regarding professional and personal aspects; family reunification is often considered as “a precondition for rehabilitation and integration” (ECRE, 2014., p. 5). Despite this, the family reunification procedure is often complicated or blocked by local authorities in the host country, or the country of origin, with refugees having to overcome many hurdles from the beginning to the end of the process.

While the rule of law requires that rights are equally available to all, the reality may differ. Hannah Arendt (1958) sets out how the implementation of a legal system depends on recognition of rights as rights. Stateless people or people who cannot rely on the protection of a state are particularly vulnerable in terms of their ability to access rights. However, from interactions with Eritrean refugees and lawyers in Belgium and the Netherlands, it is apparent that many status-holders have suffered from delays in the family reunification process (Various lawyers, personal communication with the authors for this research, Belgium and the Netherlands, 2019).

## **Research methodology**

This chapter looks at the procedures for family reunification, as experienced by Eritrean refugees in Belgium and the Netherlands. The chapter does not aim to provide a legal review, but rather to shine a light on the complexities involved in the way family reunification is applied and how this application affects refugees in practice. The chapter includes an analysis of the literature and laws to present an overview of family reunification internationally, in Europe, and in Belgium and the Netherlands. This overview serves as the background to present the findings on the experiences of refugees with regard to family reunification in practice.

The analysis draws on an in-depth analysis of an extended case study conducted by the first and last authors. One of the researchers drew

up a detailed time-line of events based on all information obtained on this case (Stocker, 2018). The information included emails, documents, social media messages, pictures, transcripts and notes from phone calls and face-to-face meetings. This case study was carried out in order to investigate every aspect of the process. Data was collected from the family members trying to unite, the support persons for the refugee seeking family reunification, members of various administrative bodies, and officials of government bodies and embassies. The case study included a visit to Khartoum in Sudan and meetings with all involved, except family members in Eritrea, as it was not possible to communicate with them without endangering them. The case study and other testimonies presented in this chapter highlight the different interventions and proceedings for family reunification in the Netherlands and Belgium, and show how they shape the actions of refugees.

In order to extend the experience from the case study to other situations, additional interviews were carried out with eight Eritrean refugees. The enquiry consisted of questions about the respondents' expectations and prior knowledge of the family reunification process, the legal obligations they need to comply with and the immigration authorities. Special focus was given to the documents required, the respondents' efforts and obstacles in complying with the requirements, the course of action and the information they received about the process, and the challenges and help they received from the authorities and other actors during the procedure, as well as their subjective assessment of the process and suggestions for improvement. The findings were compared with the research findings by Eva Berends, who interviewed 10 newly-arrived Eritrean refugees in the Netherlands on family fragmentation in 2019 (Berends, 2019).

The testimonies were collected as part of a research project carried out by the Brussels-based research organisation Europe External Programme with Africa (EEPA). This project aims to inform policymakers in Europe and Africa by confronting policies with the experiences of refugees and migrants. Thanks to the testimonies and research work, the perspectives and realities of Eritrean refugees

seeking family reunification in the Netherlands and Belgium have been portrayed.

As Eritrean refugees feel vulnerable, even in countries where they have come to seek protection, no voice recordings were made and only written notes taken during the interviews.<sup>61</sup> The interviewees' names have been changed in this chapter to protect their identities. The real names and identities are known to the authors.

## **Legal background**

Family reunification is one of the main legal channels for migration to Europe, and Eurostat data shows that more than 440,000 first permits for family reasons were issued in the EU member states plus Norway in 2015 (European Migration Network, 2016). This right is protected under international refugee and human rights law, European law and the national laws of EU member states, which together make up the legal framework for family reunification. However, the processes in practice are different for each EU member state, adding to the complexity.

### ***International law***

Under international refugee law, although there is no direct reference to family rights in the 1951 Refugee Convention, the Final Act of the Conference of Plenipotentiaries (UN General Assembly, 1951) affirms that “the unity of the family [...] is an essential right of the refugee” and recommends that governments:

*[T]ake the necessary measures for the protection of the refugee's family, especially with a view to: 1) ensuring that the unity of the family is maintained ... [and] 2) the protection of refugees who are minors, in particular unaccompanied children and girls, with particular reference to guardianship and adoption. (UN General Assembly, 1951)*

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<sup>61</sup> Many Eritreans fear the 'long arm' of the Eritrean regime, including repercussions for their family in Eritrea (ranging from denial of business permits to incarceration), which have been well documented including by Buysse *et al.* (2017) and Van Reisen & Estefanos (2017).

Under international human rights law, the family is recognised as the fundamental unit of society and entitled to protection and assistance under Article 16(3) of the 1948 Universal Declaration of Human Rights; Article 23(1) of the 1966 International Covenant on Civil and Political Rights; and Article 10(1) of the 1966 International Covenant on Economic, Social and Cultural Rights. The UN Human Rights Committee, confirmed, in the case of *Ngambi and Nébol v. France*, that Article 23 of the International Covenant on Civil and Political Rights “guarantees the protection of family life including the interest in family reunification” (UN Human Rights Committee, 2004).

### ***European law***

Under European Law, the rights of a refugee’s family are regulated by Directive 2003/86/ EC of 22 September 2003 and protected under Article 8 of the European Convention on Human Rights, which affirms that:

- 1. Everyone has the right to respect for his private and family life, his home and his correspondence.*
- 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.* (Council of the European Union, 2003)

The EU Charter of Fundamental Rights also protects right to family life under Article 7. The EU Qualification Directive (European Union, 2011) maintains that family members of a person under international protection are entitled to claim the benefits of protection as well, and that member states “shall ensure that family unity can be maintained” (European Union, 2011, Article 23).

Despite this apparently strong international legal framework, in the Netherlands, less than a third (32% in 2015, 27% in 2016 and 29% in 2017) of Eritrean applications for family reunification are generally accepted (compared to an acceptance rate of 78% for Syrians in 2017)

(Sterckx & Fessehazion, 2018). This data is in apparent contradiction with EU Qualifications Directive Article 23 and the Directive 2003/86/EC, which stresses the need to establish more favourable conditions for refugees, taking into account their reasons for fleeing:

*Special attention should be paid to the situation of refugees on account of the reasons which obliged them to flee their country and prevent them from leading a normal family life there. More favourable conditions should therefore be laid down for the exercise of their right to family reunification.* (Council of the European Union, 2003)

Under the European framework, the national legislation of each member state sets out the conditions under which family reunification can take place, in accordance with the European Directive's purpose, which is "the creation of socio-cultural stability that facilitates the integration of third-country nationals in the Member States, on the other hand allowing economic and social cohesion, a fundamental objective of the Community, to be promoted in the Treaty" (Council of the European Union, 2003; see also: European Union Agency for Fundamental Rights, n.d.). According to the Directive, non-EU citizens who legally reside in EU member states can apply for family reunification for their spouses and underage children. Additionally, member states can allow applications for non-married partners. Article 4(1) of the Directive 2003/86/EC defines the obligation of member states and traces the applicability of the law to the various categories of family members:

*(a) the sponsor's spouse; (b) the minor children of the sponsor and of his/ her spouse, including children adopted in accordance with a decision taken by the competent authority in the Member State concerned [...]; (c) the minor children including adopted children of the sponsor where the sponsor has custody and the children are dependent on him or her [...]; (d) the minor children including adopted children of the spouse where the spouse has custody and the children are dependent on him or her [...].* (Council of the European Union, 2003)

## ***The Netherlands***

In the Netherlands, family reunification is governed by the Aliens Act 2000 (Ministry of Justice and Security, 2000a), Aliens Decree 2000 (Ministry of Justice and Security, 2000b), Aliens Regulation 2000 (Ministry of Justice and Security, 2000c) and Aliens Act Implementation Guidelines 2000 (Ministry of Justice and Security, 2006). Different procedures exist for refugees and non-refugees, under which there are more strict process requirements for non-refugees. For refugees to benefit from the more lenient process, the applications for family reunification (*'nareis'*) must be filed within three months after the refugee has received asylum, based on their classification as a refugee or beneficiary of subsidiary protection (Section 27, Aliens Act 2000). Either the refugee in the Netherlands (the sponsor), or his or her family member abroad, can file a visa application at the Dutch immigration office in the Netherlands or embassy abroad. The application should be filed within three months, even if the refugee is not currently in touch with their family members, in order to secure the more lenient *nareis* procedure. If the deadline is missed, the refugee has to apply for the regular and much stricter family reunification procedure.

The family members of refugees in the Netherlands who are eligible for family reunification as part of the *nareis* procedure are: partners, underage children, adult children up to around the age of 25 who are part of the core family and are to a larger degree than usual dependent on their parent(s), and the parent(s) of refugees in the Netherlands who are unmarried and younger than 18. In all cases, the family relationship must have existed before the sponsor entered the Netherlands. The partner of a refugee in the Netherlands and his or her sponsor both need to be 18 years or older. They can either be married, civil partners, or unmarried, in which case they need to be in a durable and exclusive relationship. Only one partner can enter the Netherlands by means of family reunification (Article 3.14, Aliens Act 2000). Underage, unaccompanied children can reunite with their parent(s) if they are part of the family and if they are biological, adopted or foster children (Article B7/3.6.4, Aliens Act Implementation Guidelines 2000; Ministry of Justice and Security,

2006). They can only reunite in the Netherlands if they have been part of the family before the sponsor entered the Netherlands (Article C2/4.1, Aliens Act Implementation Guidelines 2000; Ministry of Justice and Security, 2006). Parents of refugees over 18 are not eligible in principle, and have to show that non-reunification would disrupt the existing family structure. In all cases, the family relations have to be proven through official documents. DNA evidence can be used if official documents are not available.

If the procedure is successful, the family members will receive permission to travel to the Netherlands. In order to pick up the visa and to arrange travel for family to the Netherlands, the family members have to report to the closest Dutch Embassy. The family members will receive an asylum residence permit in the Netherlands.

If the application for family reunification is made later than 3 months, it is possible for a refugee to go through the regular procedure for family reunification for those who have not been granted asylum status. The demands under this procedure, however, can be much stricter. Firstly, the sponsor must have sufficient financial resources to support him/herself and his/her family members (Article 3.2, Aliens Act), which means a monthly and gross income of over EUR 1,552. Adult children over 18 are in principle excluded from the procedure, unless it can be shown that children until around the age of 25 are dependent on the family life, for example if they have never lived independently. Through the normal family reunification procedure, the family member must have passed the civic integration examination, regarding a basic knowledge of the Dutch language and of Dutch society, introduced on 15 March 2006 (Ministry of Justice and Security, 2006a); however, for refugees, this condition does not have to be met as long as the refugee still has a temporary residence permit. Other conditions also apply, such as the need for legalisation of documents. Refugees can ask for an exception to these conditions, but it is not given that this will be granted.

## ***Belgium***

According to Belgian law (Aliens Act, Belgian government, 1980 - Articles 10, 10bis, 12bis and 13), family members of refugees must apply for a visa for family reunification (*“gezinshereniging”*) at a Belgian embassy or consulate in the country in which they stay, within a year after their family member in Belgium has been granted asylum based on their classification as refugees or beneficiaries of subsidiary protection. Unlike in the Netherlands, the procedure cannot be started by the refugee in Belgium. After one year, family reunification can still be applied for, but stricter conditions apply to all family members, except for underage unaccompanied refugees. Under these stricter conditions, the applicant must pay EUR 200, have adequate housing for their family, have a sustainable income, and wait at least 12 months. They also need proof of health insurance for their family. In cases where applications for family reunification are filed within 12 months of obtaining an international protection status, but do not have all documents required, the application still falls under the more lenient rules, but in practice this depends on the body processing the application (Myria, 2018). The family members of refugees in Belgium who can apply for family reunification are their partners, underage children, adult handicapped children and, where the refugee in Belgium is underage, his or her parents. Family relations must be proven with documentation (such as marriage certificate, birth certificate, etc.) or when not available, other evidence such as a DNA test.

For married couples and partners in a partnership equivalent to a marriage<sup>62</sup>, applicants and their spouses must be over the age of 18 if their marriage predates the refugee’s arrival in Belgium or over the age of 21 if they get married after that. A second category for non-married couples is ‘registered’ partners. This refers to couples who have legally registered their partnership abroad<sup>63</sup> and can prove this by providing a ‘declaration of legal cohabitation’. Both partners must

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<sup>62</sup> The Belgian authorities consider partnerships that have been registered in Denmark, Germany, Finland, Iceland, Norway, the UK, and Sweden as equivalent to marriage.

<sup>63</sup> However, only few countries have the possibility of registering partnerships.



be older than 21 unless they can prove that they cohabited for at least one year before the refugee's arrival in Belgium. In order to prove that their relationship is 'stable and durable' the partners must prove that they legally lived together for at least one year predating the refugee's arrival in Belgium or that they have known each other for at least two years, and that they had frequent contact by phone, post or other communication, and that they met at least three times for at least 45 days in a row within the 2 years before the application for family reunification. Alternatively, if they have a child together, this is also proof of a 'stable and durable' relationship. These partners are also required to live in the same house in Belgium. Belgium does not recognise polygamy, thus allowing family reunification with one partner. However, children from different partners can qualify for family reunification. If the spouses are only married religiously or traditionally, they can apply for family reunification, but the Belgian government will only issue a humanitarian visa, which is different from the visa for the regular family reunification. There may be requirements that need to be met in order to extend the residence permit, such as the requirement to have sufficient income to sustain oneself (Myria, 2018).

Underage, unaccompanied children can join their parent(s) in Belgium on the condition that they will live with their parent(s) in the same house and that they are unmarried. If only one parent lives in Belgium, the child(ren) can join the parent if the parent can prove with a legal document that they have sole custody of the child. If one parent is abroad and the custody of the child is shared, the other spouse has to give written consent that the child may live in Belgium (Ministerial Circular, 2013).

Parents can join their minor child(ren) in Belgium via the family reunification process. Parents of adult refugees in Belgium, can only join by applying for a humanitarian visa. Other family members cannot join their family in Belgium with a family reunification visa, unless a family member has entered Belgium with a family reunification visa and has family members entitled to family

reunification in a fresh family reunification procedure.<sup>64</sup> Although other family members have the possibility to apply for a humanitarian visa, the requirements for a humanitarian visa are stricter than for family reunification and the issuing of the visa is at the Belgian immigration office's discretion. Applicants need to provide a criminal record certificate, pay EUR 350 in administrative fees (except where the applicant is underage), and their sponsors must prove that they have sufficient living space to accommodate the applicant and that they have health insurance covering themselves and their family members who want to enter Belgium. The issuing of a humanitarian visa can take substantially longer than a visa for family reunification.

Before being able to apply for family reunification, a family member who wishes to live in Belgium must sign a declaration stating that he or she accepts the values and norms of Belgian society and pledges to act in accordance with them. When the application for family reunion is done within the year, the refugee does not face additional conditions that normally apply, such as stable income, adequate housing and a 12-month waiting time. If the application is late, these conditions do apply. After arriving in Belgium, family members must also show that they are willing to integrate and participate in integration classes. Furthermore, the Belgian government only allows the entrance of family members who are not a danger to public health and public safety.

### **Constraints on family reunification**

Although European and the national legislation of EU member states recognise the right to family reunification, it is clear that obstacles and irregularities persist. In addition, from the testimonies of refugees and from other evidence obtained, it is obvious that the process for family reunification for refugee or migrant families differs between member states.

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<sup>64</sup> This is possible when an underage refugee in Belgium has reunited with their parent(s), who in turn can have their other children apply for family reunification.

### *The story of Haile and Sophia*

Haile's case is a perfect illustration of the problems that may occur in a family reunification procedure. He was granted asylum three months after his arrival in the Netherlands (Haile, interview with Hagenberg, face-to-face, Netherlands, 16 November 2018). The Dutch immigration authorities had informed him about the legal possibility of family reunification during the interview for his asylum request and what documents to provide. Vluchtelingenwerk, a Dutch NGO, helped him during this long and slow process. He was asked to bring the official birth certificates of his children and a marriage certificate; however, he and his wife did not have any government-issued documents in Eritrea. Instead, his wife sent a church marriage certificate and baptism certificates for the children. The Dutch Immigration and Naturalisation Service instructed Haile's family to go to Ethiopia or Sudan in order to visit a Dutch embassy, because there is no Dutch embassy in Eritrea. However, the Eritrean border was closed at the time and it was illegal for Eritreans to leave the country without special permission from the government. Consequently, his wife and his three children tried to cross the border to Sudan, but were captured and imprisoned in Afabet by the Eritrean authorities (Haile, interview with Hagenberg, face-to-face, Netherlands, 16 November 2018).

In prison, Haile's wife was harshly treated and threatened that the consequences would be severe if she tried to flee again. Once she and the children were released, she informed Haile that she could not take the risk to leave the country again (Stocker, 2018). Haile's 16-year-old daughter, Sophia, then decided to flee without her mother and two siblings. She reached Sudan, but was then captured and extorted for ransom. Haile was phoned by two men, who demanded payment of USD 5,000 for her release. Haile was severely stressed. He spoke to his daughter briefly on the phone and took down phone numbers of those phoning him with threats to pressure him to pay the ransom (photograph and communication available, Stocker, 2018). He tried three times to report the situation to the Dutch police, who refused to take his report on the grounds that the extortion was taking place in Sudan, disregarding the fact that it was the father, who was legally

residing in the Netherlands, who was being extorted. The police also disregarded information sent by Haile that the police had a legal obligation to accept the report of the extortion (as per Articles 163 (6) and 165 (1) of the Dutch Criminal Code) (Stocker, 2018).

Through friends, his Eritrean network in the Netherlands and Belgium, and through the church, Haile found assistance to pay the ransom. The ransom was paid into a Dutch bank account, and no police report was made of the transaction. In another communication, the police stated that they would connect him to the department of 'human trafficking', but no follow up communication was received (Stocker, 2018).

Meanwhile, Sophia was first admitted to a hospital in Khartoum and then went underground, in fear of further abductions. She did not get access to the Dutch consulate in Khartoum. In the Netherlands, Haile requested family reunification for Sophia as she was now in Sudan, and his wife and other two children were too anxious to travel out of Eritrea. This was refused on the grounds that the earlier application involved the entire family and, therefore, the case of Sophia could not be processed without the entire group. Subsequently, a new request was made. It was then communicated that approval of the mother was needed, but she could not process a formal document with the required certification, as this certification could not be done in Eritrea and the mother was too fearful to leave Eritrea. So, Haile received formal notice that the family-reunification would not be approved (Stocker, 2018).

Contact was taken up with the Embassy in Khartoum, to explain the impossibility of the proposed procedure. The authorities then decided that given the circumstance the approval of the mother would not be required and that the father could process the documents – and this just for Sophia. The family reunification for the mother and other two children was now formally refused. Sophia gained access to the Dutch consulate in Khartoum (Stocker, 2018).

The authorities then suggested that proof was needed that Sophia was the biological daughter of the father (in the Netherlands). To this end, it was decided that a DNA test was needed, which proved Haile was indeed the father (Stocker, 2018). Sophia was cleared just after her 18<sup>th</sup> birthday to come to the Netherlands, and granted a visa for family reunification, based on the application before her 18<sup>th</sup> birthday. She boarded a plane, with a stop in Dubai, where she was refused entry on the next plane to the Netherlands as authorities did not accept the papers she carried. For two nights, Sophia stayed at the airport without any money. Urgent interventions from by the Dutch embassy in Khartoum and officials in the Netherlands finally helped clear the situation. A day later, she finally arrived in the Netherlands where she now lives with Haile (Stocker, 2018).

Since the moment of Sophia's extortion for ransom, over a period of more than two years, a large range of actors invested their time and energy to move this single case forward. This included the exchange of dozens of emails, phone calls and other communication, involving Vluchtelingenwerk, the Dutch immigration authorities, local Dutch police, the Dutch embassy in Sudan, experts, lawyers and concerned individuals. Only through direct follow up with the embassy and extensive explanation could the case be moved forward.

In relation to this case, the following main constraints were observed: lack of clear information on, and understanding of, the process; complex, dangerous and onerous requirements, which were not feasible within the actual situation; inability to collect documents; the absence of diplomatic relations and communication between the host and home country; and discretionary and unjustified practices, by host and home country authorities. These problems are investigated in the ensuing sections.

### ***Lack of understanding of the process***

In the context of the family reunification procedure, the first problem faced by refugees is lack of understanding of the procedures, including the importance of documents and deadlines, in the host country, and within the European Union (EU) in general. This is

compounded by the legislative and procedural divergence of EU member states in family reunification matters from the EU's principles and treaties:

*Family law is the competence of EU countries, and EU rules apply only in cross-border cases. [...] Although family law remains the competence of EU countries, the EU can legislate on family law if there are cross-border implications. A special legislative procedure is in place for such situations: all EU countries have to agree (unanimity) and the European Parliament must be consulted. (European Commission, n.d.)*

As well as lack of information, lack of understanding of family reunification procedures causes administrative problems that can prevent reunification. Refugees or migrants are largely unaware of European and national laws when they arrive. This unawareness may prejudice the refugee/migrant and his family, particularly if they miss the time limit for applications (which for the more lenient procedure is only three months after asylum status has been granted in the Netherlands). A smooth and timely procedure is, therefore, largely dependent on adequate support for the refugee, in the form of a knowledgeable lawyer, NGO, case worker or other individual. If such support is not sufficiently present, or communication between the support person and the refugee is not successful, it is practically impossible for a newly-arrived refugee to complete the procedure successfully.

As part of this research, we asked respondents about their awareness of the family reunification procedure. The respondents (with the exception of Haile) all had no knowledge of the possibility of, and legal requirements for, family reunification in the host country. A lawyer explained that the common practice of issuing a leaflet in Tigrinya upon granting asylum seems to have stopped in the Netherlands as of 2015. This leaflet, issued pre-2015, contained information on the rights and obligations of the refugees. Three of the interviewees stated that their first priority had been their personal safety, one of whom had fled directly from prison. All of the refugees intended on seeing their families again, even though they did not

know how or when this would happen. Mebrahtu, an Eritrean refugee, said: “I primarily fled for my security. I wasn’t even thinking of my family when I fled. Only about my own security” (Mebrahtu, interview with Hagenberg, face-to-face, Amsterdam, 9 November 2018).

Fleeing Eritrea, which has a shoot-to-kill policy at the border and whose citizens cannot travel freely within the country or across the border, is a very dangerous task. It can also endanger family members left behind, who, by association are fined and sometimes punished for the flight of their relatives (Van Reisen & Mawere, 2017). The first concern for refugees is their own safety during the flight and how to cope with the consequences of flight. The idea of family reunification and family reunification policies is rarely, if ever, considered at that stage. For instance, respondent, Yohannes, said that he had no intention of going to Belgium specifically before leaving Eritrea. This statement is reflective of the general situation among Eritrean refugees (Yohannes, interview with Hagenberg, face-to-face, Gent, 17 November 2018) (Van Reisen & Mawere, 2017). From the interviews of Berends (2019) in the Netherlands, the same conclusion emerged. For instance, one person responded the following to the question of whether the Netherlands was his intended destination:

*No, my plan to reach a safe country. Not good Italy. Some friends told me Italy is not good. Some friends told me is better in the Netherlands. From Libya, when we stayed there, they said, no, don't stay in Italy. Go maybe France or Belgium or... other refugees told me. But I chose the Netherlands, I don't know.* (Participant 3, interview with Berends, face-to-face, Lutteleest, 7 June 2019).

The concern of refugees for family members left behind in Eritrea is agonising. Knowing the difficulties faced by family members left behind increases feelings of worry and guilt. Refugees continue to assist their families back home as well as they can, often facing severe difficulties and challenges, including the imprisonment of family members as punishment for their own flight (MT, personal communication with Van Reisen, WhatsApp, 2 July 2019). Every so often a picture of the family back home emerges in conversations

with Eritrean refugees and their body language expresses the emotional hardship they are going through. Not knowing how to adequately support their families and the uncertainty of the possibility to unite with them, can cause severe stress (Berends, 2019). This stress can contribute to feelings of depression, which can have a severe impact on the daily life and integration process of refugees. Examples of this can be found in the research of Berends (2019). One interviewee expressed:

*It is a worry, it is difficult to... I am here and in Eritrea they [family] are in National Service – over 18 years you are waiting for National Service. It is difficult and I think about my family a lot. I think a lot. Sometimes when I want to sleep I think a lot.* (Participant 9, interview with Berends, face-to-face, Luttelgeest, 7 June 2019)

Another interviewee stated: “I am depressed too much. I do not want to be with someone [alone]; I feel some loneliness”. She indicates that because of this: “I do not want to attend the class at all. Because I do not feel well. I do attend class, but just my body is present, but my mind absent” (Participant 7, interview with Berends, face-to-face Luttelgeest, 6 June 2019).

More refugees experience this struggle:

*I worry too much. Sometimes I cannot sleep, it is getting a bit better every day. Sometimes when I am in Dutch class I do not understand what the teacher is saying, even when it is in English, there are just too many things in my head. Still I try very hard to learn Dutch.* (Participant 10, interview with Berends, face-to-face, Luttelgeest, 7 June 2019)

Another example is Haile, 34, who fled Eritrea in 2014 and now lives in the Netherlands.<sup>65</sup> He left his wife and his three children behind in

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<sup>65</sup> Haile’s story is presented above as the main case study in this research, for which interviews were conducted with him, his support person in the Netherlands, and with the people involved in the case in Sudan. The case study is further based on in-depth analysis of the email correspondence and other communications



Eritrea because he was concerned about his own safety after he had been forced to serve in the national army for 11 years. He did not plan to leave his family forever and hoped to find a way to be reunited with them. However, before fleeing, he had no idea that in the Netherlands he could apply for family reunification and how the whole process worked (Haile, interview with Hagenberg, face-to-face, Netherlands, 16 November 2018). A lawyer contacted for this research also indicated that Eritrean clients often did not realise that there would not be a second chance if they did not apply for family reunification in time.

A report by the NGO network European Council on Refugees and Exiles (ECRE) states that support for family reunification or access to information on the process for family members abroad is almost non-existent. This is especially true in the case of Belgium, where family members have to apply at an embassy abroad. “The obligation to apply from abroad means that family members may not be able to access reliable information or find adequate support for the procedure. Often family members are in countries where such support simply does not exist” (ECRE, 2014, p. 22). This report also claims that diplomatic establishments (embassies and consulates) do not “have the competence or the resources to inform and assist applicants”. According to the report, basic information such as where an application can be made, the opening hours of the embassy or consulate, its contact details, and so forth are missing and “constitute barriers to accessing the procedure” (ECRE, 2014, p. 22).

During the interviews, four respondents expected their families, i.e. their spouses and children, to be able to come to the host country rather easily, after being informed about the possibility of family reunification. Dan, a refugee living in Israel, had high hopes of moving to the Netherlands, to join his family (Dan, questionnaire administered by Hagenberg, 7 November 2018). Tedesse initially believed that the Belgian government would assist him to bring his

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concerning this case between the different actors involved, resulting in a detailed time-line of events, actions taken and analysis of actors involved (Stocker, 2018).

family to Belgium (Tedesse, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018). These initial hopes were replaced with frustration as the process seemed set up to fail. They all shared their deep disappointment in the family reunification processes in Europe. Some interviewees in the Netherlands expected that, once granted a status, their family could come immediately. It is expressed as top priority for most, but the details and amount of time the process takes are not known. For instance, an interviewee stated: “after a year I really want to go to my mother in Sudan. She can come to the Netherlands, my mother” (Participant 6, interview with Berends, face-to-face, Luttelgeest, 5 June 2019).

### ***Onerous family reunification requirements***

Family reunification is a long and tough process. Refugees often have to wait for years before seeing their families, even if they have been granted asylum seeker status. According to ECRE (2014), the family reunification process is difficult and strenuous. Theoretically, refugees and migrants benefit from international and European protection with regard to family reunification. However, they have to deal with member states’ laws and procedures, as the member states have a margin of freedom to apply European legislation on family reunification, especially in relation to what proof of family relations is required. The report of ECRE lists several national hindrances to family reunification: timing issues, lack of clear information and legal advice, and the financial implications of the process. Expenses include fees for translation and verification of documents, visa and embassy fees, and the cost of staying in the host/home country or a third country (ECRE, 2014). When regular documentation is not available, the procedure in both the Netherlands and Belgium is to offer a DNA test. In the Netherlands, the costs of this are covered if offered by the Dutch Immigration and Naturalisation Service if the test results have confirmed the family relation, but in Belgium, the costs are carried by the refugees and are EUR 200 for every person that must be tested. As a result of such fees, family members can end up spending thousands of euros to have their family reunited.

Tedesse and Yohannes, two of the interviewees who took part in this research, stated that they had encountered high costs during the family reunification process in Belgium. They were both with their families in Sudan originally. They did not know that there was no Belgian embassy in Sudan, so when they learnt that the Belgian embassy was involved in the process, Yohannes sent his wife to Uganda, which cost him USD 800. After his request for family reunification was denied, he could not afford to pay EUR 1,000 for a private lawyer and his public lawyer failed to appeal the decision, making a formal mistake in the procedure (Yohannes, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018). Tedesse stated that he faced substantial financial constraints, as he had to pay EUR 180 for the processing fee at the Belgian embassy in Khartoum while he was unemployed and rent for his family in Sudan (Tedesse, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018).

Some official documents (like the visa) represent a significant cost for refugees and family members: for instance, the Belgian embassy requires EUR 180 per person for each visa application for family reunification (Myria, n.d.). In the Netherlands, translation costs for documents must be paid. If the application for family reunification is late, the costs for family reunification through the regular process increase, as the Dutch Immigration and Naturalisation Service states that applicants “must pay the fees when [they] submit the application. If [they] do not pay the fees, the IND [Dutch Immigration and Naturalisation Service] will not process [the] application. [Applicants] will not be refunded your money if the application is turned down” (Immigration and Naturalisation Service, n.d.).

Another problematic aspect is the difference between the European legislation and national legal systems. It is noted by ECRE that countries’ proceedings are “complex and not always adequate”, because of the legal inconsistencies between member states (ECRE,

2014, p. 12). According to the report, the Belgian procedure is long and tedious:

*A decision on an application for a family reunification visa generally takes six months after submission of the file to the embassy. This is the legally fixed term within which a decision must be taken. This term can be prolonged twice by three months at a time if there is a need for DNA testing (which takes up to eight weeks), or a perceived need for investigating the authenticity of the marriage. The time needed to prepare the file prior to submission should also be considered (collection of documents, getting an appointment with the Embassy, reaching the Embassy, gathering the necessary funds, etc.). There is a different procedure for reunification with “other” family members, who must obtain a humanitarian visa for which there is no time limit on the decision. In addition, appeals against refusals may take several years. (ECRE, 2014, p. 12)*

In addition, the deadline for a government to make a decision on the procedure, normally nine months, can be extended under ‘exceptional circumstances’, such as in cases where the proving of family relations is more complex, which can cause undue delays (ECRE, 2014). This is especially true for Eritrean refugees, who often face trouble in obtaining official documents, as addressed in the next part of the chapter.

Hence, it is clear that the complexity of the process, the lack of information, and the intricacies of free legal assistance can seriously obstruct the (timely) reunification of a family.

### ***Inability to collect documents***

Applicants for family reunification in Belgium and the Netherlands need to prove their status and family ties to the authorities, which in theory seems to be an easy task, but can be difficult in practice. Papers and documents from their home country have to be collected and handed over to the host country’s embassy. However, this process may be impossible, especially when the issuing of original documents or issuance of information required is dependent on an oppressive or uncooperative state, or when the EU member state is in conflict with the country of origin – or not represented diplomatically – or even

when an administrative delay arises. In the case of Eritrea, the necessary documents often have never been created or issued. In this case, documents have to be issued from scratch. Family members in Eritrea are often afraid of going to the authorities to request documents. These barriers diminish the chances of reuniting a family.

The report by ECRE explains how difficult or even impossible it can be for refugees to obtain official documents from their national authorities, notably because of the political instability, fear of persecution, conflict or violence. The report states that:

*It is often difficult or even impossible for refugees and family members to obtain the necessary official documents from their national authorities. This may be due to the fear of persecution which has originally led the family to leave the country of origin. Family members may also already be in a third country when they apply, and therefore unable to go back to the country they fled because of ongoing conflict and violence. (ECRE, 2014, p. 17)*

Citizens of Eritrea often avoid dealing with the government out of fear of persecution. For example, a lawyer contacted for the research indicated that it was common knowledge for Eritrean girls to avoid getting an identity card, as they did not need it and it requires registration at the central government, which would result in recruitment into the indefinite National Service. For many other official documents, Eritreans also did not see the need to obtain them as they often served no purpose for them in Eritrea. As a result, the high level of importance placed on documents by the Dutch and Belgian governments can lead to misunderstandings with Eritrean refugees who are not used to this.

ID cards or passports are documents that are often required, both for family reunification and for primary asylum claims. In the Netherlands, one case studied for this research showed that the Dutch government pointed to the legal requirement in Eritrea to possess an ID card. However, for reasons such as the one mentioned above, some people do not have one. In addition, in October 2014, Eritrea announced it would retire the old ID card and would

implement a new one; however, it seems that these ID cards are often not issued in practice. A document which can be used to prove the identity of an Eritrean refugee is the ‘family residence card’. On this document, the names of any children are mentioned with the personal ID card number of the parent following letters, such as ‘B’ or ‘C’, indicating that the child never possessed an individual ID card. This can be used by lawyers to prove that indeed, despite the official requirement to possess an ID card, especially young Eritreans may never have possessed one.

### ***Official documentation***

When asked about the family reunification’s application, all respondents said that the compiling of documents was a major obstacle. None of the interviewees knew which documents were required before entering the Netherlands or Belgium. As possessions are hard to protect during the journey, most individuals do not take anything with them; thus, documentation needs to come from within Eritrea. Both the marriage certificates for the spouses and the birth certificates for the children are problematic for immigration authorities, because they are issued by the Eritrean Church and not by the official Eritrean State.

Eritrean law recognises customary law, which is described in great detail (see, for instance Hagos, 2014), as well as the Eritrean civil code. According to Hagos “Customary laws are deeply engraved and embedded in the mind and soul of the Eritrean people. The majority of the Eritrean society has been applying customary legal frameworks in daily life and in dispute resolution” (Hagos, 2014, p. 4). Customary law recognises the differences among different ethnic populations within Eritrea. In addition to customary law, the Civil Code is a recognised legal framework. Within the pluralistic legal system of Eritrea, a number of forms of marriage are recognised. The Civil Code stipulates that a marriage contract is valid once it is in written form and attested by two witnesses (guarantors) each for the bride and groom (Hagos, 2014, p. 121). However, according to Hagos, traditional or customary marriage is the most frequent type of marriage (Hagos, 2014, p. 139):

*Every traditionally marriage must be solemnized through clergies, save the Nara and the Kunama ethnic groups practices. The traditional marriage is often accompanied under a temporarily made grass shelter. The groom, accompanied with friends, family members and kin, attend the wedding ceremony performed in the bride's home or a permanent residence. The families of the bride and groom, seated facing each other, conduct the marriage ceremony that includes blessings, appointment of guarantor, settlement for account of expenses, dowry and finally, either a written or an oral marriage contract is performed. (Hagos, 2014, pp. 139–140, referring to the Customary Codes of the Sahel)*

Hagos adds that: “The Civil Code and customary codes expressly stipulate a contract of marriage may be concluded according to the prevailing tradition or custom” (Hagos, 2014, p. 140). In situations of distress or emergency the customary code also foresees a ‘silent marriage’ which is not written in official record (Hagos, 2014, pp. 141–142).

In relation to paternity, the Civil Code recognises maternal filiation from the sole fact of birth and paternal filiation based on the presumption that the father of a child conceived or born in wedlock is the husband of its mother (Hagos, 2014, p. 199). Other instances are described in detail by the Civil Code and under customary law. The provisions do not require a child to be registered at birth.

Haile and Mebrahtu, both residing in the Netherlands, had initially left their families behind in Eritrea. Their relatives were asked to send their Eritrean marriage certificates and children's birth registration and certificates to the Dutch authorities (in one case, official birth certificates, in the other a certificate of baptism) (Haile, interview with Hagenberg, face-to-face, Netherlands, 16 November 2018; Mebrahtu, interview with Hagenberg, face-to-face, Amsterdam, Netherlands, 9 November 2018). Most Eritreans do not register the birth of their child with the authorities, because they already have a baptism certificate. According to the respondents, the making of a baptism certificate is easier than the official national birth certificate: it is indeed signed by the parents (sometimes only by the mothers when fathers are conscripted) and the priest (Mebrahtu, interview

with Hagenberg, face-to-face, Amsterdam, 9 November 2018). However, Dutch and Belgian authorities demand official birth certificates. Concerning the certificates, one of the respondents said “the [Belgian] embassy cannot accept [the Church certificate], so I have to legalise it with the government of Eritrea” (Tedesse, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018). However, another option exists if a child was born in the hospital in Eritrea, where it would usually receive a ‘growth chart and vaccination booklet’ or ‘child health and growth promotion card’. This document essentially fulfils all requirements for a formal birth certificate, as it carries the name of the child, which includes the names of the father and grandfather due to the Eritrean naming system, and the name of the mother, as well as date and place of birth.

The requirement of a certificate and other official documents from the Eritrean State puts undue pressure on applicants, especially given the repression by the State, which is the cause of refugees fleeing their country, and the role of Eritrea’s diplomatic missions in exercising control over the refugee communities abroad (Buysse, *et al.*, 2017). The presumption that refugees will be assisted by diplomatic missions is, therefore, unreasonable and can be a cause of harm to the applicants (Buysse *et al.*, 2017).

Other procedural inconsistencies have been identified as causing delays or thwarting family reunification processes; for example, the wrong spelling or transposition/translation of a name can jeopardise the process. Dan, a family reunification sponsor living in Israel, only had a copy of his son’s baptism certificate and the date of birth of his son. However, the name given to his son did not match the information the Dutch authorities had. An erroneous date of birth could not be corrected and this was the end of his family reunification procedure (Dan, questionnaire prepared by Hagenberg, 7 November 2018).

### ***Inconsistent requirements***

While there are a range of similar challenges faced by Eritrean applicants for family reunification in Belgium and the Netherlands, it



is interesting to note the differences in documents required by the two countries. Table 16.1 lists the documents required by the Dutch or Belgian authorities regarding family reunification, with the commonalities between the Belgium and the Dutch system indicated in bold font.

*Table 16.1. Comparison of documents required for family reunification in Belgium and the Netherlands*

<b>Belgium</b>	<b>The Netherlands</b>
<p>Every family member has to provide the following main documents:</p> <ul style="list-style-type: none"> <li>- <b>A valid travel document (national passport or equivalent)</b></li> <li>- The visa application form (duly completed and signed) and recent identity photographs</li> <li>- <b>A birth certificate:</b> For spouse, registered partner, minor children and children aged 18 or over with a disability</li> <li>- <b>The marriage certificate</b> or proof of partnership along with proof of a lasting relationship (such as pictures)</li> <li>- For minor children reuniting with one parent, a copy of <b>judgment of sole custody</b> is required, or <b>declaration of consent</b> of the other parent</li> </ul>	<p>Documents must prove family ties and fulfil the admission requirements; in the case of a family reunification application within three months of obtaining status (<i>nareis</i> procedure); examples of evidence include:</p> <ul style="list-style-type: none"> <li>- <b>A copy of passport</b> of sponsor and those of the family member or relative</li> <li>- The marriage certificate or certificate of registered partnership</li> <li>- An unmarried status declaration for children between 15–25 years of age</li> <li>- Documents that <b>demonstrate parental custody</b> (in case of a divorce) or a <b>declaration of consent</b> from the parent remaining behind</li> <li>- <b>A translated birth certificate</b> (this is also necessary in order to register in the Municipal</li> </ul>

<p>for the child to travel to Belgium.</p> <ul style="list-style-type: none"> <li>- A copy of sponsor’s residence permit in Belgium and a copy of the decision granting refugee status or subsidiary protection status</li> <li>- A medical certificate no more than six months old, obtained from a physician designated by the Belgian embassy or consulate</li> </ul> <p>Other documents may be requested if the Belgian government requests them. This can include, for example, an extract proving the applicant does not have criminal record or an equivalent document (if you are aged 18 or over), which is normally not required in the case of refugees.</p>	<p>Personal Records Database in the Netherlands)</p> <ul style="list-style-type: none"> <li>- A declaration from all family members over 15 that they do not have a criminal record</li> </ul>
<p>Note: The highlighted text indicates the common requirements between the Netherlands and Belgium concerning the family reunification process. Requirements may differ in some circumstances. Source: For Belgium, see Myria (n.d.); for the Netherlands, see Immigration and Naturalisation Service (n.d.)</p>	

This comparison of required documents not only shows the lack of consistency of procedures within Europe, more importantly, the differences undermine any logical justification for the need for one or other of the documents. The differences in systems seem to be arbitrary and it is argued that if it is impractical (or harmful) to prove family bonds in one way, acceptable alternatives should be considered.

Once the required documents are collected, the procedure is still not finished. The documents need to be legalised in the case of Belgium (that is, verified and signed) by the foreign government and the host country embassy. This step creates yet another hurdle for refugees in Belgium.

There are a multitude of problems with the documents required for the procedure. Firstly, there appears to be a wide difference between what documents are needed in the context of the procedures in Belgium and the Netherlands. In addition, the documents required may not fit the actual circumstance in Eritrea: they may not be available due to the severe repression in the country and, if available, officials may have to be bribed to obtain them, which undermines the reliability and relevance of these documents to ascertain a situation. Hence, the procedures may be over-relying on documents that carry limited meaning for Eritreans, or may even have been dangerous to obtain in Eritrea. This is a serious problem, particularly when people need to come to an embassy outside Eritrea to verify documents, as such travel from Eritrea is not allowed and the border is heavily guarded. The need to obtain formal documents from embassies or consulates of the Eritrean government puts refugees fleeing Eritrea in further danger (Buisse *et al.*, 2017). Eritrean embassies abroad furthermore require most Eritreans to sign a regret form and pay 2% of their income as tax in order to obtain consular services, as will be elaborated on later in the chapter (Buisse *et al.*, 2017).

### ***Absence of diplomatic relations***

Sometimes, EU member states are not represented in the country of origin of the refugee or the refugee's family. Because of war and conflict in certain regions of the world, especially in Africa, some countries have closed their embassy or consulate in certain countries. Where diplomatic services are not available, some embassies in neighbouring countries offer to deliver the visas, but refuse to initiate the application; others limit access to the embassy and forbid non-nationals from entry; or others still only deal with people holding a visa or passport (ECRE, 2014). The absence of diplomatic representation between countries is a major obstacle. These technical

and administrative gaps in consular services have a direct impact on people and can hinder the start of the family reunification process.

Yohannes and Tedesse explained the problems they had because that there is no Belgian or Dutch embassy in Eritrea and that their families had to go to another country to contact the Belgian or Dutch embassies (Yohannes and Tedesse, interview with Hagenberg, face-to-face, Gent, 17 November 2018). In order to prove their family relationship, nationals have to obtain certificates from their country of origin and send them to the host country. However, as explained earlier, most Eritreans only have a baptismal certificate and no official birth certificate. One of the interviewees said: “You have to give [the baptismal certificate] to the [Eritrean] embassy in Khartoum and they can send it to Asmara or somewhere, I don’t know” (Tedesse, interview with Hagenberg, face-to-face, Gent, 17 November 2018). Others said they were given the choice to make use of consular services either in Egypt, Ethiopia or Uganda, but all of this carried considerable risks to their safety.

In Haile’s case, the absence of a Dutch or Belgian embassy in Eritrea had two effects: First, Haile and his family were unable to retrieve the necessary certificates in their own country and the Dutch government services urged them to travel to a neighbouring country with a Dutch representative office in order to make an application. Second, by compelling them to go to Sudan or Ethiopia, the Dutch authorities inadvertently encouraged Haile’s family to cross the border illegally putting his wife and children, in a dangerous situation. In the end, Haile’s wife and children were imprisoned and threatened and Haile’s daughter Sophia (16) was abducted and extorted for ransom (Haile, interview Hagenberg, face-to-face, Netherlands, 16 November 2018; Case study, NS, 8 June 2018). Hence, it is clear that requirements concerning official documents pose are a real danger to refugees and their families. As families have to cross the border in order to make the application or to arrange the DNA test in case documentation does not suffice, returning to Eritrea for any missing documents is not possible.

In Belgium, the process to start family reunification needs to be done by the family in the country in which they stay, which for Eritrean refugees means travelling to a third country. The need to be near an embassy may also extend the refugee's time in a third country, which is expensive as well as potentially dangerous. This causes further stress to the applicant of family reunification in the host country, as they know the dangers present on the journey that the family face (Berends, 2019). In addition, issues concerning travel documents can present a problem for refugees and their families. The ECRE report states that: "Belgian authorities deliver a 'laissez-passer' to family members who are in a third country and cannot obtain a passport" (ECRE, 2014, p. 18). However, in order to obtain a laissez-passer, Eritreans have to already be in a third country, which means that they have to escape the country in order to travel onwards. Legal exit is not possible as all exits are dependent on government authorisation and are generally not available to families of people who have fled the country, as they are seen as traitors and defectors and their families punished by association (see also, Van Reisen & Mawere, 2017).

### ***Discretionary or unjustified practices***

While asylum seekers or refugees may seek international protection in the EU, their family members still in the country of origin (in war zones, camps or other unsafe environments) often experience great insecurity. Indeed, the members of a family may be "exposed to retaliation from the authorities as a consequence of the refugee's flight" (ECRE, 2014, p. 21). According to the report by ECRE and the testimonies of respondents to this study, family separation exposes relatives, in particular children, women or the elderly people, to great vulnerability. This is exacerbated by the fact that embassies or consulates have full authority to accept or refuse an application for family reunification: "Through recent restrictions in legislation EU Member States have shifted the administrative burden of family reunification procedures to family members abroad" (ECRE, 2014, p. 21).

This quotation highlights that embassies and consulates have become the main place for family reunification proceedings, where the

presence of family members is required. Interviews with the authorities concerning the private life of married or unmarried people, DNA tests and official registration are performed by the embassies, with varying degrees of appropriateness and respect for privacy, according to the testimonies of the respondents. It is important to stress that both the applicant in the host country and family members residing abroad have to deal with embassy related issues in the host and home countries.

Many of our respondents mentioned the fear instilled in them by the local authorities, especially by the Eritrean forces, when they tried to go to another country's embassy. Mebrahtu, recounted that the Eritrean security forces visited his wife after he had escaped from prison, to ask her about her husband's intentions:

*During my escape from 2013–2015 we talked on the phone, but she didn't tell me she was being persecuted. We didn't talk about her escape because we feared the Eritrean security service. When I left, they asked her many times where I was. (Mebrahtu, interview with Hagenberg, face-to-face, Amsterdam, 9 November 2018)*

Moreover, our research shows that the Eritrean document release process is not comparable with the administrative process of a European member state. Mebrahtu and Tedesse stated that many Eritreans do not possess a passport and that the process of obtaining one is difficult, as covered in the previous section. However, Mebrahtu received an identity document because he had a good relationship with his superior in the army, who helped him to get a clearance that he had completed National Service. This allowed him to get a privileged access to official documents:

*I was able to obtain a clearance that I did my duties well, so I had gotten an ID. [...] Not everybody has a marriage certificate from the municipality. If you have a clearance that you fulfil your duties, you get that document. (Mebrahtu, interview with Hagenberg, face-to-face, Amsterdam, 9 November 2018)*

As part of family reunification, Mebrahtu was told that his wife, who was still in Eritrea, was asked by the Eritrean embassy to pay money and sign a regret form – admitting guilt and accepting punishment for him leaving Eritrea without completing the National Service – in order to obtain official documents from the state.

As the DSP-Groep Amsterdam and Tilburg University specified in its report, family members who are seeking to leave the country must obtain an ID card. To that end, they need to pay the 2% tax set up by the regime, even if they have a passport issued by the host country. An ID card is, therefore, only available if nationals sign a regret form, otherwise, they will not have access to administrative, legal or consular services (Buysse *et al.*, 2017). The report states that:

*The 2% Tax is collected as a critical part of a system of surveillance, with specific references to coercion in view of mental and social pressure, extortion, intimidation, fraud and/or blackmail. The specific organisation and modalities relate specifically to the diaspora, but also involves family members by association. (Buysse et al., 2017, p. 11)*

Tedesse's wife started the four-to-five-month long process for a passport at the Eritrean embassy in Khartoum, and finally received an Eritrean passport for herself and her son, which the embassy of Khartoum rejected at first (Tedesse, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018). Yohannes, another refugee dwelling in Belgium, applied for family reunification with his wife who initially also resided in Sudan. They had lived together and had gotten married in Sudan. However, he stated it was not possible to register their marriage with the Sudanese authorities (Yohannes, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018).

### ***Lack of alternatives to documentation***

As already stated, host countries and embassies sometimes have problems adapting to the documents issued by the home country. Moreover, host administrations do not always recognise official documents that are considered to be legitimised by state institutions

(such as the Church for instance). ECRE (2014) stresses that the family reunification process is frequently threatened:

*The documents required (birth, marriage or fostering certificates) might be impossible to get either because the administrations in countries of origin do not provide such documents or because of the impossibility to return or even contact the relevant administration for safety reasons. Although Article 11 of the Directive stresses that Member States have the obligation to take “other” evidence into account when applicants are unable to provide official documents, in practice there are few procedural safeguards to ensure applications are not rejected on the basis of an absence of official documentation. (ECRE, 2014, p. 23)*

Indeed, Article 11, paragraph 2 of the EU Directive on family reunification states that if:

*[...] a refugee cannot provide official documentary evidence of the family relationship, the Member States shall take into account other evidence, to be assessed in accordance with national law, of the existence of such relationship. A decision rejecting an application may not be based solely on the fact that documentary evidence is lacking. (Council of the European Union, 2003)*

In a 2014 communication from the European Commission and European Parliament, the discretion of member states was further clarified (European Commission, 2014). It stated that, although right to family reunification must be respected, the member states were granted a margin of appreciation when applying the rules in their own justice system.

*They may decide to extend the right to family reunification to family members other than the spouse and minor children. MSs [member states] may make the exercise of the right to family reunification subject to compliance with certain requirements if the Directive allows this. They retain a certain margin of appreciation to verify whether requirements determined by the Directive are met and for weighing the competing interests of the individual and the community as a whole [...], in each factual situation. (European Commission, 2014)*



This clearly shows that the acceptance and admissibility of documents, pieces of evidence – and, therefore, the launch of the procedure – depends on the goodwill of states and their administrations, especially in absence of official documents. According to the testimonies, it is clear that family reunification can be thwarted by the services of the host country. Original marriage certificates of the country of origin can be rejected or not recognised by EU member states, so that the sponsor and his/her spouse have no chance of having their case heard, despite other evidence proving a marital relationship.

National authorities of host countries, such as Belgium and the Netherlands, seem to ignore the Directive's criteria. Hence, this unawareness leads to ineptitude, which often leads to misconduct. Indeed, this study found that consular services may ask intrusive questions and for private information from the sponsors and their family members. For instance, about the couple's life or information concerning biological or non-biological children can be required:

*Consulates and embassies may impose certain requirements on family members that are neither compatible with the Directive nor with their own national legislation. Practitioners report discrepancies and a lack of transparency in how embassies and consulates interpret and apply the rules for family reunification. They also point to misinformation and requests for documents which are not in fact necessary in the context of the family reunification procedure. This can lead to significant delays and additional costs for family members or even rejections.* (ECRE, 2014, p. 22)

A March 2019 preliminary ruling by the European Court of Justice underlines that a rejection of a decision based on absence of official documentation is not in line with the Directive (European Court of Justice, 2019). In this decision, the Court ruled on the rejection of family reunification in the case of an Eritrean aunt and alleged guardian of a minor residing in a third country. The rejection of family reunification by the Netherlands was based on the absence of official documentation. However, the Court stated that the absence of official documentation cannot be the sole reason for rejection of the application, as was done in this case, “without taking into

consideration the specific circumstances of the sponsor and the minor and the particular difficulties they have encountered, according to their testimony, before and after fleeing their country of origin” (European Court of Justice, 2019).

In the case of Yohannes, it is apparent that the Belgian authorities (e.g., the police) exceeded the limits of discretion, by asking him about his wife, his sex life and to provide photographs of his wedding, which he refused to do. He said that the police in Gent made him feel uncomfortable. According to his statement, the police were investigating whether his marriage was a marriage of convenience or not and ultimately denied his request for family reunification. The interviews conducted for this study show that this also happened to three other Eritrean refugees (Yohannes, interview with Hagenberg, face-to-face, Gent, 17 November 2018).

In accordance with the testimonies of refugees, authorities and embassies from Belgium and the Netherlands did not support them and did not understand their situation sufficiently. Haile said:

*They didn't understand me, otherwise it would not have taken such a long time. My daughter wasn't safe while she was kidnapped. Nobody understood me except my Dutch friend. They asked for too many documents that were impossible for me to get.* (Haile, interview with Hagenberg, face-to-face, Netherlands, 16 November 2018)

This process was also complicated for Tedesse, who needed to find a house in Belgium, without any support from the authorities and without any money. He complained that the embassy failed to provide him with proper information and did not respond to his calls under the pretext they were busy. In several cases the person on the phone did not speak English, but answered when someone translated his requests into Dutch (Tedesse, interview with Hagenberg, face-to-face, Gent, Belgium, 17 November 2018).

As for Yohannes, whose pictures with his wife were rejected by the Belgian authorities, his social worker in Belgium told him that the

final decision for family reunification was made by the embassy in Uganda, advising him to contact the embassy online. However, the embassy was unable to help him with the process and assigned the responsibility to Brussels:

*I don't know who decides. I asked the Belgian embassy of Uganda for the decision. So I travelled to Uganda to the embassy to ask and they said the decision has actually come from Brussels, and I don't know how. (Yohannes, interview with Hagenberg, face-to-face, Gent, 17 November 2018)*

Concerning Haile, as the kidnappers held his daughter captive in Sudan and asked for USD 5,000 in ransom. He went to the police station giving all the evidence he had (contact, telephone number and photos) (Stocker, 2018). However, the police did not take any action, indicating that they could not register a report or a complaint because the legislation only applies to the Netherlands territory and/or to Dutch citizens, although, articles 163 (6) and 165 (1) of the Dutch Criminal Code states that the police are obliged to receive the report or complaint. Moreover, although Sophia was in Sudan, her father was being extorted in the Netherlands. The criterion of territoriality was, therefore, met, but not applied in practice (Stocker, 2018).

## **Conclusion**

Those who flee Eritrea, often do so in extremely difficult circumstances and without consideration of what they may need later on. As they flee, the first objective is to reach safety. It is sometimes only after a long and arduous journey across the Mediterranean Sea that the refugees decide (voluntarily or not) to seek asylum in Europe. It is only then that the refugees turn their mind to the family reunification process.

Although the right to family reunification is available *de jure*, the lack of understanding of the process by refugees and the inflexibility of the systems for reunification to accommodate the realities that dictate what is possible for refugees, make it very difficult for Eritrean refugees to realise this right. Indeed, this research found many

obstacles to family reunification: lack of clear information on, and understanding of, the process; complex and onerous requirements; inability to collect documents; the absence of diplomatic relations and communication between host and home countries; and discretionary and unjustified practices by host and home country authorities. These obstacles highlight the direct and indirect impact of state and government policies on refugees and their families. For the researchers, who are not legal experts, the requirements and procedures are often confusing. Refugees who come from traumatic situations and who do not speak the language, however, are expected to quickly understand what steps they need to take. This illustrates that successfully completing the process of family reunification is highly dependent on support available from lawyers, case workers and NGOs. This adds a strong element of arbitrariness to the process and undermines the sense of justice. The case of Haile and Sophia illustrates that the procedures may be inadequate for individual cases, which can cause such cases to become time-consuming processes involving multiple experts, support staff, and other individuals in the legal and diplomatic procedures. The rigid regulations, therefore, do not help to improve the legal processes, but undermine them. This is detrimental to the right of family unity.

This regrettable state of affairs is not without consequence. This study confirms findings by Berends (2019) that family fragmentation causes stress and frustrates integration. This study found that the complications around family reunification further compound the stress of refugees. There is also reason for considerable concern that the requirements set by authorities are causing the relatives of refugees to undertake dangerous journeys, including crossings borders illegally, making payments for unobtainable documents and other actions, such as the signing of the regret form and payment of the 2% tax to seek the help of the Eritrean embassy to provide required documents.

Improving access to, and communication with, the embassies of EU member states is vital and remains an essential point of reform. At the same time, EU member state authorities should provide

institutional support to refugees whose family members are at risk abroad. Access to the judicial system, as well as a psychological help, should be provided for refugees. The cooperation of the authorities with applicants for family reunification would facilitate understanding of the process and could prevent abuse and indifference on the part of reception services.

Considering the cultural, political and bureaucratic contrast between 'here' and 'there', it is clear that an inter-state homogenisation of procedures is impossible. However, immigration authorities should accept alternative forms of identification (such as Catholic or Orthodox baptismal certificates), as originally provided for in the 2003 Directive, free of charge, or at least at a lower cost, given that the cost of travel (i.e., airfare, passport and visa) is very high for a refugee and their family members and refer to available in-depth written knowledge of legal procedures and customary law, such as for instance documented by Hagos (2014). Also, a reassessment of the information systems and pressure tactics used by the police or law enforcement agencies is recommended, in order to avoid situations that are particularly humiliating and degrading for applicants and their families. It is important not to confuse decency (i.e., defending privacy) with opposition and resistance to the authorities, meaning that a refugee's silence does not necessarily mean that he/she is unwilling to comply with requirements for family reunification. Instead, questions should be limited to non-invasive questions in order to ensure that the refugee's right to privacy and family life is respected.

Finally, the legal and legislative framework for family reunification, as laid down in European law, should also be reviewed. In practice, the right to family unity is far from protected. As the European law on the issue is a Directive, member states are free to adapt and implement the objectives set out. Thus, member states have a considerable margin of discretion on certain essential provisions of the Directive, allowing them to interpret the conditions and implementation of family reunification as they see fit. Our research indicates that this discretion has been consistently used to establish

more restrictive conditions. In 2014, the implementation and harmonisation of the Directive was the subject of a specific communication from the Commission European Commission (Commission European Commission, 2014) and the recent ruling by the European Court of Justice (2019) illustrates that countries are obliged to rely on more than just official documents. But despite these efforts, the protection of the right to family unity is far from being coordinated between EU member states. The reform of the Directive, the removal of administrative obstacles, the curtailing of abuse of power by executive services, and the easing of conflicting relations between the administration and services from one country to another appear to be necessary for the optimisation of the family reunification process.

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# Part IV. Problem Framing



# The Representation of Human Trafficking in Documentaries: Vulnerable Victims and Shadowy Villains

*Nataliia Vdorychenko*

*“The victims of Sinai trafficking were men and women of all ages, including young children, babies (some born in captivity), and the elderly.”*

Van Reisen, Gerrima, Ghilazghy, Rijken, & Van Stam, 2017, p. 147

### Introduction

This chapter investigates the contemporary framing of human trafficking by comparing five documentaries on the topic. The documentaries focus on trafficking from the Horn of Africa and portray the causes and outcomes of human trafficking, as well as the onward path of its survivors. By comparing the documentaries, this chapter aims to identify the different ways in which the problem of human trafficking is perceived and presented. This is highly relevant as the framing of the problem influences the emergence of possible solutions: “By rendering events or occurrences meaningful, frames function to organize experience and guide action, whether individual or collective” (Snow, Rochford, Worden, & Benford, 1986, p. 464). If many different frames exist, the understanding of a problem also varies and divergent views on a problem do not facilitate an easy

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*How the problem of human trafficking for ransom is framed shapes how people and policymakers react to the issue, thereby impacting on the solutions employed. By looking at the framing of human trafficking for ransom in documentary films, this study found that there is no connected framing of the problem, making it difficult to put it on the policy making agenda in a consolidated way. A unified framing may facilitate the emergence of more successful policies to address the issue.*

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policy response. In such circumstances, it is difficult for public campaigns to have an impact on policymakers and politicians towards addressing the problem.

The documentaries selected for this study deal with human trafficking from Eritrea and are made by documentary film makers from Israel, Germany, France, Italy, the Netherlands and Sweden. The interest of documentary film makers in human trafficking from Eritrea can be explained by the magnitude of the problem, both in terms of the number of victims from Eritrea in absolute terms and per capita (despite the small population of Eritrea) and the violence perpetrated against the victims. The oppressive conditions in Eritrea have caused an average of 5,000 refugees a month to flee the country over the last decade:

*Human rights organisations have increasingly pointed to the forced military conscription in Eritrea combined with severe conditions with regards to rule of law, human rights and governance as well as the lack of economic opportunities, rampant poverty and lack of freedom as a lethal cocktail which produces vast numbers of refugees.* (Van Reisen & Rijken, 2014, p. 115)

Many Eritreans have tried to escape to neighbouring countries, or even make their way to Europe, despite the risks: “If people flee Eritrea, they are likely to end up in refugee camps in neighbouring countries where they run the risk of being kidnapped, recruited or lured by smugglers or traffickers” (Van Reisen & Rijken, 2014, p. 121). New forms of human trafficking have emerged, such as Sinai trafficking, also known as human trafficking for ransom, capitalising on the exodus of vulnerable Eritreans (Van Reisen & Rijken, 2014). Human trafficking for ransom involves the victims being held under inhumane conditions, tortured, raped, and even killed in order to extract a ransom from their relatives or friends, using mobile phones to show the victim being tortured (Van Reisen & Rijken, 2014, p. 115). There is no legal divergence regarding the view that these constitute criminal acts. Yet, if there is such clarity regarding the illegality of the practice, why has this form of human trafficking not been rooted out?

As human trafficking for ransom is a relatively new phenomenon, which emerged only in 2009 (Van Reisen & Rijken, 2014, p. 113), it is understandable that many aspects of it still need to be identified and described. However, the diverse perceptions of it make finding a solution to the problem difficult. There is no clear solution or policy in place that would address the issue effectively and at the one time. Thus, the main research question asked in this chapter is: *How is the problem of human trafficking for ransom framed in documentaries and how does this framing affect how we react to the problem?* To answer this question, it looks at: how refugees are portrayed, how human traffickers and smugglers are portrayed, the genderised representation of victims of human trafficking, the representation of the trauma suffered by the victims of human trafficking and what agency is awarded to the actors in the context of human trafficking.

The next section describes the methodology used for this comparative study, followed by the theoretical framework, which describes the concepts used to analyse the framing of human trafficking in the different documentaries. A detailed description of the five documentaries is then presented, followed by the findings (each section addressing one sub-question). Finally, a brief conclusion is presented.

## **Methodology**

This chapter uses documentary analysis to investigate the framing of human trafficking. Documentaries are a great source of information on the topic for a number of reasons. First, documentaries collect expert opinions in the field. Some of the documentaries analysed in this chapter contain interviews with researchers, policymakers, and authorities, who share their first-hand experiences with the victims and perpetrators of human trafficking. Second, documentaries show real footage from the problematic setting, such as interviews with the survivors of human trafficking and footage of the phone calls made while the victims were being tortured to extract ransom. Thus, it makes them a highly credible and transparent source of information.

Finally, before the documentary is filmed, a lot of preparatory research takes place, which makes the information rich and valuable.

The research was organised in five steps. The first step, was to conduct a literature review on the topic of human trafficking for ransom and the divergent problem frames used to explain it. The dominant themes of problem-sets running through the literature were identified. The second step was to select documentaries for analysis that focused on aspects of human trafficking for ransom. The documentaries selected have in common that they highlight this modus operandi in relation to mainly Eritrean refugees. Thirdly, the documentaries were each analysed based on five key areas of representation (the portrayal of the victims, the portrayal of traffickers and smugglers, the genderisation of victimhood, the representation of trauma and the representation of agency). The fourth step was to interview the film makers of the documentaries *The Gatekeepers of Europe* and *The Hunt for the 'General'* (Christian Jacob and Ali Fegan), as well as key persons appearing in the documentaries (Selam Kidane, Meron Estefanos and Mirjam Van Reizen). The interviews allowed verification of the content and background of the documentaries and revealed how the documentaries were produced. In the interviews, the resource persons explained the background to the documentaries and the motivation for the questions raised. Their perspectives gave a deeper understanding of the overall situation of human trafficking in Africa and the role of the European Union (EU) in border control. Finally, the fifth step was to compare the documentaries based on the problem frames identified in step two. Because of the nature of this research, making a comparison was necessary to identify the different problem frames emerging in the documentaries.

### **Theoretical framework**

The representation of the victims and perpetrators of human trafficking is an important element in the framing of trafficking as a problem and ties in with the assignment of agency. This representation informs the policy agenda: “Media representations



inform public and practitioners as to the nature of HT [human trafficking]: they are seen and referenced by policymakers and therefore shape discourse on HT” (Gregoriou & Ras, 2018b, p. 3). Accordingly, this section looks at the various concepts that relate to the framing of human trafficking, its victims, survivors and perpetrators.

### ***Frame***

The term ‘frame’ (and framework) is borrowed from Goffman (1974, p. 21) and refers to a "schemata of interpretation" that enables individuals "to locate, perceive, identify, and label occurrences within their life space and the world at large” (Snow *et al.*, 1986, p. 464). One possible explanation for the different representations of a topic is the different kinds of framing of the topic that might take place. There are a number of tools that can be used to reconcile these framings. For example, frame bridging links “two or more ideologically congruent but structurally unconnected frames regarding a particular issue or problem” (Snow *et al.*, 1986, p. 467) and frame extension is where a frame is extended “beyond its primary interests to include issues and concerns that are presumed to be of importance to potential adherents” (Snow *et al.*, 1986, p. 625). Both of these tools help to describe the topic better and allow the connection of layered topics under one overarching theme.

### ***Problem definition***

The frame through which a topic is seen influences how a problem is defined. And, problem definition is an important part of shaping the agenda in public policy. In this case, how migrants and refugees are seen (framed) governs public policy on the issue (facilitating refugees to apply for asylum versus the introduction of border controls to stem the flow of ‘illegal’ migrants). Put simplistically, “public policy making can be considered to be a set of processes, including at least: 1) the setting of the agenda, 2) the specification of alternatives from which a choice is to be made, 3) an authoritative choice among those specified alternatives, as in a legislative vote or a presidential decision, and 4) the implementation of the decision” (Kingdon, 2014, pp. 2–3). The agenda itself is “the list of subjects or problems to which

governmental officials, and people outside of government closely associated with those officials, are paying some serious attention at any given time” (Kingdon, 2014, p.3). Agenda-setting is a process that starts with the definition of a problem, which is influenced by how the problem is framed.

### ***Push and pull theory***

A leading framework for defining the problem of human trafficking (and migration) is the ‘push-pull’ theory. This is the “intuitive and empirically grounded idea that structural forces shape migration processes” (Van Hear, Bakewell & Long, 2018, p. 928). In other words, it is the idea that people are ‘pushed’ out of their country of origin by things like conflict and poverty and ‘pulled’ towards the country of destination by economic opportunities and a better standard of living. Because “Twenty-five years ago, labor migration was a major component of immigration flows to industrial nations” (Boyd, 1989. p. 638), it is still believed that refugees are attracted to places of economic growth from disadvantaged zones. This view is, however, oversimplified. It ignores the much more complex socio-cultural circumstances that motivate migration: “We see drivers as structural elements that enable and constrain the exercise of agency by social actors” (Van Hear *et al.*, 2018, p. 1). Stereotypically, the ‘grass is greener’ and people are in search of better lives, as described by the push-pull theory of migration. This provides a dominant framing of the problem. But there are doubts as to whether the theory is relevant for understanding migration-related phenomena such as human trafficking (Kidane & Stokmans, 2018).

### ***Human trafficking and smuggling***

Human trafficking is “a crime against an individual and can be intranational” (Gregoriou & Ras, 2018b, p. 4); it can lead to prostitution, forced labour, slavery, organ removal and more. Smuggling, on the other hand, is a transportation-based crime “against the state and is, necessarily, transnational” (Gregoriou & Ras, 2018b, p. 4). Human trafficking is based on exploitation, in which the victim has no consent. Smuggling is the facilitation and transportation of people abroad and is considered a violation of the laws of the state.

While the difference between human trafficking and smuggling in international law is clear, the reality may not always be so clear-cut (Gregoriou & Ras, 2018b, p. 4). Smuggling often leads to trafficking and victims can sometimes start out paying people who they think are smugglers to transport them across borders to only find out that they are traffickers, or linked to traffickers, who then exploit them or hold them for ransom (Van Reisen *et al.*, 2017). Moreover, Gregoriou and Ras emphasise that the representation of human trafficking and smuggling often lacks clarity: “The difficulty in representing human trafficking accurately is illustrated by the misuse of labels such as ‘trafficking’ and ‘smuggling’” (Gregoriou & Ras, 2018b, p. 4). They argue that victimhood is a key aspect of the representation of human trafficking: “victims are presented as having little agency” (Gregoriou & Ras, 2018a, p. 47). These authors go on to state that:

*Previous research on the representations of human trafficking shows that these narratives are often overly focused on only one form of human trafficking and one particular type of victim, with the highly damaging effect of ignoring or even criminalising (other) victims of other types of human trafficking.* (Gregoriou & Ras, 2018b, p. 3)

This raises an important question: “Are human smugglers inspired by anything other than greed and disregard for human life?” (Achilli, 2018, p. 77). In most cases, “Contemporary mainstream narratives of migration tell us that smugglers are the most immoral people of our time, and that smuggling networks are mafia-like cartels of hardened and greedy criminals dedicated to the systematic deceiving and conning of migrants” (Achilli, 2018, p. 77). However, according to Gregoriou and Ras, this picture of smugglers is one dimensional, concealing a deeper understanding of the problem of human trafficking. In reality, the situation is more complex. Although, “Human smugglers certainly are responsible for many tragedies that we have witnessed in the Mediterranean and elsewhere” (Achilli, 2018, p. 78), this can also be explained by the unstable situation in the host country. In addition, “for migrants, smugglers constitute a valuable resource, one that allows them to escape misery and extreme danger” (Achilli, 2018, p. 89).

### ***Genderised victims and perpetrators***

In most cases, the victims of human trafficking are assumed to be women: “The stereotypical global victim of trafficking is a “young, naive woman who seeks a better life [...] then ends up a sex slave” (Gregoriou & Ras, 2018b, p. 6). As a result, these authors argue that “Human trafficking victims are idealised, with those not according to this ideal being criminalised” (Gregoriou & Ras, 2018b, p. 2). This creates a gender bias: “Men are seldom considered as victims, meaning that male victims are generally overlooked” (Gregoriou & Ras, 2018b, p. 7). This leads to a distorted understanding of human trafficking and, as argued by Gregoriou and Ras, “a particular version of the human trafficking story has become the new normal” (2018b, p. 4). The presentation of perpetrators is also genderised: “The trafficker [...] is painted as ‘big and bad’, a shadowy, mysterious, powerful figure, often male” (Gregoriou & Ras, 2018b, p. 7). The great problem of genderised victimhood is that: “Male irregular migrants are generally presumed smuggled, thus presumed as having consented to their movement, whereas female irregular migrants are generally presumed trafficked, as not having consented to movement” (Gregoriou & Ras, 2018b, p. 5). This has a huge impact on the lives of victims. “As a result, the (male) smuggled migrant is criminalised, whilst the (female) trafficked migrant is assigned victim-status” (Gregoriou & Ras, 2018b, p. 5).

### ***Trauma***

In the context of human trafficking, trauma comes up as an important issue that impacts on how problems are perceived (Kidane & Van Reisen, 2017, p. 317). Trauma is an emerging theme in scholarly approaches to human trafficking: “The impact [of trauma] on individual victims is catastrophic and particularly worrying given the limited opportunities for therapeutic intervention to allow victims to heal from their experiences” (Kidane & Van Reisen, 2017, p. 317). Trauma is relevant to how problems are perceived by those who suffer from trauma. The research shows that “people attend to their momentary feelings as a source of information in forming judgements, essentially asking themselves, ‘How do I feel about this?’” (Schwarz, 2010, p. 290). The feelings-as-information theory

“provides a general framework for conceptualizing the role of these experiences in human judgement” (Schwarz, 2010, p. 289).

Trauma is not only defined as individual trauma, but also as collective trauma, which can be understood as “when people who have a sense of belonging to one another feel that they have been subjected to fearful and painful events that have left a mark on their collective consciousness and memory” (Kidane & Van Reisen, 2017, p. 318). Thus, the circle of people who are traumatised by critical situations increases and involves those who somehow participate in or hear about the unfortunate events. “It is argued that such events do not just affect individuals and their respective families, but whole communities, [...] society, [...] and even [...] culture” (Kidane & Van Reisen, 2017, p. 317). Secondary trauma “occurs indirectly and is defined as: “Learning about unexpected or violent death, serious harm, or threat of death or injury experienced by a family member or other close associate” (Kidane & Van Reisen, 2017, p. 320).

The experience of trauma by all those involved in human trafficking related experiences and its meaning is difficult to represent and often does not receive adequate attention. Kidane (2018) argues that trauma should receive more attention as a problem: “It is important that refugee policy and practice developments make serious considerations of the impact of trauma on refugees and address these in order to provide better support and protection for refugees at the earliest possible opportunity”.

### ***Agency***

The representation of agency in victims, survivors and other actors in the context of human trafficking gives us an understanding of the nature of the involvement of actors in human trafficking. Agency is generally understood as “acts done intentionally” (Bandura, 2001). “Agency embodies the endowments, belief systems, self-regulatory capabilities and distributed structures and functions through which personal influence [is] exercised, rather than residing as a discrete entity in a particular place” (Bandura, 2001, p. 1). Thus, agency ties in with all the other concepts through which human trafficking is

framed as a problem and affects the representation of refugees, perpetrators, victims and their trauma. This is important because “The core features of agency enable people to play a part in their self-development, adaptation, and self-renewal with changing times” (Bandura, 2001, p. 1).

### **Five documentaries**

This section provides a short description of the five documentaries analysed in this chapter: *It Will be Chaos* (Luciano & Piscopo, 2018), which highlights the chaotic, dangerous and unstructured path that refugees and migrants take from Africa to Europe, the *Sound of Torture* (Shayo, Trabelsi & Cahlon, 2013), which shows how mobile phones are used to extract ransom from relatives of trafficking victims while they are being tortured, *Under the Skin* (Deloget & Allegra, 2015), which focuses on Sinai human trafficking and the trauma experienced by survivors, *The Gatekeepers of Europe* (Schäfer, Schindwein, Jakob, & ARTE/ZDF, 2018), which explains the political participation of Europe in the crisis, and *The Hunt for the General* (Fegan, 2018), which looks at the investigation around the smuggler ‘the General’ and how the wrong man was accused.

#### ***It Will be Chaos (2018)***

*It Will be Chaos* (Luciano & Piscopo, 2018) is a 93 minute German HBO documentary that follows a refugee from Eritrea and a Syrian refugee family on their journey to Europe. The documentary opens with the shocking image of the arrival of over three-hundred coffins in Lampedusa in 2013 carrying the corpses of the refugees who did not survive the journey. Directed by Lorena Luciano and Filippo Piscopo, the documentary follows the dangerous journey of the refugees. Through two life stories, viewers are shown the difficulties and dangerous situations the refugees have to overcome to reach a place of safety. The title *It Will be Chaos* describes the complicated and unorganised journey the migrants undertake on their way to Europe.

#### ***Sound of Torture (2013)***

This documentary was produced in Israel in 2013 and directed by Keren Shayo (Shayo *et al.*, 2013). It introduces a new form of human

trafficking for ransom that emerged in around 2009 and involved entire Eritrean families at home and in the diaspora. The name of the documentary gives the viewer a hint of what is going to be shown. The documentary opens with the actual sounds of torture, communicated by mobile phone. It shows the footage of the phone call between a relative and one of the victims to extract ransom. The film highlights the desperation of the situation and the horrific torture that the victims are subjected to. During the film, the viewers get to know the relatives of the victims of human trafficking, who feel powerless and desperate as they try to free their loved ones. The documentary follows Meron Estefanos, Swedish-Eritrean radio journalist and human rights activist, in her quest to help the victims of human trafficking.

### ***Under the Skin (2014)***

*Under the Skin* (Deloget & Allegra, 2015) is a documentary produced by French film makers Cécile Allegra and Delphine Deloget. It shows the consequences of human trafficking through the eyes of the survivors. Young men share their touching life stories, as well as what happened to them when they were captured by the traffickers. Through multiple interviews all around the world, starting in Sweden and ending in Egypt, the reality of being trafficked is revealed. The documentary starts by showing the scars of one of the survivors. The name of the documentary, *Under the Skin*, refers to the trauma that they carry under the skin in addition to their visible scars.

### ***The Gatekeepers of Europe (2018)***

The documentary *The Gatekeepers of Europe* (Schäfer *et al.*, 2018) is produced by Franco-German free-to-air television network ARTE and German public-service television broadcaster Zweites Deutsches Fernsehen (ZDF). It deals with the border control policies of the African Union and the role of Europe in their facilitation and financial support. It represents the migration problem from a political perspective, as the result of the cooperation by two powerful actors. It shows how people become victims of this uneasy system. Describing the situation in detail, the producers clarify the political context as well as technological aspects, such as the development of

advanced devices to decrease and even stop migration flows. The territory surrounding the borders is physically impossible to secure with foot patrols. Thus, they do so using movement detectors in the most hard to reach areas, to supplement patrols by the border officials.

### ***The Hunt for the General (2016)***

This documentary *The Hunt for the General* (Fegan, 2018) is produced in Sweden and shows the prosecution of human trafficking. What happens when, in the search for the trafficking leaders, the wrong people are arrested and judged? The documentary presents the case of the arrest of one of the ‘boss’ smugglers, who was believed to have transported thousands of people to Europe. After a long and huge public celebration by the media and law enforcement bodies, it was claimed by the Eritrean community that they had arrested the wrong person. The narrative explains the identity mistake which led to the wrongful arrest of 29-year old Medhanie Tesfamariam Behre, who was mistaken for the real human trafficker, Medhanie Yehdego Mered, also known as ‘the General’. The Italian court has still not recognised this mistake and has kept what seems like the wrong man in prison since 2016, despite convincing evidence of his innocence.

### **Portrayal of refugees**

The terminology used to define refugees and migrants is important in the way they are perceived and treated. Basically, they can be described as refugees entitled to protection under the Geneva Convention, or treated as economic migrants who have entered Europe illegally in search of a better standard of living. What they are called affects how they are perceived and treated, including their reception by local populations.





*Figure 17.1. Mayor of Lampedusa defending the need for clarity of terminology when referring to refugees and migrants in 'It Will be Chaos'*

Source: Luciano & Piscopo (2018)

Two of the documentaries studied raise the definition of refugees explicitly (see Table 17.1). *It Will be Chaos* (Luciano & Piscopo, 2018) has two primary narratives. One of them tells the story of an Eritrean refugee called Aregai. After fleeing Eritrea, undergoing various hardships in his journey across the African continent, he nearly dies at sea trying to reach Europe via the Italian city of Lampedusa. The same chaotic lack of structure follows the Syrian family on their way from Turkey to Germany (Luciano & Piscopo, 17:45). Wael, the father of the family, tries to contact a smuggler, as it is the only option left to him and his family to cross the sea. But even when he does, he ends up putting his family and himself at risk. Both cases show us the chaotic situation in which the refugees find themselves. Refugees fleeing war and oppression are often driven towards illegal status as they seek international protection, finding themselves labelled 'illegals migrants'. Table 17.1 shows which of the five films analysed in this chapter deal with the portrayal of refugees.

Table 17.1. Documentaries dealing with the portrayal of refugees

Documentary	Representation of refugees
It Will be Chaos	x
Sound of Torture	
Under the Skin	x
The Gatekeepers of Europe	
The Hunt for the General	

The representation of refugees and migrants takes place on multiple levels. In the documentary *It Will be Chaos*, the audience sees the chaotic system, which, instead of helping refugees, puts them in danger. The refugees face contradicting policies and demands wherever they are. Moreover, the documentary shows the refugees in Europe living in terrible poverty, dealing with asylum rejections, facing anti-refugee rhetoric and unwelcoming populations, and living in chaos and uncertainty, all the while dealing with the aftermath of trauma. All of this highlights the fact that the idea of ‘push-pull’ does not adequately explain the situation.

This brings us to another problem, the differentiated nature of responses among the population in the countries through which the refugees travel, some of which believe that all newcomers are ‘illegal migrants’. In the documentary, we see people voice negative reactions and even stage protests against the refugees on behalf of a political candidate, who uses it as a chance to push his agenda. In some cases, refugees take action to voice their complaints in a forceful way. The documentary shows how, after being held in inhumane conditions in refugee camps for months, the refugees are tired and desperate to be heard. This is one more aspect of the chaos: trying to get a little attention, after you have lost everything.

The documentary shows the chaos surrounding the transportation of the migrants to Europe. Because of the complexity of the legal mechanism for entering Europe, refugees have to look for indirect and unofficial ways to reach Europe. This puts their lives in danger. The Syrian family has to search for life jackets and they barely make

it to the coast of Greece. Aregai loses two of his best friends and nearly his own life on the boat to Lampedusa. Once he arrives, he is arrested and accused of entering Italy illegally. He is treated as a criminal and implicated in a court case. The film shows him traveling on a bus with nine refugees escorted by eight policemen, with multiple cars to control them. One of the refugees in the documentary says: “We can’t understand if we are prisoners or refugees” (Luciano & Piscopo, 2018, 1:14:55). To avoid complications with the law in Italy, Aregai is pushed into making a fake ID to go to Sweden (Luciano & Piscopo, 1:17:09). On arrival in Europe, he receives no support.

The documentary *Under the Skin* (Deloget & Allegra, 2015) makes the audience aware of the problem of human trafficking. It sheds light on the plight of its victims. The documentary shows the implications of the different policies on migration and how the victims of trafficking are received in various countries. Many refugees mention problems with applying for residence permits and documents. Refugees are generally not provided with enough social support, after everything they have been through in search of protection. Many refugees suffer from mental health problems, such as post-traumatic stress and depression.

In order to apply for legal status, the survivors of human trafficking are required to tell their stories to the officials, who often do not believe them. In a moving shot, the documentary shows how the refugees are urged to show their skin as evidence of what they have been through. Even though they are not called ‘illegals’ in the film, we can see that the tension between the refugees and officials in Europe is intense.

### **Portrayal of human traffickers and smugglers**

Almost every documentary mentions the role of human traffickers and smugglers in controlling the movement of refugees. Table 17.2 shows which films deal with the portrayal of human trafficking and smuggling.

Table 17.2. Documentaries dealing with the portrayal of human trafficking/smuggling

Documentary	Representation of human trafficking/smuggling
It Will be Chaos	x
Sound of Torture	x
Under the Skin	x
The Gatekeepers of Europe	x
The Hunt for the General	x

In *It Will be Chaos* (Luciano & Piscopo, 2018), Wael, the father of the Syrian family, tries to contact a smuggler to help his family move from Turkey to Greece. After being scared off by police the first time, they try to repeat their escape the next day. As well as showing that smuggling is illegal, the film highlights the fact that the smuggler does not give any guarantees to the people who use his services. Wael and his family buy their own life vests before the journey. The viewers do not see the smugglers in the documentary. They are portrayed as mysterious people who only contact their clients by mobile phone.

The documentary *Sound of Torture* (Shayo *et al.*, 2013) deals with human traffickers. They are blamed for the situation of the victims. It is implied that the traffickers are men. They are described as hot-tempered, cold-hearted, brutal and violent people, who harm their victims and demand ransom. They are also portrayed as mysterious, as no one can reach them in the documentary.

In the documentary *Under the Skin* (Deloget & Allegra, 2015), the producers manage to get close to the Sinai traffickers. They interview one trafficker who explains his decisions in relation to the hostages in terms of agency. He talks about the economic side of the issue and how he decides to hire guards and allows them to ‘put pressure’ on a few people from the group. By showing the trafficker, the documentary challenges how they are usually portrayed. The trafficker is no longer a shady and mysterious figure with unimaginable power. This removes the cinematic rush around his

persona. On the contrary, the trafficker is portrayed as a simple man. He talks about his wife leaving him and explains that he is involved in trafficking to earn money in his economically-challenged country.

Even though the person being interviewed gives a fake name, Abu Abdullah, and does not show his face, it is plain to see that he is just a simple man. He sits on the couch and talks about his hard life in the country and his wife, just like anyone else. The producers, thus, challenge the stereotypical norms used when portraying traffickers and they do so in the most truthful way possible, showing the reality of the situation.

The film *The Gatekeepers of Europe* (Schäfer *et al.*, 2018) looks at migration from a political perspective. The documentary shows in detail the EU's external border management measures. It shows how many of the measures used to stem the flow of migrants are ineffective, despite the large amounts of money invested in these measures, as migration is caused by a “variety of factors, including deepening poverty, deteriorating living conditions, persistent unemployment, conflicts, human deprivation, and hopelessness [which have] fostered the environment for human trafficking to flourish in the region” (Adepoju, 2005).



*Figure 17.2. Border control in 'The Gatekeepers of Europe'*

Source: Schäfer *et al.* (2018)

*The Gatekeepers of Europe* describes the political system from within. With the help of careful journalistic investigation, the migration issue is clarified for the viewers from a broad political perspective. According to the documentary, while the rhetoric of politicians sounds positive towards refugees, the reality is that billions of euros are being spent to prevent African refugees from entering Europe. The documentary tries to show how this situation provokes the development of and demand for illegal ways to cross borders.

The documentary *The Hunt for the General* (Fegan, 2018) deals with the smuggling of migrants and refugees to Europe. It shows how the authorities arrested a man suspected of smuggling thousands of people to Europe, but that the evidence suggests that they arrested the wrong man, a refugee. The injustice of the refugee being tried for smuggling highlights the vulnerability of refugees in the judicial system in Europe. The documentary also sheds light on another element. The actual smuggler, ‘the General’, does not perceive himself as a criminal. Rather, he likes to think of himself as a rescuer.



*Figure 17.3. Photographs of the suspect (left) and the real ‘General’ (right), in the documentary ‘The Hunt for the General’*

Source: Fegan (2018)

The documentary shows the point of view of the smuggler. It also gives viewers a perspective on the scale of the crimes involved in transporting people from Africa to Europe. What is also highlighted in the film is the way that countries in the EU cooperate to fight smuggling in the region, resulting in the criminalisation of refugees.

**Genderisation of victimhood**

In relation to the genderisation of victimhood, two documentaries deal with the issue, both with different attitudes towards victimhood: *Sound of Torture* (Shayo *et al.*, 2013) and *Under the Skin* (Deloget & Allegra, 2015). The documentary *Sound of Torture* reinforces the traditional image of victims as women, someone’s sisters or wives, who need to be taken care of. The film emphasises the fact that some of the women are pregnant, which plays on the viewers’ sympathy, as well as highlighting the victims’ vulnerability. Moreover, the victims are almost entirely absent from the documentary and only appear as mysterious people in the background of those trying to save them. As a result they are not shown with any agentic capacity. The film focuses on how the victims are kept and treated. It highlights the conditions in which the hostages are kept and how the ransom is extracted. Table 17.3 shows which films deal with the portrayal of victims.

*Table 17.3. Documentaries dealing with the portrayal of victimhood*

<b>Documentary</b>	<b>Representation of victimhood</b>
It Will be Chaos	
Sound of Torture	x
Under the Skin	x
The Gatekeepers of Europe	
The Hunt for the General	

On the other hand, although *Under the Skin* also focuses on victimhood, it does not contain a strong gender bias. It shows predominantly male victims as survivors with agency. What is important about this documentary is that it challenges the stereotypical image of victims and traffickers in the media. It shows

that most hostages in the Sinai are male. And, most importantly, they have something to say about their days in the Sinai. Men do suffer from human trafficking and their stories deserve to be heard. They also have wounds and scars on their bodies. Men face specific types of torturing, such as ones involving the genitals (Deloget & Allegra, 2015, 25:15). As Filmon says in the film, “What you went through will stay under your skin”. In the film, people call themselves ‘survivors’. They show their wounds and they describe the torture they experienced in precise detail. The survivors are happy to be alive and ready to share their experiences. The agency of the survivors is apparent as they share their difficult life journeys with the audience.

**Trauma**

Three of the documentaries focus on trauma: *It Will be Chaos* (Luciano & Piscopo, 2018), *Sound of Torture* (Shayo *et al.*, 2013), and *Under the Skin* (Deloget & Allegra, 2015). In these films, the viewer is introduced to the traumatic situations of the victims of human trafficking, but also their relatives and others who happen to become involved in the situation. Table 17.4 shows which films deal with the representation of trauma.

*Table 17.4. Documentaries dealing with the portrayal trauma*

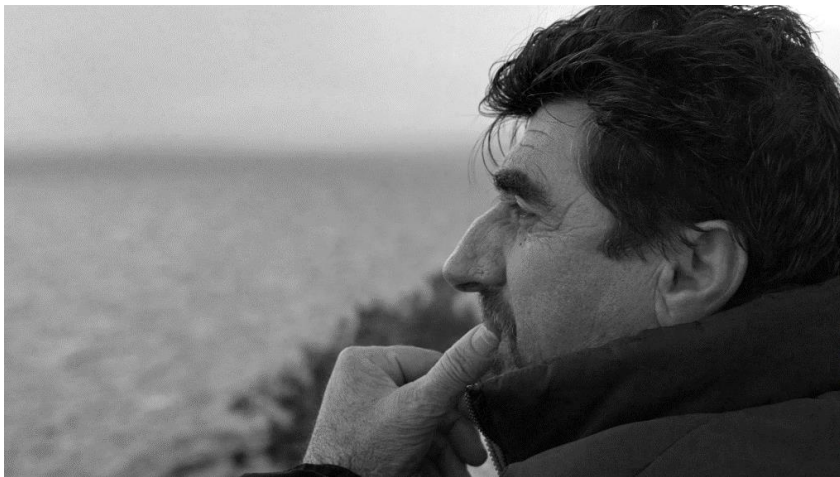
<b>Documentary</b>	<b>Representation of trauma</b>
It Will be Chaos	x
Sound of Torture	x
Under the Skin	x
The Gatekeepers of Europe	
The Hunt for the General	

*It Will be Chaos* shows the poor mental health of the father of the Syrian family, Wael, due to trauma. It is said that he does not interact with others much and suffers from depression (Luciano & Piscopo, 2018, 1:30:05). This is a problem for many refugees, but it is not spoken about in broader society. Wael sees his house completely destroyed and shoulders the huge responsibility of taking care of five



people and himself on the way to another country. His wife says that the only way not to have a breakdown is to treat the situation with humour. In the film it is shown how Wael suffers from stress. Mental health support is not available in such cases. However, even if it was, we might still ask the question: is it possible to fully recover from what you have seen?

This leads us to another aspect of trauma. Trauma not only concerns the lives of those who experience it directly, but also those around them. The film shows the situation of one of the sailors who helped rescue some of the refugees in the Lampedusa tragedy (Luciano & Piscopo, 2018, 12:24), who describes the trauma he experienced. Secondary trauma is also supported by technology such as mobile phones (which are used to show the torture of victims of human trafficking when demanding ransom) and social media (which can spread collective trauma among members of a particular community).



*Figure 17.4. A sailor recalls his trauma after saving some of the refugees in Lampedusa in 'It Will be Chaos'*

Source: Luciano & Piscopo (2018)

The documentary *Sound of Torture* (Shayo *et al.*, 2013) also deals with secondary trauma. The viewers can see how personally affected and involved Meron Estefanos is in the lives of the victims of trafficking

for ransom and their relatives. The relatives of the victims also experience secondary trauma. Since the connection is made via mobile phones and, thus, the actual sounds of torture are real and simultaneous, it leaves a mark on people who are related to the hostages, who experience the trauma personally. As Van Reisen emphasises, “ICTs have impacted on the forms and scope of human trafficking, with particular reference to their enabling of a new form of trafficking – human trafficking for ransom” (Van Reisen *et al.*, 2017, p. 146).



*Figure 17.5. Swedish-Eritrean radio presenter and human rights activist, Meron Estefanos in ‘Sound of Torture’*

Source: Shayo *et al.* (2013)

What is also highlighted in the documentary, is the way the Eritrean community grieves for those who are still in captivity. They try to help each other and to figure out how to stop human trafficking. Their shock, as a community, also shows their collective trauma and the influence Sinai human trafficking has on their lives.

The documentary *Under the Skin* (Deloget & Allegra, 2015) talks about the poor mental condition of survivors of human trafficking. It shows how they feel apathy, do not sleep at night, and keep replaying the memories of traumatic events in their heads. Clearly, they are dealing

with post-traumatic stress. The documentary shows the lack of support for survivors, support that could help them overcome the trauma and post-traumatic stress. The documentary deals primarily with the situation in which refugees find themselves when they reach their final destination. Their mental state is shown in the documentary from multiple perspectives and is one of the main focuses of the documentary.

**Agency**

The different documentaries show agency in different ways, as they depict the situations in which the refugees carry out their lives. Table 17.5 shows which films deal with agency.

*Table 17.5. Documentaries dealing agency*

<b>Documentary</b>	<b>Representation of agency</b>
It Will be Chaos	x
Sound of Torture	x
Under the Skin	x
The Gatekeepers of Europe	
The Hunt for the General	

In the *Sound of Torture* (Shayo *et al.*, 2013) we see the situation mostly through the eyes of Meron Estefanos, journalist and radio presenter for Radio Erena in Sweden. She experiences her agentic decisions, as she tries to fix the problem from Sweden, Israel and Egypt. One of the main messages of the documentary is the importance of personal help to the victims. The film portrays scepticism on the part of victims and Estefanos of the possibility of international organisations and law enforcement agencies stopping this form of human trafficking. We also see the relatives collecting money to save the hostages, as in the case of Amanuel and Hariti. Some do all they can and keep searching for their relatives, as shown in the case of Timmit and Dessale. The documentary also shows the lack of ability of the refugees and their families to improve the situation and the limited possibility of rescue.



*Figure 17.6. Eritrean community in Israel trying to decide what can be done about human trafficking for ransom in the 'Sound of Torture'*

Source: Shayo *et al.* (2013)

Different narratives are used in the film as artistic tools to highlight specific problems. For example, the narrative about a brother searching for his sister allows the film makers to show the cruelty of the customs officers and police at the border in Israel and Egypt. The narrative about a husband and wife shows the emotional pressure exerted on relatives by the traffickers to extract ransom. Meron represents someone from the 'outside' and shows how such people have huge potential to help. Semhar's story shows life after such experiences, full of grief and pain.

All of these narratives show the lack of power of Eritrean refugees and those trying to help them. The people shown in the film, do not have the ability to investigate the situation themselves and are in desperate need of help from volunteers from outside the country and the situation. The documentary encourages viewers to help the refugees. The stereotypical representation of victimhood in this film is perhaps motivated by this goal and, in theory, is understandable, as the documentary was filmed when human trafficking in the Sinai was still prevalent (before 2015), but received little international attention.

In the film, Sinai trafficking is shown as involving a new modus operandi and the commoditisation of human beings, “which is particularly brutal and is characterised by abduction, displacement, captivity, extortion, torture, sexual violence and humiliation, serial selling and killing” (Van Reisen & Rijken, 2014; Van Reisen *et al.*, 2017, p. 117).

The documentary *Under the Skin* (Deloget & Allegra, 2015) gives us a first-hand perspective on trafficking in terms of agency and context. Usually, “victims are presented as having little agency” (Gregoriou & Ras, 2018a, p. 47). In this film we see people who are oppressed and desperate, but still able to make decisions to survive and improve their lives. “People are not only agents of action but self-examiners of their own functioning” (Bandura, 2001, p. 5). People also exhibit agency when they commit suicide to stop the pain, as depicted in *Under the Skin* (Deloget & Allegra, 2015, 38:57). “Even though language/communication often proves problematic for victims, and legal consequences may arise when victims do away with their anonymity, the tendency is to silence them completely and regardless” (Gregoriou & Ras, 2018a, p. 53). The courage to speak and the bravery shown in the documentary is unimaginable for the audience. The sense of agency is enhanced through the experience of how some migrants and refugees rebel and resist the traffickers, as shown at the opening of the documentary (Deloget & Allegra, 2015, 02:27). Survivors talk about their families and their reaction when ransom was demanded. Some relatives ended up paying for the release of the survivors, but others stopped picking up the phone because of the pain they felt hearing their loved ones being tortured. The viewers were told that in some situations, those held captive could get themselves into a better position if they knew Arabic by helping the perpetrators in torturing and raping the other hostages. “There is much that people do designedly to exercise some measure of control over their self-development and life circumstances” (Bandura, 2001, p. 6). This is also agency, as some of those held captive choose to start helping the traffickers to save themselves.

Showing the agency of victims challenges the general image of victims as “young, vulnerable, coerced, agentless, silenced, unrelatable, and offered merely for reflection” (Gregoriou & Ras, 2018a, p. 55). The agency of victims is also shown in the documentary *It Will be Chaos* (Luciano & Piscopo, 2018). Both Wael and Aregai have to make decisions in order to help their family and avoid criminal involvement. Their journeys were not safe. They tried to find ways to organise their journeys to their final destinations without being arrested or deported. They faced many complications on the way to, and in, Europe, but they managed to reach a safe place.

## **Conclusion**

The perspectives shown in the documentaries studied in this chapter are diverse. The frames used vary widely and there is not yet a common frame through which human trafficking, its victims and perpetrators are viewed. This, in turn, impacts on the definition of the problem and how it is dealt with in public policy. In order to bring about social and policy change, these perspectives need to be looked at together through one frame, or a number of frames that are bridged or extended to give a cohesive understanding of the problem. This is the problem with representing real-life situations, which, unfortunately, explains the lack of understanding of human trafficking among the general public.

In this study the following areas of representation were identified: how refugees are portrayed, how human trafficking and smuggling are portrayed, the (genderised) representation of victims/survivors, the representation of trauma as a result of human trafficking and the agency awarded to actors in the context of human trafficking. By analysing these in each documentary, it is possible to identify the different frames of the problem as presented.

All of the documentaries, to a different extent and from different perspectives, deal with the perception of human trafficking/smuggling. To a lesser degree they highlight such topics as agency and trauma. The portrayal of refugees and genderised

victimhood are dealt with the least. The documentary that deals with all these areas is *Under the Skin*. The documentary films *It Will be Chaos* and *Sound of Torture* show almost all the perspectives. *The Gatekeepers of Europe* and *The Hunt for the General*, due to their specific focus, cover only a limited notion of human trafficking/smuggling.

The word ‘chaos’, which is used in the title of one of the films, describes the dynamic situation in the documentaries well. However, as emerges from this analysis, there is not yet a unified frame for describing and understanding the problem of human trafficking. However, a few ‘chaotic’ elements emerge as common to all five documentaries:

- The transportation of refugees to Europe: the dangerous trip in poor conditions with the huge risks involved, as proved by the Lampedusa tragedy.
- The arrival of refugees in Europe: the lack of support and communication with the locals and political authorities.
- Political confrontation and disinterestedness: the use of the situation by politicians to gain political power instead of actually solving the problem.
- The image of migrants as ‘illegals’ instead of ‘refugees’: the treatment of refugees as criminals and as ‘others’ by the authorities, media and local population, instead of with understanding and respect.
- Lack of social support: the fact that many refugees end up in refugee camps with strong police protection and sub-standard conditions.
- Bureaucracy: the fact that it is highly problematic to get a residence permit or ID for a range of reasons, which pushes refugees towards illegality
- The negativity in African-European relations: the disinterest in solving the problems mutually and the lack of mutual interest in preventing human tragedy and death in the context of human trafficking
- The unavailability of post-traumatic rehabilitation: instead of getting treated, most refugees end up in disturbing mental

conditions experiencing complications due to depression and post-traumatic stress.

The representation of the problem plays an important role in agenda-setting. It shapes how people and policymakers react and deal with the issues. Therefore, the representation of the problem has serious and real-life consequences in terms of the policies that emerge in relation to migration and human trafficking. Unfortunately, a connected framing of the problem of human trafficking does not exist at present, as this analysis shows. Even among documentary film makers who are motivated to raise awareness of the problem of human trafficking, there are different ways in which the problem is described and understood. Due to the diversity of representation of the problem of human trafficking for ransom, it is difficult to put it on the policy making agenda in a consolidated way. A more solidified and cohesive framing of the problem is necessary in order for there to be room for agenda setting and to solicit more effective policy responses when the political momentum emerges. A better focus on the framing of the problem may broaden the problem frames. This may result in frame bridging or frame extension of the problem of human trafficking, which is otherwise seen through multiple frames. A unified framing of the problem of human trafficking may facilitate the emergence of more successful policies to address the issue.

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### Language Dominance in the Framing of Problems and Solutions: The Language of Mobility

*Munyaradzi Mawere, Mirjam Van Reisen & Gertjan Van Stam*

*“Akanva e Sano: e kupingulwa fyonse (Bemba)  
La bouche, c’est la cour du chef, c’est là que se règle toutes les affaires.”  
(Africa Museum, Tervuren, 2019)*

#### Introduction

In his book, *C'est l'homme qui fait l'Homme*: *Cul-de-Sac Ubuntu-ism in Cote d'Ivoire*, Cameroon academic Francis Nyamnjoh (2015) gives us an insight into a television series of the same name in the Ivory Coast. Analysing the series, Nyamnjoh paints a stark picture of the differences in perceptions of people travelling for work and those remaining 'at home' in Africa. Nyamnjoh shows the complexity of the relationships between the diaspora and their friends and relatives at home, of course, dramatized for television.

Nyamnjoh's study is unique as it looks at the discordance in communication between a remitting diaspora and those at home from

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*Words explain the world, and on the basis of this understanding we act. Denying the reality that mobility has been a normal part of life on the African continent, the Western dominated narrative on mobility from Africa to Europe uses words with negative connotations. The term 'illegal migration' is used to describe the movement of refugees fleeing their country in search of protection. The term devalues their need to escape dangerous situations, while dehumanising their intentions. Terms such as 'illegal' and 'irregular' migrants criminalise Africans who move. Taking experiences out of context makes their lives look incoherent, inferior and cheap. As a result, loss of life on migratory trajectories is framed as collateral damage and seen largely as irrelevant losses.*

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the viewpoint of African sociology framed in *ubuntu*.<sup>66</sup> The study, however, remains superficial (Nhemachena & Mawere, 2016), as it touches mostly on urban experiences, whereas many people on the move are from rural areas. Most studies on mobility in Africa are from Western perspectives and influenced by Western views on mobility, negating the diversity in perspectives on, and the language of, mobility. Therefore, in this chapter, we analyse words in their geographical and epistemological context, to try and determine what mobility means from an African perspective. Our interest is not in the conceptual significance of the words themselves, but their *meaning* beyond the limits of the linguist and his/her professional context. We endeavour to identify the systems of communication used in various parts of Africa and the metaphysics behind the words, thereby scrutinising the language of mobility that has been developed by professionals (politicians, academics) to frame the contentious issue of African mobility.

## Method

This chapter is based on desk research carried out over a period of several years by the third author, who reviewed academic work on the subject, as well as articles in the media, and interacted with academic researchers working on migration. The authors used the method of living research, as described by Van Stam (2019), which involves immersion in the places and among the people being studied. In this case, this method involved living in Southern Africa full time (for two of the authors), travelling through other parts Africa, and numerous community interactions by the authors.

We subscribe to the view that in each culture, informed positions can be developed with intellectual integrity. To understand travellers, or people on the move, in the various cultures in Africa and Europe, we

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<sup>66</sup> The word *ubuntu* is derived from the Nguni languages. It is literally translated as “collective personhood and collective morality” (Mbiti, 1996). For a full discussion of *ubuntu* see *Ubuntu/Unhu as Communal Love: Critical Reflections on the Sociology of Ubuntu and Communal Life in Sub-Saharan Africa* (Mawere & Van Stam, 2016b).

seek to analyse *meaning* and *meaning-making* from different perspectives and epistemologies.

### **Dominant Eurocentric formalisations**

In our approach to the study of the language of mobility, we were intrigued by how the African voice is seldom present, if not entirely absent, in narrations about mobility. A dominant, loud (and rather angry) Western voice dominates, framed in a Eurocentric philosophical base. This begs the question where is the diversity, as the field of language is inherently diverse. Where are African inputs and voices? In fact, there appears one skewed and very biased perspective – and one language – that dominates and defines the frame through which mobility is being viewed: a Eurocentric one. How can we recognise African expressions and do African voices justice when using a language that is formalised by a non-African culture? Undoubtedly, there are African experiences and African designations that are expressed without reference to a foreign language or culture. However, in the current discourse, it appears that only one voice seems to be represented – the Western one – while other voices from Africa are subalternised, to the extent of answering Spivak’s rhetorical question in the negative: “Can the Subaltern speak?” (Spivak, 1988). The absence of balanced literature, or even worse, of any consideration of the language of mobility from an African perspective, is a form of epistemic violence.

In our research, the accounts of the families and communities of travellers, who speak from the same context as those who travel, make it clear that the language of mobility is a clash of histories and cultures. It is a clash of paradigms (Mawere & Van Stam, 2015). The language of mobility is a contested area, with dominant, polarising stories depicting ‘good’ (for instance, European policies) and ‘bad’ (for instance, migrants and smugglers who pursue profit-driven motives). These narratives negate the complexity of human relationships and people’s grounding in a shared culture, which encompasses moral sentiments, emotions and values, and shared norms and obligations, among other things. Nevertheless, many

people strive for shared frameworks of morality and language, and recognise the centrality of ethics in social networks (Achilli, 2018).

### **Contrapuntal developments in the language of mobility**

The relationship between language and its meaning is deeply rooted in culture and embedded in localised philosophies and epistemologies. The shaping of meaning begins at birth, the very moment one is introduced to a language and culture. When we distinguish between a philosophy developed in Europe and philosophies from Africa, we notice distinct differences in their grounding and orientation. The differences in orientation, of course, result from variations in epistemologies and philosophies about life; these result in (and reflect) differences in the daily and cultural practices in Africa and Europe.

The theologian Gert-Jan Roest (2016) recognised the basis of Western practices as being a self-consciousness that regards the individual (and, therefore, individualism) as a primary agent. Furthermore, in the Western context, Roest perceives the political pursuits of individuals to be driven by striving for human power and agency, freedom and fulfilment in self-sufficiency, self-reliance, autonomy, and immanent prosperity and security. In Africa, however, “every conceivable African political system had communities at its base” (Amadiume, 1997, p. 15). Numerous anthropological studies testify to the communitarian or communal character of African societies, where “the individual does not and cannot exist alone except corporately” (Mbiti, 1976, p. 141). Also, in many African places, the view of being human in a community is linked to views of morality, where “an individual's image will depend rather crucially upon the extent to which his or her actions benefit others than himself” (Wiredu, 1992, p. 200).

Multiple narratives unfold separately, and in conjunction, at the same time. In Africa and Europe, these stories are contrapuntal, a musical term that refers to two or more separate tunes that are played at the same time (Cambridge Dictionary, n.d.). These narratives are situated

in different epistemologies (Table 18.1) and perspectives on the causes and effects of mobility (Table 18.2).

*Table 18.1. Comparative overview of dominant epistemic orientations in relation to mobility*

<b>Africa</b>	<b>Europe</b>	<b>Reference</b>
Dynamic and integrative epistemology	Normative epistemology	Bigirimana, 2017
Ubuntu cultures	Christian-Judean cultures	Du Toit, 2009
Conscientisation	Age of Authenticity	Nkrumah, 1964; Roest, 2016
Oratio	Literality	Van Stam, 2013; Mawere & Van Stam, 2017
Sharing economies	Neo-liberalism	Sheneberger & Van Stam, 2011
Polychronic time	Linearity	Bidwell <i>et al.</i> , 2013
Authority	Power	Du Toit, 2009; Grosfoguel, 2008
Communiversality	University	Mawere & Van Stam, 2019

As mentioned, in the African setting, there is a close link between the individual and the community. The former belongs to the latter. Community is given primacy when prioritising between the two (the community and the individual). In African cultures, this deep connection between the individual and the community is summed up in the dictum: “I am because we are, we are therefore I am” (Mbiti, 1976, p. 140), which embraces the idea that human beings cannot live in isolation. This statement reflects the fact that many Africans acknowledge the primacy of community over the individual, from the understanding that humanity depends on community, interconnectedness, conviviality and interdependence. Bishop Francis Loyo of South Sudan narrates a vivid story about his life, in

which he shows how an individual in an African place is understood as part of the whole:

*I was born premature, weak and almost dying. My mother was ill and without milk. This was the beginning of my journey to life. I was breastfed by different mothers in the village and so I believed I am their son. After one year my father died leaving me in the care of my mother and my elder sister. Six years later my mother also passed away. When my mother was dying she spoke to my sister who had just got married telling her: 'Take him and care for him as your eldest child'. I became elder sister's first child and she took me to the village school. I was keen to learn and listened carefully since I knew my parents were not there anymore. I did not have much demands I only relied on goodwill mothers and fathers who were kind to me. What helped me was the African philosophy by Dr John Mbiti: "I am because we are and, since we are, therefore I am." We share and we are concerned for one another in times of hardships and happiness. (Loyo, 2015, np)*

This case, as with many others, clearly shows how relations and conviviality are valued in Africa.

Although Eurocentrism thrives on the separation between individuals and forms of groupings, we do not wish to reify or subscribe to an orientalist 'othering'. We recognise great diversity of behaviour and culture in groupings and individuals. However, given the geolocations of meaning-making and views on development, in this study we indicate some of the documented observations about the varied and multiplicity of experience. Kwasi Wiredu (1998) argues that comparison is only methodologically possible when comparing equal with equal. Therefore, in the tables we analyse "contingent norms of life" (Wiredu, 1996, p. 30), which are, anthropologically, indications of the customs and norms of societies. These can include "...conventions, grammars, vocabularies..." (Wiredu, 1996, p. 28). We have selected materials – language to be specific – that are indicative of common attributes as a base for comparison. We derive these tables from critical and reflective thought (Van Stam, 2017a).



When regarding the migration discourse, it becomes clear there are glaring misalignments in the use and meaning of words by people from different groups and cultures.

Table 18.2. Simplified overview of common misalignments in the language of mobility

<b>Africa</b>	<b>Europe</b>
Projected esteem on travellers reaching Europe	Labelling of migrants as exploiting
Expecting remittances from travellers	Criminalisation of migration
Depicting Europe as ‘resource abundant’	Depicting Africa as ‘poor and failing’
Source: Van Stam, 2016	

Even if a common language is used – English – in the practice of a large group of Africans travelling from Africa to Europe, the words used by both are incompatible. Table 18.3 gives some examples.

Table 18.3. Examples of the different use of words in the discourse on mobility

<b>Issue</b>	<b>An African view</b>	<b>A European view</b>
<b>Reason for travel</b>	<i>Resource gathering</i> in far-away places for communal survival, or seeking refuge outside areas of conflict	<i>Profiting</i> from European success and society
<b>Denomination</b>	<i>Traveller</i> from Africa to Europe (and back)	<i>Migrant</i> from Africa to Europe (to stay)
Sources: Ong’ayo, 2019; Van Stam, 2016		

### **A discussion model**

By definition, mobility involves travelling between different geographical areas and, thus, engaging with various epistemologies. An individual can purposively move about her/his environment (Rosso, Taylor, Tabb & Michael, 2013), including geographical and epistemic landscapes. In this section, we endeavour to deconstruct

the issues at play in the case of Africans travelling to Europe. Although there are many reasons for travelling and reaching the West, Africans commonly share any resources acquired from Europe with their families and communities in Africa in the form of remittances.

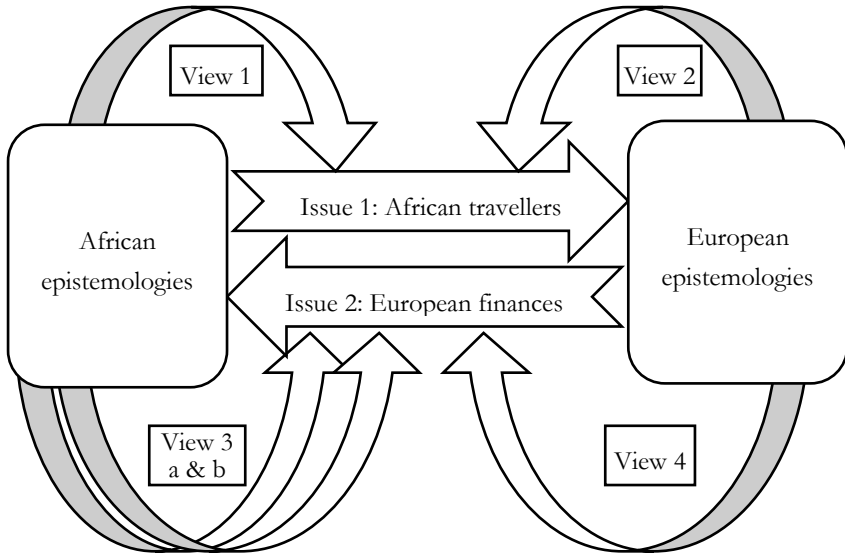


Figure 18.1. Simplified overview of epistemologies, issues and views

In Figure 18.1, a simplified overview of the epistemologies, issues and views at play is presented. The figure shows two main issues:

- The flow of people from Africa to Europe
- The flow of resources, mostly financial resources, from Europe to Africa

The views depicted in the Figure 18.1 are grounded in epistemologies that currently exist in the two geographical areas involved: African epistemologies set in African philosophies and meaning-making and European epistemologies located in Eurocentric thought. Our use of the term *African* in this chapter, like the term *European*, adheres to Thaddeus Metz's position that geographical labels refer to:

*...features that are salient in a locale, at least over a substantial amount of time. They pick out properties that have for a long while been recurrent in a place in a way*

*they have tended not to be elsewhere. They denote fairly long-standing characteristics in a region that differentiate it from many other regions.* (Metz, 2015, p. 1176)

The figure depicts four views:

- View 1. On the purpose and practice of travelling from Africa to Europe, based on Africa-centric epistemologies
- View 2. On the purpose and practice of travelling from Africa to Europe, based on Eurocentric epistemologies
- View 3. On the resources from Europe being sent to Africa, from African epistemologies, separated into view 3a (embedded in indigenous African epistemology) and view 3b (embedded in neo-colonial thought)
- View 4. On resources from Europe to Africa, from a Eurocentric point of view

The figure is greatly simplified; it omits many details, especially contextual issues, such as the significant net outflow of financial and other resources from Africa to Europe (Mawere & Van Stam, 2016a). It omits the diversity of African and European epistemologies. However, in this chapter, we wish to highlight the multiplicity, complexity and discordance of the languages involved, and, for that purpose, this simplified model suffices.

### ***Travels from periphery to the centre (view 1)***

In view 1, travelling is a dynamic and integrated activity, initiated from African experiences and stories of travellers. It is from this context that travel commences, from a situated understanding of what the pros and cons of travelling are. Therefore, view 1 starts off the travelling. The reasons for travelling are diverse and can be distinguished as being reactive (e.g., fleeing from violence or indefinite military service, as in Eritrea) or pro-active (e.g., in search of a better standard of living, as in Nigeria).

Ubuntu implies an expanded view of community (Ramose, 2003; Mawere & Van Stam, 2016b). Any activity in the Horn of Africa links

in with community ('being sent' by elders in the community), religion ('my share', as per beliefs in the community), blessings, oaths (for instance, bounded by *juju* curses in West Africa<sup>67</sup>), or spirits. Mobility is facilitated by 'travel agents'. Such agents are common and have been facilitating travel for decades, for instance, by helping people find work abroad (see Hoffmann, Meester, & Nabara, 2017 for an example set in Agadez, Niger). Responding to the circumstances and demands of travellers, the radius has been extended and travel has been made more difficult and dangerous due to suppression by official systems (see view 3b). In Europe, the vocabulary used by Africans talks of 'blending in' (Vermeulen, 2018). Woyo from Angola expresses this succinctly in the following quote: "An uprooted palm tree gets trampled", which means that "someone without family or money is weak" (Prover Pot Lid, Africa Museum, 2019).

### ***Receiving travellers in Europe (view 2)***

View 2 is ideologically framed. Here, terms like 'illegal migration' are being positioned as an ideological straw man (Taylor, 2015; ICMPD, 2017), that is to say they misrepresent what is happening to make it easier to attack (like a straw man). Upon their positioning, this intentionally misrepresentative terminology provides the foundation for political manoeuvring and the raising of barriers (Mbembe, 2018). Such writings and practices are positioned in a long history of what can be called 'the Terrible Three': orientalism, imperialism and colonialism (Van Stam, 2017a, pp. 117–126).

In political writing, the 'problem of migration', as vaguely defined in Eurocentric language, is placed at the feet of Africa and Africans. Subsequently, these misrepresented problems are proposed to be solved in processes that build up barriers and impose restrictions on the movement of people. Through embedding the issue in processes (for instance, the Khartoum Process), questions like 'why is this view being taken' are overshadowed by narratives about a 'crisis'. The dominant language, therefore, reifies practices.

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<sup>67</sup> *Juju* refers to a multifaceted phenomenon covering a wide range of traditional and religious practices, reportedly used by perpetrators to subjugate victims of human trafficking (Van der Watt & Kruger, 2017).

These kinds of systems and reifying processes have been used before. The contemporary language of blaming and criminalising ‘African migrants’ serves a similar purpose: to set the stage for Europe to impose its anti-migration policies.

### ***Remittances and aid (view 3)***

View 3a is the contemporary view from an African epistemology. Here, the resources being remitted from Europe to Africa are seen as the result of seeking remunerated work in Europe (Van Stam, 2016). Francis Nyamnjoh (2015), who was cited in the introduction to this chapter, describes the dynamics of this ‘hunting’ for resources vividly. At the same time, and parallel to the dominant view from within Africa, view 3b exists in response to the language used in view 2. View 3b interacts with the rather substantial resources that come out of the European policy decisions based on view 2. These are multilateral and bilateral funding streams from Europe to international non-governmental organisations and African governments to ‘stop the migration streams’. View 3b, thus, is the result of geopolitical influence meant to disrupt or prevent issue 1, with definitions of outcomes set in a European epistemology. View 3b represents an ongoing neo/super-colonial meddling in Africa. A vivid example in popular language is: Europe is moving its borders south of the Sahara through a “remote control policy” (The Conversation, 2018; Väänänen, 2018).

### ***Super-colonialism (view 4)***

There is a distinct difference between travel and trade in humans. European slave ships transported an estimated 12.5 million enslaved African men, women and children to the Americas from the 16<sup>th</sup> Century through to the 19<sup>th</sup> Century, with the involvement of important European harbours, such as London, Amsterdam and Lisbon (Eltis & Richardson, 2010). New modern-day forms of slavery have emerged in the last decade, especially since the introduction of ICTs that facilitate human trafficking for ransom as a new form of slavery (Van Reisen & Rijken, 2015). Without exception, the abduction, extortion and selling of people as merchandise is regarded as a crime. The networks profiting from mobility are complex,

international hierarchical structures with links to governments (Van Reisen & Mawere, 2017). That this may include officials from European governments was illustrated by the involvement of a top politician in Belgium, who was arrested on suspicion of selling humanitarian visas to refugees (Pano, 2019).

View 4 is a positioning set in a historically-shaped ideology. “Everything passes, except the past” is written on the wall of the newly reorganised Africa Museum in Tervuren, Belgium (2019). It is located in the old museum constructed by King Leopold II in 1897 for the World Fair. King Leopold owned Congo as his personal property and was its sole ruler. The museum was funded by the Ministry of the Colonies and exhibited live Africans. It is now recognised that the museum “played an important role in the representation of Africa and Africans and in the glorification of the colony and its founders”. The museum also points out that “Some aspects of this imagery are still at work” (Africa Museum, 2019).

An important element of the museum are the exhibits of this colonial portrayal of Africa by Matton (1873–1953) in the form of statues, which are still protected. The museum explains:

*All statues represent a colonial vision. Belgians are presented as benefactors and civilizers, as if they had committed no atrocities in Congo, and as if there had been no civilization there beforehand. Africans are represented as smaller than Europeans or reduced to the activities they practice. African women are sexualized. An Arabo-Swahili trader tramples a Congolese who tries to protect his wife. It is clichéd colonial propaganda, but it still effective more than a century later.* (Africa Museum, 2019)

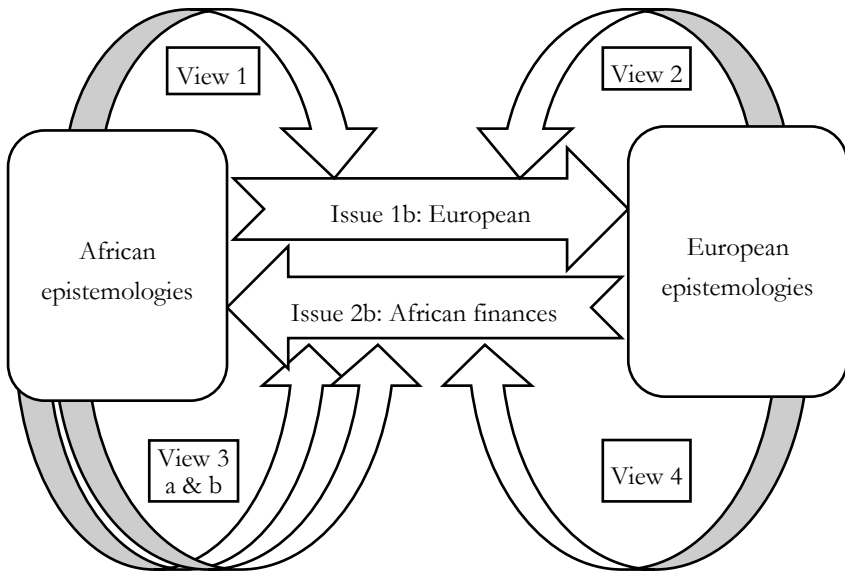
This museum in Belgium gives a stark view of how travellers from the African continent were limited to stay in Africa or come to Belgium as servants, students or living exhibits.

This colonial ideology is sustained by an oriental outlook on Africa, as a failing continent that had no history before colonialism and a continent that cannot stand on its own. In this ideology, Africa is

characterised as a continent suffering from persistent dismal economic performance, diseases (i.e., HIV/AIDS, Ebola), civil war, maladministration, corruption, poverty, dictatorship, human rights abuses, and starvation. Views on the broader context are being neglected, for instance, omitting the sizeable net inflow of resources and financial means from Africa to Europe (Sharples, Jones, & Martin, 2014; Mawere & Van Stam, 2016a). The devaluation and the dehumanisation of Africans, sustained through centuries of propaganda that has depicted Africans as lesser human beings to their ‘superior’ European masters, sustains a colonial ideology and language in which African lives have inferior value.

**Confrontation: Exposing the ideological framings at play in views 2 and 4**

The undergirding of ideologies comes to the fore when changing the direction of the arrows in Figure 18.1. Doing so highlights the case of European travellers to Africa.



*Figure 18.2. Simplified overview of mirrored issue and views*

Table 18.4 now looks as follows (compared to Table 18.3).

Table 18.4. Examples of the different use of words in the discourse on mobility when the direction of the arrows is changed (with regards to Figure 18.2)

Issue	African view	European view
<b>Reason for travel</b>	Visitor welcome as a common dweller in one humanity	Saving Africa
<b>Denomination</b>	Interference based on white saviour syndrome or super-colonialism	Expatriate bringing development and business skills through technical assistance

When reviewing Figure 18.2, the dominant language focuses around the word ‘freedom’. In classical liberal thought, four freedoms are invoked: freedom of movement of capital, goods, services, and people. The contrast between the language used in the situations described in figures 18.1 and 18.2 is remarkable. We have observed the dismay of European travellers having to apply and pay for a visa to enter African countries, oblivious of the high barriers, expenses and efforts needed for Africans to legally enter Europe.

### Creation of a ‘straw man’

Referring back to Figure 18.1, in the political framing of view 2, straw men are being put in place. Their purpose is to caricaturise and dehumanise Africans travelling to Europe. Instrumental among these straw men is the container-term ‘irregular migration’. This term has been invented to allow holders of the European view to gain the political upper hand. In daily practice, the term ‘irregular migration’ is used interchangeably with ‘illegal migration’, making travelling synonymous with criminal behaviour.

However, there is no clear or universally-accepted definition of irregular migration (IOM, 2018). The terminology is not grounded in international law and, therefore, evades regulation. The term also evades the distinctions set for refugees of war or travellers for health



and economic reasons. Such distinctions are guided by the 1951 Convention on the Status of Refugees, known as the Geneva Convention.

Terminology like irregular migration (IOM, 2018) homogenises all travellers from Africa to Europe that follow unchartered travel paths. The language lumps all of these travellers together, regardless of their motive: whether they are refugees or seeking a living wage. The terminology is weaponised. Such language is used unscrupulously by some as a springboard to attach labels such as ‘rapist’, ‘scavenger’ and ‘terrorist’ to broad swaths of people.

Another container-word is ‘compact’, which is colloquial for ‘comprehensive partnership’. This terminology also evades clear definition (Gammeltoft-Hansen, Guild, Moreno-Lax, Panizzon, & Roele, n.d.). This word is used to justify geopolitical meddling through the provision of technical assistance aimed at influencing processes to remove the reasons to travel. Here, the weapon of ‘funding’ through ‘aid’ is used to strengthen neo-colonial processes and establish super-coloniality under the guise of international organisations that ‘help’ Africa. In practice, there is often little to show in terms of the outcomes of the interventions implemented by these organisations. The objective is ‘border outsourcing’, which has been done in deals between Europe and Turkey, and between Italy and Libya.

Another example of non-defined terminology that is making its way into use through view 2 is ‘migration management’ (for border control). This qualitative language is subsequently turned into ‘body management’ or ‘people management’. Here, the descriptive language morphs into quantification, using the tool of numbers. The use of quantitative language results in datasets that are framed, categorised, set, and managed by those who control the language of the methods and definitions.

## The criminalisation of migration

The terminology in view 2 has hardened in recent years. The documentary *It will be chaos* (Luciano & Piscopo, 2018), which investigates the journeys of refugees, traces the battle over the negative framing of African migrants back to 3 October 2013, when a ship sank near the Italian island of Lampedusa, killing over 300 Africans. The documentary opens with a stark image of the coffins being loaded using a crane.

The film shows a dialogue between members of the media and the Mayor of Lampedusa, who bemoans the terminology used by the reporters who refer to the migrants as ‘illegal’. Before answering their questions, the Mayor insists on clarifying the language being used:

*They are refugees. We are talking about asylum seekers. Let's make it clear. Those who land in Lampedusa aren't illegals. [...] I know what your question was, but I have to correct you, otherwise you will report these are 'illegals'. [...] well if you don't get it, neither will your audience. Those who land on Lampedusa are not simply undocumented. These people are 'refugees'. You know, words are important.*  
(Luciano & Piscopo, 2018)

The documentary shows how the disaster in Lampedusa opens a window of opportunity to frame the problem in a new light. And as the mayor is arguing for language that upholds the dignity of the people who died in sea and the survivors, she is doing this in the context of another language that is emerging. International and European officials visit the island to emphasise the need for a common policy and direction. In this context the Prime Minister of Italy Enrico Letto visits the island and is filmed in the documentary responding to a question by a journalist, next to the smiling President of the European Commission, Mr Barosso:

*Journalist: But the DA's [District Attorney's] Office has charged the survivors with the crime of illegal immigration.*

Prime Minister: *The law is the law. But, of course, this is a terrible tragedy.*  
(Luciano & Piscopo, 2018)

The documentary shows the battle over terms, which lay the basis for policies. The Italian Minister of Migration, also shown in the documentary, tries to soften the impact by stating: “When they’ll start the asylum procedure, the charges may drop” (Luciano, & Piscopo, 2018).

The documentary then shows how one of the survivors, a refugee from Eritrea, is brought to court and accused of entering Europe illegally; he decides to continue his journey in search of protection and safety on his own, relying on relatives in Europe, forcing him towards illegality, as he is now trying to survive without any support from the host society.

### **African versus European lenses**

Tables 18.1 and 18.2 provide evidence of the fact that the language and voice from the West is at variance with the language and voice from Africa. The language from the West represents a facility that allows for the colonial exporting of problems, issues and methods. This language is used politically, while being framed as an objective truth. Truth, Kwasi Wiredu (1980, p. 114) argues, is located in time and place and, therefore, an opinion, never an absolute. However, through a dominating language, ‘opinion’ is positioned as ‘truth’ to define who is or is not allowed to travel in the world today (Mbembe, 2018). The contemporary language of mobility, therefore, is unjustly biased by, and for, Western (European) ideology.

The African ways of talking about and, thus, culturally framing travel have not received just consideration. African ways of looking at reality have not received the necessary scholarly attention. The survey of realities in Africa through Eurocentric lenses, however, has received much attention and is being facilitated by large grants in Europe. This chasm is overshadowed by models ‘explaining’ migration patterns that are proffered by European powerhouses. These models continue

to flesh out Western premises, filtered through a colonial matrix of power and racial systems of socio-cultural classification (Ndlovu-Gatsheni, 2013). The adoption of Western models, therefore, boils down to a continuation of colonial behaviour based on supposed Western supremacy, while neglecting African voices.

The dominance and export of Western language that reifies and defines is a means of analysing empirical material that is presumably derived from Africa. This practice is a continuation of colonial interference, which distorts African identities and misrepresents African realities (Van Stam, 2017b). This language, Achille Mbembe argues, is:

*...produced nearly always by Europeans or Euro-American men who are the only ones accepted as capable of reaching universality; they involve a particular anthropological knowledge, which is a process of knowing about Others – but a process that never fully acknowledges those Others as thinking and knowledge producing subjects.* (Mbembe, 2015, p. 36).

Colonialism has caused the involuntary intermixing of Western and African intellectual categories in the thinking of contemporary Africans (Wiredu, 2002, p. 54). The forces that require Africans to use the non-African based languages of the former colonisers – English, French, Italian, and Portuguese – are incognisant of the incompatibilities of those languages with local narratives and contexts. However, by accepting Western languages, African environments have little ammunition with which to withstand framings and models set in Western methods and classifications. Or, in the words of Kotze and Kellerman: “The role and status of the technocrat and technocratic approaches contribute not only to the devaluation of indigenous knowledge and experience but also to the side-tracking of the people's emotions and feelings in development” (Kotze & Kellerman, 1998, p. 34).

The dominant language of mobility can be traced back to the imperial project, through which Europe sought to control ‘others’ in all respects – politically, economically, morally, culturally and religiously.

Already, by defining borders during the ‘Scramble for Africa’ in the 19<sup>th</sup> Century, and through the colonial projects, European powers sought to limit the mobility of others, in order to control and dominate them. Contemporary language is a natural evolution of such thought, “turning the [African] continent into a massive carceral space and each [African] into a potential illegal migrant, unable to move except under increasingly punitive conditions” (Mbembe, 2018). Research is needed to show the illegitimacy of these practices and propose alternative frameworks that are grounded in the realities of the travellers in their African home areas, for instance, by highlighting the role of traditional leaders, the custodians of culture and, thus, language. An example of alternative narrative is the denouncement of the juju-curses by spiritual leaders in Benin (Ebegbulem, 2018).

Language is linked to local conditions and culture, with local languages framing meaning-making and responses to local issues/problems. Any proposal from ‘the outside’ must be aligned with, and, ideally, complementary to, local meaning-making (Mwesigire, 2016). Robert Chambers (1994) argues in his presentation *Poverty and livelihoods: Whose reality counts?* that in case of large power distances, the realities of the poor should be pre-eminent in any intervention. In line with this argument, it can be posited that the sole use of Western language exacerbates the plight of, and disempowers, African travellers and feeds narratives of victimhood.

As the world is becoming increasingly global, for both Europe and Africa, there is a need for common, or at least complementary, understandings. In other words, we need to find a shared foundational semantics and understanding about the mobility of people. Cooperation toward this end can only be fruitful when one acknowledges the intercultural nature of philosophy and substantive universal rationality and sociality. It is partly for this reason that we endeavour in this chapter to provide a considered opinion, seeking cognitive elements in knowing, by applying a thoroughly intercultural, reflective manner of perceptive and rational inquiry (Du Toit, 2007).

The sociologist, Oyèrónké Oyěwùmí, like many others, stands against Western dominance in African studies. She wrote on the necessity “to undertake a re-examination of the concepts underlying discourse in African studies, consciously taking into account African experiences” (Oyěwùmí, 1997, pp. x–xi). She notes that: “all concepts come with their own cultural and philosophical baggage, much of which becomes alien distortions when applied to cultures other than those from which they derive” (Oyěwùmí, 1997, pp. x–xi).

Her studies on genderisation stand as an example. She found that gender discussions are being framed by the specific feature of an English-language culture to classify words as being either feminine or masculine grammatically. With the favouring of male pronouns, Western social history has regarded women as secondary beings (Oyěwùmí, 1997, p. 39). This gendering in the English language, Oyěwùmí argues, has led to colonialisation and misrepresentations that have applied genderisation where, in African languages, such a feature does not exist.

Similarly, Munyaradzi Mawere and Tapuwa Mubaya (2017) have asked why African studies, as a discipline, has always been spearheaded by Western academics and institutions. In the cover blurb for their work *African Studies in the Academy: The Cornucopia of Theory, Praxis and Transformation in Africa*, Mawere and Mubaya note with concern that:

*African Studies as a discipline have been spearheaded by academics and institutions in the Global North. This puts African Studies on the continent at a crossroads of making choices on whether such a discipline can be legitimately accepted as an epistemological discipline seeking objectivity and truth about Africa and the African peoples or a discipline meant to perpetuate the North’s hegemonic socio-economic, political and epistemic control over Africa.* (Mawere & Mubaya, 2017)

In line with Oyěwùmí and Mawere and Mubaya’s arguments, in this chapter we posit that the use of a specific language about mobility in Europe misrepresents African realities by imposing attributes to travellers that are assumed to be universal, for instance, wishing to

travel to Europe because it is somehow superior. This misrepresentation of African realities, however, has become the reification and source of social distinctions.

Allowing certain words to act as frames in societies where such words do not exist or fit obscures the reality in such a society. Examples include the use of gender as a frame of analysis in Africa, whereas communities are genderless (Oyěwùmí, 1997; Nzegwu, 1998). Such a framing, for instance, obscures neuter roles. In an analogy to racial framings, Mbembe (2018) recognises that racial violence is encoded in the language of ‘border security’. In the area of mobility, the framing of words like ‘migration’ and ‘exploitation’ obscure the existence of moral behaviours playing out in complex roles and practices during travels, for instance, in the practice of ‘good’ smuggling (Achilli, 2018).

Here, we argue, that an assessment of African realities, and thus language, is not possible when the assessment is set in pre-conceived ideas and encapsulated in one language and, therefore, one point of view. Western ideological reasoning appears to describe ‘migration’ in (neo-)liberal language only, evoking the image of a crisis and the ongoing ‘exploitation of Europe’ by Africans. Such politics could well become impotent if it allowed for the diverse interpretation of reality and for different stratifications in society, taking away popular stereotypes and, thus, undermining the ‘straw man’. In the current dispensation, however, the influence of internationalised Western culture appears pervasive. To counter this pervasiveness, there is a need to diversify the epistemological and methodological basis of understanding and interpreting realities and meaning-making.

The absence of sensitivity and a broad knowledge of indigenous African ways of describing mobility, as well as the ongoing messaging using Eurocentric coding, could well lead to the reformulation of realities in Africa based upon this alien language of mobility. The practice of reframing can be recognised in the behaviour of the police in countries like Mali, who have accepted the narrative about the criminalisation of travelling and who are now penalising those making

journeys for work that were common over the past millennia (Hoffmann *et al.*, 2017). What was previously normal behaviour (e.g., facilitating transport for seasonal labour) has been outlawed due to the influence of ‘foreign ways’ of looking at journeying (Chapter 9, *The Plight of Refugees in Agadez in Niger: From Crossroad to Dead End*, by Morgane Wirtz).

The study of the drivers of the language of mobility might yield surprising results. For instance, African ways of discussing mobility could show that African languages imply inclusivity, in which ‘being human’ is the main ontology that links all of humanity (Mawere & Van Stam, 2016b). Travelling has happened in Africa throughout history. Mbembe argues that, in Africa, “the primordial principle of spatial organisation was continuous movement” (Mbembe, 2018). Or, the language could reveal various forms of membership that defy the racial classifications proposed by the Western scheme. African voices talk about the integration (of foreigners), of peoplehood (including the living, the dead, the unborn, humans and non-humans), and of nature (being part of the chain of beings).

Wamba-dia-Wamba, in his work *Africa in Search of a New Mode of Politics* provides a list of ways to denounce dominant (political) language and ways of reconciliation. Among these, he proposes the following (Wamba-dia-Wamba, 1994, pp. 257–58):

- limiting the notion of the ‘nation-state’ as the main denominator of one's identity
- delinking ‘development’ from ‘development-policies’ set by powers not living in the area that progresses
- deconstructing colonial legacies and notions like ‘traditional society’ or ‘fixed cultures’
- recognising local forms of economy, which then, from their ‘right to exist’ can interact in the world economy
- recognising the local way of ‘knowing’ as valuable and that most people in a community are involved in its creation and dissemination



## Conclusion

This chapter has highlighted the variances in the use of language in mobility discourse. It argues that the existence of one dominant use of language is not useful in understanding the dynamics involved in travelling and ineffective in stemming migration flows. Moreover, it can potentially give rise to dangerous dynamics for both travellers and host countries. More particularly, the chapter shows the differences between African and European framings of mobility, and the benefits of, and problems, with these framings.

This chapter shows that mobility is not static and changes over time, and that words are important, as they lay the basis for policies and practices. Words explain the world, and on the basis of this understanding we act. Words also influence the allocation of resources that allow practices to happen. In mobility, valuable resources are spent to support travelling and are flowing back once a destination has been reached.

This chapter contends that the negative words used to describe mobility from Africa to Europe represents a revival of the colonial view and propaganda in an attempt to devalue and dehumanise Africans, making their lives inferior and cheap. The negative terms used to describe African travellers, such as 'illegal' and 'irregular' migrants, criminalises Africans who travel and denies the fact that travelling has always been part of the way of life in Africa. It also interprets travelling from an elite perspective, where Europeans can legally travel the world, but African attempts to do the same are framed as illegal and criminal.

The human trafficking associated with the irregularised traveling of Africans is in essence little different from the slave trade, which characterised the colonial period, reducing Africans to commodities for exploitation and profit. It is a terrible shame for Europe to find that its current migration policies have enabled the commoditisation of human beings, which should have no place in the contemporary

world. The involvement of Europe in facilitating such commoditisation demonstrates that the colonial era is not yet over.

A new search for understanding the language of travelling in the African continent is needed in order for Africans to recapture the agenda of mobility, which is so central to African culture, economy and way of living. This chapter has drawn on African scholars to show the value of African scholarship in discussing phenomena in words and language set in context and associated with African place and positionality, deconstructing colonial categories while strengthening African identities.

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**Part V. Extra-  
territorialisation of  
Migration and  
International  
Responsibilities**



# The Shaping of the EU's Migration Policy: The Tragedy of Lampedusa as a Turning Point

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### Introduction

By the end of 2017, the displacement of people had reached a record high: 68.5 million people were displaced globally, among whom 25.4 million were refugees, 10 million were stateless people and 3.1 million were asylum seekers awaiting a decision (UNHCR, 2018). Most displaced people, including refugees and migrants, remain close to home. Despite this fact, migration has dominated the political agenda in the European Union (EU) in recent years. From 2017–2018, the EU and its member states “intensified their efforts to prevent irregular entry and increased returns, including through policies that exposed migrants and those in need of protection to ill-treatment, torture and other abuses in countries of transit and origin” (Amnesty International, 2018c). People on the move face many dangers, often falling victim to human smugglers and traffickers, whom they pay thousands of dollars in the hope of

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*In 2013, 360 refugees drowned off the coast of Lampedusa in Italy. At that point in time a policy window opened to put the issue of refugees on the policy agenda in Europe. However, the issue was framed as a ‘migration crisis’ and one of ‘illegal immigrants’ instead of refugees. This language drove the response, and instead of implementing solutions focused on the protection of refugees, the EU externalised its borders and focused on stopping people entering its territory. Framed as a security issue, European policies have created a hostile environment for refugees fleeing inhumane and dangerous circumstances. Despite the large sums thrown at these policies, they are both unlikely to work and reflect badly on the EU’s human rights record.*

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reaching safety. Due to the lack of protection and legal pathways for migrants, many end up stuck in countries like Libya, where horrendous living conditions, human trafficking for ransom, and gross human rights violations have been reported (Global Initiative Against Transnational Organized Crime, 2018).

The so-called ‘mixed migration flows’ from Africa enter Europe through the Central Mediterranean route, via Italy and increasingly Spain. Many people travelling to Europe via this route are fleeing war, persecution and human rights abuses, while others are seeking a better life; both groups run a high risk of being trafficked and facing severe abuse. In 2018, Tunisians were the largest group of people to enter Europe via the Mediterranean Sea to Italy (22%), followed by Eritreans (14%) and Sudanese (7%) (IOM, 2018).

Reaching a peak of a million people in 2015, the arrival of refugees and migrants in Europe has caused an overhaul of the way Europe deals with migration. The situation has become known as the ‘migration crisis’ or ‘refugee crisis’ in Europe; not so much because of the death of, and danger for, migrants and refugees, but on account of the political problem that it has unleashed for Europe.

The main research question in this chapter is: *How has the ‘migration problem’ been defined in Europe, what are the origins of this definition, and how has this shaped the EU policy agenda on migration?* In answering this question, the chapter looks at how the focus of the EU has shifted from the protection of human dignity to the reduction of migrant numbers, and how its migration policy has evolved in a debate increasingly dominated by right-wing movements, contributing considerably to phenomena like the Brexit-vote.

The EU has put a lot of effort into dealing with the migration situation through new policy frameworks. Increasingly, the EU has focused on stopping migration outside of its own territory by making deals with North African countries and by protecting its external borders. This chapter examines the EU’s changing migration policy in the last five years and its failure to protect people and guarantee

them the rights agreed on in various international conventions, like the United Nations Convention on Refugees. The start of this chapter unfolds in Lampedusa, the Italian island where a ship with refugees sank in 2013 leading to the deaths of hundreds of people (BBC, 2013c). It is argued that this was the critical moment that shaped the European migration and asylum policy of today. It is where the foundations of the framing of the migrant crisis were laid.

## **Agenda setting**

This chapter's theoretical basis is John Kingdon's multiple streams framework, a theoretical framework that proposes that policy change occurs when agenda setting, policy choices and politics are aligned (Kingdon, 2014). A policy window is:

*...an opportunity for advocates of proposals to push for their pet solutions, or to push attention to their special problems... Sometimes the window opens quite predictably... At other times, it opens quite unpredictably. Policy entrepreneurs must be prepared, their pet proposal at the ready, their special problem well-documented, lest the opportunity pass them by.* (Kingdon, 2014)

Drawing inspiration from organisational development theory, the framework looks at the dynamics of the entire policy process from agenda setting to decision making to implementation and identifies three streams that determine the policy outcome. According to this theory, a policy window can open for change if: a problem is identified, a solution is available, and the political climate is ready for change. Especially relevant to this chapter is Kingdon's discussion about how different issues are treated by policymakers, in other words, their classification as a condition or a problem:

*Conditions come to be defined as problems, and have a better chance of rising on the agenda, when we come to believe that we should do something to change them. People in and around government define conditions as problems in several ways. First, conditions that violate important values are transformed into problems. Second, conditions become problems by comparison with other countries or other relevant units. Third, classifying a condition into one category rather than another may define*

*it as one kind of a problem or another. The lack of public transportation for handicapped people, for instance, can be classified as a transportation problem or as a civil rights problem, and the treatment of the subject is dramatically affected by the category.* (Kingdon, 2014)

Kingdon's theory is used in this chapter as the basis for understanding and analysing the unfolding of EU policies around the 'migration problem' inside and outside the EU. Analysis is conducted through research and the examination of EU policy papers, press releases, news articles, briefs and documentaries. Furthermore, a number of interviews were conducted with EU officials (i.e., the Directorate General for Development Cooperation, representatives from the European External Action Service, members of the European Parliament, and policymakers from the Commissioners' Cabinets) in 2018 in Brussels, Belgium.

### **Lampedusa: The window opens**

For this analysis, one particular event which took place off the Italian island of Lampedusa is taken as a starting point. On 3 October 2013, a ship approaching the island carrying over 500 people, mainly from Eritrea, sank in the sea. The ship had sailed from Misrata, Libya. Over 360 people were reportedly drowned, while around 155 were rescued. On 11 October 2013, a second shipwreck would follow, even closer to the Italian coast, though smaller in size (BBC, 2013b). These were not the first shipwrecks, nor the last, but the size and their relative closeness to the shores of Europe made the Lampedusa tragedy a key moment in the European migration debate. Through the images of bodies being brought to shore, Europeans saw the horrific tragedy of migration through the Central Mediterranean route.

Europe was shocked. Then Italian Prime Minister Enrico Letta wrote on Twitter that the Lampedusa shipwreck was "an immense tragedy". The Italian government launched the rescue operation Mare Nostrum to help prevent further tragedies and they asked the European Union for help to save lives at sea (The Telegraph, 2013). Italian Deputy Prime Minister Angelino Alfano stressed that the incident showed

that European assistance was needed to deal with the continuing influx of refugees and characterised the incident as “a European tragedy, not just an Italian one” (The Telegraph, 2013). The European Union’s response to the boat tragedy was immediate: Cecilia Malmström, then European Commissioner for Home Affairs, called the EU to increase its Mediterranean-wide search and rescue patrols to intercept migrant boats, through the Frontex border agency (BBC, 2013d). She said: “Let’s make sure that what happened in Lampedusa will be a wakeup call to increase solidarity and mutual support and to prevent similar tragedies in the future” (European Commission, 2013a). José Manuel Barroso, then President of the European Commission, travelled to Italy and said that “this image of hundreds of coffins will never come out of my mind. It’s something I think one cannot forget: coffins of babies, coffins with a mother and a child that was born just at that moment. This is something that profoundly shocked me” (BBC, 2013c). He further added that an additional funding of 30 million euros would be allocated to help refugees in Italy. Moreover, he had announced that the EU would work towards a common European asylum and migration policy, to have “much stronger mechanisms at [the] European level”. At first glance, it seemed that the tragedy had shaken up the European Union. A policy window had opened, as a condition had come to be defined as a problem, and there was political will and the momentum to address it. However, the way that the problem definition would evolve in the days following the tragedy would prove highly influential in the EU’s new migration policy framework.

### ***Framing ‘the problem’ following the shipwreck***

According to Kingdon’s theory, the way one frames the problem determines the solution. The crucial framing that would come to define the ‘migration crisis’ has its roots in the Lampedusa tragedy. The shock of the tragedy created a policy window, enabling the issue to be placed firmly on the public and political agenda and a solution to be developed, powered by the necessary political will. However, this chapter will show that the framing of the problem shaped the direction of this policy change.

The initial political response to the Lampedusa tragedy was focused on the fact that a large number of people had passed away, but then the debate shifted to *who* the victims were. Unfortunately, the media and politicians categorised the people who had drowned as migrants (with a focus on their illegal crossing), not as refugees. This is characterised by the fact that the survivors of the Lampedusa shipwreck were charged with the crime of illegal migration. “The law is the law”, stated Prime Minister Enrico Letta (Luciano & Piscopo, 2018). This key framing of the survivors not as refugees in need of international protection, but firstly as illegal migrants, has been key to the development of EU migration policy.

The HBO documentary *It Will be Chaos* (Luciano & Piscopo, 2018) has documented the unfolding of the Lampedusa tragedy and the EU response in detail, including how people were categorised as migrants by the politicians from the very beginning. The documentary shows Guisi Nicolini, the Mayor of Lampedusa, stressing to the media from the beginning: “let’s make it clear. Those who land in Lampedusa aren’t ‘illegals’ [sic]. They are refugees. We are talking about asylum seekers [...] I have to correct you otherwise you will report that these are ‘illegals’ [sic]. Well, if you don’t get it, neither will your audience. Those who land in Lampedusa are not simply ‘undocumented’. These people are refugees. You know, words are important” (Luciano & Piscopo, 2018). This excerpt shows that the media had already begun to refer to the irregular status of those involved in the tragedy. William Swing from the International Organization for Migration (IOM) said that “clearly, for us and I think for you [referring to Nicolini], the top priority has to be to save lives, to save people from dying. We should take urgent actions and stronger international coordination” (Luciano & Piscopo, 2018). Nicolini then emphasised the duty the stakeholders had to receive the refugees with adequate and decent reception standards. She also said “our system was conceived to push them back, rather than receiving them. The ‘strength’ of Lampedusa is to witness what’s going on first hand” (Luciano & Piscopo, 2018). The documentary also depicts the solidarity between the refugees and the people of Lampedusa: a fisherman tells a refugee that there is no need to thank him as he was happy to have been there to help. Later, the



fisherman describes the shock he had experienced and that he could never go back in his boat again after the incident.

The early pushback on terminology and the framing by individuals such as Nicolini did not last; the police escorted the Eritrean survivors of the shipwreck from Lampedusa to mainland Italy, where they were persecuted for illegally crossing into Italy – criminalising the refugees, who had just survived a major traumatic event. The documentary *It Will be Chaos* shows a meeting with the refugees, where the Mayor of Lampedusa said that she would provide “maximum support to the victims’ families”, and the documentary shows the refugees demanding that they at least see the corpses of their lost family members. In a press brief, then President of the European Commission, Manuel Barosso said that: “Today, Lampedusa and Italy are the focus of attention but let’s not forget that also other countries are facing strong migratory pressure – we the European Commission are doing everything we can to have much stronger mechanisms at European level” (Luciano & Piscopo, 2018). Moreover, then European Commissioner Cecilia Malmstrom said that: “This is not the European Union that we want. We need to do everything we can to prevent tragedies such as this one [Lampedusa] to happen again” (Luciano & Piscopo, 2018). The tragedy was beginning to drive change in the European Union, beyond Italy.

In December 2013, Task Force Mediterranean was set up by the European Commission in response to the Lampedusa Tragedy. This task force was mandated to prevent loss of human life, but with a focus to “prevent migrants from undertaking dangerous journeys” (European Commission, 2013c). The first point on a five-point list was cooperation with third countries to prevent migration. The other focal points were regional protection and legal pathways, the fighting of smuggling and trafficking, border surveillance and solidarity between member states. This shows that the main pillars of the EU’s migration policy were founded on the understanding of migration as the key underlying problem, with stopping migration seen as the main solution to the problem.

Through the focus on the legal status of the victims of the Lampedusa tragedy, the framing of migration as the overall problem and the focus on the number of migrants crossing the Mediterranean Sea, the stage was set by the media, politicians, and people of Italy and Europe. This gradual categorisation of the situation as a ‘migrant crisis’ would persist and come to define the policy agenda.

### ***A numbers game***

Another driver of EU migration policy was the issue of solidarity, also shown in the Lampedusa tragedy. Following the boat disaster, Italian officials called for solidarity from the EU. Member states now had to face the challenge of how to manage the incoming population. The EU was not ready for the ‘migration crisis’, as Collett and Le Coz (2018) have argued. The 2015 and 2016 flows of migrants and refugees in Europe:

*...presented the European Union with a transnational (and existential) crisis in a policy area that had not been constructed to manage fast-paced change. Deep political dissent and complex divisions of power between EU institutions, as well as between Member States, further hampered the European Union’s ability to respond, exacerbating long-standing tensions that persist several years on. (Collett & Le Coz, 2018)*

Moreover, national machineries were inadequate for the number of arrivals in 2014 and 2015:

*...national reception systems nearly collapsed under the volume of newcomers, and disagreements deepened through Member States over how to share responsibility for processing and offering protection to those in need [...] While this period has widely been described as a ‘migration crisis’, suggesting the disorder was the somewhat inevitable result of the sheer number of persons arriving, this might be more accurately termed a ‘systemic crisis’. The heightened arrivals revealed structural deficiencies within the design and implementation of national asylum systems and of the CEAS [Common European Asylum System]. The problem the crisis brought to light may have been greater in magnitude than had previously been seen, but they were not new and, in some cases, not unknown to many a close observer. (Beirens, 2018)*

This illustrates how internal, structural issues within the EU were externalised by politicians who were able to blame ‘uncontrollable migration’ as a convenient scapegoat for internal EU problems. The European Commission recognised the need for solidarity, proposing a mandatory relocation and resettlement scheme in 2015 to assist Greece and Italy, and to relocate refugees from third countries. However, strong resistance came from EU countries such as Hungary and Slovakia, and the idea of mandatory quotas was finally officially taken off the agenda in September 2018. The idea of Europe as a united entity which would tackle such problems together was shaken by the resistance, and further by the Brexit vote of June 2016, in which the migration debate played a large role. The definition of mixed migration flows as ‘illegal’ or ‘irregular’ migrants has continued to lead to individualised policy making within the European Union, undermining solidarity and a human rights-based response.

### **The policies: EU migration policy**

How did Kingdon’s second (policy – what can be done) and third (politics – the political climate) streams come together to change the EU’s migration policy? This was a process of formation and refining of policy proposals around the policy window. As Kingdon puts it, this includes “swings in the national mood”. It depends on the readiness of a nation – in this case a collection of nations, the European Union – to face a problem (Kingdon, 2014).

Kingdon has said that “the proposal [i.e., for a new policy] must be worked beforehand, and must surface and be pushed when the window is open” (Kingdon, 2014). However, in the case of the EU, it must be stressed that neither the member states nor the European Union were ready beforehand to deal with the ‘migration crisis’ in a way that would be in line with the EU’s standards on human rights.

Due to the urgency and the political push, the European Union institutions had to find immediate solutions, as the wave of reaction was strong enough to start shaking the EU at its roots. EU member states wanted to protect their sovereignty to decide over migration

issues, which was possible due to the framing of the problem as an irregular migration problem, rather than an international protection problem.

The people of Lampedusa were taking to the streets saying that they had taken over the governments' job to defend themselves – the people shouted lines such as: “we are the ones to assist the migrants. We all need a psychologist”, “This is a pressure cooker, sooner or later it will explode”, “More and more people will keep coming here, if we don't help them, it will be a disaster – we need to act now, not just words, we need facts!” (Luciano & Piscopo, 2018). As the pressure on EU member states grew towards 2015, protests turned against refugees and migrants and became more violent, as refugees and migrants were linked in the public debate with violence, rape and terrorism. In an effort to formulate policy and control this outrage as much possible, the EU responded to the ‘crisis’ in multiple ways.

### ***European Agenda on Migration***

A key document in the EU's migration strategy has been the European Agenda on Migration. It was formulated in May 2015 at the peak of refugee and migrant arrivals. Its objectives have guided and shaped the EU's migration approach since then. At the top of the list is increasing border protection, as shown by the 2015 intention of tripling the capacity of Frontex, the EU's border and coast guard agency. Other priority areas include the prosecution of traffickers and smugglers, the hotspot-approach to processing asylum seekers more quickly, and, further down the agenda, saving lives and improving legal migration. The immediate response, however, is aimed at protecting the EU's borders first; the safety of refugees and migrants comes much later.

Comparing the European Agenda on Migration from 2015 and its progress report released in 2018, an assessment can be made of what the EU has achieved – and what it has not. With this Agenda, the European Commission tried to “bring together the different steps the European Union should take now, and in the coming years, to build up a coherent and comprehensive approach to reap the benefits and

address the challenges deriving from migration” (European Commission, 2015a). The report from 2018 reads that “the response was immediate but insufficient” (European Commission, 2018a), as across Europe there were doubts that the migration policy was proportionate to the amount of pressure. Conflicts, such as the reluctance of member states to ‘share the burden’ of migration – for example, the refusal by some member states to agree to mandatory relocation quotas from Italy and Greece to other EU member states – frustrated coherence in the European Union institutions. Members of the European Parliament reported growing more frustrated by the European Council and Commission’s secrecy around its migration policy, especially in relation to its deals with third countries.

The European Commission’s Agenda on Migration progress report of 2018 described the situation along the main migration routes as a continued challenge, even though there have been 28% fewer arrivals of people than in 2014; the situation remains fragile and “pressure on national migration systems, while decreasing, remains at a high level” (European Commission, 2018b). The First Vice-President of the European Commission Frans Timmermans described the report as a reflection of the EU’s joint efforts to manage migration in a comprehensive way. Stressing that migration remains a high priority, he called the EU to “maintain this momentum and work hard to take further steps forward, including finding agreement on the reformed asylum system. Some of these actions are very urgent, such as honouring the financial contributions Member States committed to” (European Commission, 2018b).

More specifically, the report describes that, in 2017, more than 2,000 smuggled migrants were saved in the desert. It states that the joint African Union-European Union-United Nations Taskforce has helped more than 15,000 to return from Libya to their home countries in cooperation with IOM (European Commission, 2018a). As for funding, the report reads that it continues to play an important role in addressing the bedrock of immigration, protecting migrants and refugees on the routes and countering smuggling and trafficking, “with now 147 programmes for a total of €2.5 billion approved across

the Sahel and Lake Chad, the Horn of Africa and North Africa” (European Commission, 2018b). However, the report claims that there is still need for more funding.

The framing of successes in this report reflects the priorities of the EU: reducing the number of migrants equals a successful policy. However, the EU’s approach of external border management, which will be discussed later, negatively impacts on its human rights record.

### ***Frontex***

On October 2016, the European Border and Coast Guard Agency was officially launched as an extension of the mandate of Frontex and to effectively monitor the EU’s external borders. The European Council expressed the view that open internal borders (the Schengen area) will remain sustainable only if the external borders are secured and protected (European Council, 2016). The role and activities of Frontex have been significantly expanded to include helping in return operations (since 2017, there have been 135 such operations), among other things. In September 2018, President of the European Commission Jean Claude Juncker announced plans for an additional 10,000 Frontex border guards (European Commission, 2018d). This means tighter control of Europe’s external borders. Moreover, apart from placing more guards in Frontex, the agency has also taken on a law enforcing role. Fabrice Leggeri, the agency’s chief, told the EU observer that “I would not object if you define us as a law enforcement agency at EU level” (Nielsen, 2018).

Meanwhile, NGOs engaging in sea rescue operations face legal pressure, as they are seen as being associated with smugglers and traffickers. Facing pressure from Italy’s right-wing government, the rescue vessel *Aquarius*, for example, has been docked and its rescue missions ended under pressure (Schlein, 2018). Such repercussions for human rights defenders, in combination with increased reliance on border guards and coast guards of third countries such as Libya, means that the focus continues to shift away from saving lives at sea to stopping migration. IOM’s data shows that in response, smuggling

and trafficking networks are shifting to the more dangerous sea routes to Spain (IOM, 2018).

Furthermore, serious doubts exist over Frontex's commitment to fundamental rights. When in May 2018 the European Parliament hosted the Frontex Consultative Forum on Fundamental Rights (the Parliament has a solely consultative role in this regard) to discuss the latter's annual report on their activities and recommendations to Frontex, the members of the European Parliament responded with criticism (Karagianni, 2018b). The report describes the reluctance of the agency to adequately staff the Fundamental Rights Office, as well as its delays in adopting their Fundamental Rights Strategy. The members strongly criticised the reluctance of Frontex to implement human rights standards, as well as its denial of doing so. Member of Parliament Birgit Sippel (Socialists and Democrats party) said that:

*Sometimes we could get the impression that the Fundamental Rights Office is only a kind of an alibi for everything else that is happening in Frontex [...] There is, not for the first time, an apparent reluctance of Frontex to adequately staff the Fundamental Rights Office and this is especially alarming as, in its current form, especially this office lacks the minimum capacity to carry out its role including the monitoring of Frontex fundamental rights obligations as mandated in the regulation.* (Karagianni, 2018b)

Member of Parliament Ana Gomes (Socialists and Democrats party) also commented sharply, saying that when it comes to Libya, the EU institutions and EU member states “are in denial”, “pretending that they are training local and armed forces” (Karagianni, 2018b) to help them deal with refugees and migrants, but actually “what we know is that these forces are indeed militia enabled to actually repress the people” (Karagianni, 2018b).

### ***Externalisation of borders***

After Lampedusa, the EU increasingly grouped refugees and migrants together under the heading ‘migrants’, often with the adjective ‘irregular’ to emphasise their status. This shift in narrative places a reduced obligation on the EU to offer protection to anyone who has

not clearly been labelled as a refugee or asylum seeker. Another approach that the EU took is to move the burden of the EU's problem externally, namely, to Turkey and Africa.

Following the Lampedusa tragedy, the EU partnered with Africa on migration at the regional level through the Khartoum Process. The Khartoum Process aims at:

*...establishing a continuous dialogue for enhanced cooperation on migration and mobility, identifying and implementing concrete projects to address trafficking in human beings and the smuggling of migrants and giving a new impetus to the regional collaboration between countries of origin, transit and destination regarding the migration route between the Horn of Africa and Europe.* (European Union, 2015a)

The full name of the Khartoum Process, the 'EU-Horn of Africa Migration Route Initiative', reveals that the main goal of the Process is to stop migration from the Horn of Africa. The Process focuses heavily on preventing trafficking and smuggling, and not so much on the possible legal pathways that refugees could take to reach Europe or other destinations safely. In addition, the Khartoum Process is set apart by the inclusion of governments that have been accused of severe human rights abuses in its steering committee, such as Sudan and Eritrea, which are treated as equal partners despite accusations about their involvement in trafficking and smuggling operations (Van Reisen & Mawere, 2017). The full steering committee is comprised of five African countries (Egypt, Eritrea, Ethiopia, South Sudan, Sudan) and five European countries (Italy, France, Germany, United Kingdom, the Netherlands), as well as the European Commission, European External Action Service and African Union Commission. The Khartoum Process forms a platform for dialogue and projects and implements action funded by the multi-billion EU Emergency Trust Fund (EUTF) for Africa, which pays for, among other things, the Better Migration Management (BMM) regional project in the Horn of Africa. This will be covered in more detail later in this chapter.



By naming the Khartoum Process after the capital of Sudan, the name gives legitimacy to the Government of Sudan as a key actor and partner in migration management, as well as situating the responsibility to keep refugees and migrants in Africa and not in Europe. Legitimacy is also given to Eritrea, one of the main refugee-producing countries in Africa, which is set to chair the Khartoum Process in 2019 (Plaut, 2018). In its drive to stop migration, the EU is dependent on the help of the authorities of countries with poor human rights records as the only available partners.

Arguably, this policy has started to erode the human rights foundations of the European Union. Critics have argued that initiatives such as the Khartoum Process have “exacerbated the regional situation and [put] more migrants in harm’s way (Woodnorth, 2017). Hala Al-Karib, Regional Director of the Strategic Initiative for Women in the Horn of Africa pointed out that:

*Europe’s efforts on migration are too focused on to trying to stop people from moving. They treat illegal cross-border movement as an issue of law enforcement rather than as a symptom of deep-seated governance and extreme poverty problems, and fail to take into account people’s reasons for leaving, or their terrifying lack of choice.* (Woodnorth, 2017)

Dr Lutz Oette, Director of the Centre for Human Rights Law at the School of Oriental and African Studies in London has argued for the need to restructure the whole process: “I think one needs to go back to the drawing board in terms of policy making, get other actors involved and escape that instrumental, state-centric logic that has been pursued so far” (Woodnorth, 2017).

In the Valletta Summit on Migration (European Union, 2015b), stakeholders adopted a political declaration on European migration issues and set up the EUTF for Africa to address the “root causes of irregular migration and displaced persons in Africa” (European Commission, 2015c). This fund has been created for the EU to deliver aid and deal with emergencies. Directly managed by the European Commission, it is designed to increase the EU’s global

visibility and deal with the risks created by political instability. The EUTF was adopted at the Valletta Summit in 2015.

As the European Commission stated, with the creation of the EUTF, the EU sought to “address the disorganization and fragmentation of the response of the international community and [...] create a new form of European assistance cooperation that will ensure [...] swift delivery of concrete results on field” (European Commission, 2015b). However, as the refugee crisis unfolded, the fund’s focus shifted towards addressing the root causes of irregular migration in Africa by “promoting resilience, economic and equal opportunities, security and development and addressing human rights abuses, in three vast and very different regions: the Horn of Africa, the Sahel and Lake Chad, and North Africa” (Herrero Cangas & Knoll, 2016). As trust funds fall outside of the EU budget, it is not bound by the same EU budgetary rules and there is less oversight (European Parliament, 2018). Individuals in the European Commission welcome the fact that the fund has allowed them more freedom to spend beyond emergencies; however, the EUTF has also been criticised for its lack of transparency and use of development aid to stop migration. Notably, the European Parliament has been critical of the EUTF, noting in a 2016 resolution that the European Parliament: “is concerned that financing of the EUTF may be implemented to the detriment of other development objectives” and “condemns any use of EDF [European Development Funds] and ODA [overseas development assistance] funds for migration management and control of any other actions without development objectives” (European Parliament, 2016).

Critics, including NGOs and think tanks, have also objected to the EUTF, its nature and intentions. For example, the European Centre for Development Policy Management pointed out that:

*...expectations need to be managed, with regards to what impact can be realistically achieved with a little extra cash. The programmes and activities funded by the Africa Trust Fund alone are rather unlikely to make a significant difference in accelerating*

*peace and prosperity in Africa, and quickly and effectively addressing the drivers of displacement and irregular migration.* (Herrero Cangas & Knoll, 2016)

The European Council on Refugees and Exiles (ECRE) has also criticised the fund, stating that: “the program lacks checks and balances to guaranty [sic] the fund’s benefit for African countries. The focus on short-term EU interests might jeopardize long term interests for African partners” (ECRE, 2017). In addition, the NGO Oxfam has stressed that:

*[w]ithout sufficient investment in opening more safe and regular mobility pathways – both within Africa and towards Europe – the EUTF will not only fail to achieve its goals for development, but also its migration-related policy goals. Rather than leading to a reduction in migration, restricting irregular migration will simply force migrants to take more dangerous routes.* (Oxfam, 2017)

Andrea Stocchiero, expert in migration for the NGO Concord Italy, has also said that:

*EU Migration Compacts address only partially the drivers of forced migration, which requires a long-term, coherent and sustainable approach. They keep on focusing on ‘quick fixes’ (border controls and returns) and this is the main reason for their failure. Projects deviate from migration flows towards alternative dangerous routes and indirectly contribute to inhumane conditions and endangering human rights. The EU needs to reform the Trust Fund, and more broadly its overall migration policy, and use these kinds of instruments as the main tool to increase community resilience.* (Concord, 2018)

Beyond the EUTF, since the Lampedusa tragedy, development funding by the EU has also increasingly been used to address migration. For example, in 2015, Neven Mimica, the EU Commissioner for International Cooperation and Development, named migration as a key reason to resume development funding to Eritrea, even though previous development funding had shown little to no results on improving human rights or poverty in Eritrea. Such funding was even suspended after the Eritrean government refused to cooperate. However, when the EU relaunched the plans for

development aid to Eritrea in 2015, Mimica stated: “This would be a development contribution to the root causes of migration in Eritrea” (Blair, 2015). However, in 2018, the European Commission realised that the budgets for most of its programmes with Eritrea remained unspent due to lack of independent partners to implement the programmes with. In addition, Eritrea did not accept the terms of the spending agreements. In order to continue engagement with Eritrea, Commissioner Mimica paid a visit to Eritrean President Isaias Afwerki on 8 February 2019, and the men agreed on a new EUR 20 million project for road construction between the Eritrean port of Massawa and the border with Ethiopia (European Commission, 2019). The project, unlike the earlier development aid which fell under the framework of the European Development Fund, will be organised under the EU Emergency Trust Fund for Africa. The details of the project have yet to be negotiated.

### ***Deals with third countries***

Another way that the European Union and individual member states have sought to externalise border control is through bilateral deals with third countries. The main example has been the EU-Turkey deal of March 2016, which saw Turkey agreeing to host and accept the return of refugees in exchange for EU funds and political gestures. The legality of the EU-Turkey deal and other such deals, which are masked as statements rather than treaties, but which have a more clearly-defined legal status, has been fiercely debated (Matusescu, 2016). Despite criticism over its human rights implications, the EU-Turkey deal has been hailed by the EU as “a game changer” (European Commission, 2018c).

Other such controversial deals, including for funding to stop migration, have been made. In 2016, confidential EU documents were leaked showing the EU’s intention to engage with countries with dubious human rights record on migration: “to reduce onward movements to Europe” (ARTE/ZDF, 2018). The documents revealed the EU’s awareness of how such deals would look: “the EU should consider its high reputational risk associated with the engagement with Sudan exclusively focused on migration”

(ARTE/ZDF, 2018). In its cooperation on border management in Sudan particularly, the EU faces criticism for giving legitimacy to the Sudanese regime and supporting, indirectly, the Rapid Support Forces in Sudan, which have been implicated in war crimes. Although the EU denies cooperation with the Rapid Support Forces, the documentary ‘Türsteher Europas’ states that these forces play a role in Sudanese border management. When Sudan/EU talks were ongoing, the Rapid Support Forces detained 700 refugees, stating: “I underline, the refugees pose no danger to us. These people are trying to reach Europe, so we are assisting Europe” (ARTE/ZDF, 2018).

Deals with Libya (Aljazeera, 2017), including a controversial pact between Italy and Libya, have led to cooperation with the Libyan Coast Guard and the return of many migrants and refugees to Libya, where they face human traffickers and detention centres. The collaboration with Libya has attracted a lot of criticism from international organisations and civil society, as it has led to migrants and refugees becoming trapped in inhumane conditions (Karagianni, 2018a). For instance, the UN Human Rights Commissioner Zeid Ra’ad al-Hussein has openly characterised the EU’s policy of helping Libyan authorities in detaining migrants as “inhuman”. In addition, the Libyan Coast Guard has been accused of using excessive force to remove refugees who were too afraid to set foot in Libya from ships that were intercepted (Hagenberg, 2018). Heba Morayef, Amnesty International’s Middle East and North Africa Director, has stated that “the EU is turning a blind eye to the suffering caused by its callous immigration policies that outsource border control to Libya” (Amnesty International, 2018a).

In September 2018, the EU announced that it will reinforce the relationship with Egypt to decrease the movement of refugees and migrants towards Europe. The United Nations High Commissioner for Refugees (UNHCR) special envoy for the Central Mediterranean said that the EU “cannot ask other countries to do things they are not ready to do themselves” (Barrigazzi, 2018) and suggested that at the European level it is important to work on the internal dimension of processing and distributing refugees. Furthermore, a report by the

Global Detention Project reads that Egypt “has been criticized by rights groups and European policymakers because of the wider human rights landscape... Reporting suggests that Egypt has become a ‘dead-end’ for migrants as a result of cooperation with the EU since 2015” (Global Detention Project, 2018). According to the same report: “the Egyptian criminal law provides grounds for prosecuting people for status-related violations” (Barrigazzi, 2018, p. 21). The report says that in the past sources have reported to the Global Detention Project that: “authorities frequently charged people for migration-related infractions. However, more recently observers report that authorities generally avoid criminal prosecution, instead holding migrants in detention through administrative orders from the Department of Passports, Immigration and Nationality” (Barrigazzi, 2018, p. 7). Moreover, Africa Monitors has reported that Eritrean refugees in Egypt face “issues of protection, Refugee Status Determination, Resettlement, financial assistance and social services (education, health care and employment)” (Africa Monitors, 2018). Amnesty International posted an article on Egypt and its “unprecedented crackdown on freedom of expression”, arguing that:

*...since December 2017 Amnesty International has documented cases of at least 111 individuals who have been detained by the National Security Services solely for criticizing the President and the human rights situation in Egypt. (Amnesty International, 2018b)*

In the documentary ‘Türsteher Europas’, the film makers show how border externalisation has impacted on smuggling and trafficking in Africa. Vincent Cochetel from UNHCR Europe stated that:

*The smugglers take much higher risks and there are more people being stranded in the desert. We now have more people dying in the desert, probably more than those drowning in the Mediterranean. (ARTE/ZDF, 2018)*

At the bilateral level, cooperation with African countries takes place within the framework of the Cotonou Agreement (African, Caribbean Pacific [ACP]-EU Partnership Agreement). With the Cotonou Agreement’s legal mandate due to end in 2020, the actors have started

discussing how to form a post-Cotonou Agreement. Migration is a major part of the discussion, as the EU is pressing the topic of migration to be a key part of the new relationship. However, African countries have pushed back against the EU on ideas for migration management, such as regional centres for processing asylum claims, called ‘disembarkation centres’.

The deals with third countries, as well as the pushback at the European borders, contravene principles described in European and international law. For example, the Lisbon Treaty, the constitutional basis of the EU, states:

*The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.* (European Union, 2007, Lisbon Treaty, Article 21, para 1)

The Cotonou Agreement includes references to fundamental elements, including in Article 9:

*Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.*  
(European Union, 2000b, Cotonou Agreement, Article 9, para 1)

The EU, by collaborating with countries like Libya, Sudan and Egypt, or supporting the pushing back of people arriving on European shores to their countries of origin or third countries such as Libya, without an explicit review of the reasons why the person is there, goes against the principle of non-refoulement. Article 33(1) of the Refugee Convention states that “no Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account

of his race, religion, nationality, membership of a particular social group or political opinion” (United Nations, 1951).

Apart from the UN Refugee Convention, the Charter of Fundamental Rights of the European Union also offers insights into how the EU has agreed to support migrants and refugees. Article 4 of the Charter states that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment” and Article 6 describes that “everyone has the right to liberty and security of person”. Moreover, Article 19 (1) states that collective expulsions are prohibited and Article 19 (2) brings to attention the principle of non-refoulement, saying that “no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment” (European Union, 2000a). Knowingly collaborating with actors and regimes that are themselves involved in human trafficking and human rights abuses, and assisting in the pushback of refugees and migrants to countries such as Libya, where horrific human rights abuses have been recorded, is not only against the EU’s own regulations, but it makes the European Union complicit.

### **The political mood**

The third stream of Kingdon’s policy framework relates to politics or the political climate. This topic has permeated this chapter. The policy debate started out with a sense of European unity and managing the situation in accordance with human dignity. In the State of the Union address in 2015, European Commission President Juncker stated:

*The first priority today is and must be addressing the refugee crisis. [...] The numbers are impressive. For some they are frightening. But now is not the time to take fright. It is time for bold, determined and concerted action by the European Union, by its institutions and by all its Member States. [...] We Europeans should remember well that Europe is a continent where nearly everyone has at one time been a refugee. Our common history is marked by millions of Europeans fleeing from*



*religious or political persecution, from war, dictatorship, or oppression.* (Juncker, 2015)

This sentiment was also symbolised in the statement that German Chancellor Angela Merkel would later attempt to take back: “wir schaffen das” (we will do it) (Delcker, 2016). She was referring to Germany’s commitment to receive refugees. In contrast, the 2018 State of the Union address by Juncker focuses more on how much the European Union has been able to achieve with regards to reducing migration. One of the first direct references to migration in this speech reads: “Our efforts to manage migration have borne fruit: arrivals have been drastically reduced – down 97% in the Eastern Mediterranean and 80% in the Central Mediterranean. EU operations have helped rescue over 690,000 people at sea since 2015” (Juncker, 2018).

The political mood has changed within the EU, from a sense of tackling (albeit reluctantly) the issue together, to the individualisation of member state policies through the pressure of right-wing movements. Key issues, such as mandatory relocation quotas, have built momentum for resistance to the European Commission’s attempts to unite member states. When in 2015 a sense of panic broke out over the number of refugees and migrants arriving, which:

*...resulted in a gradual loss of confidence in the EU’s ability to protect its external borders, which led to a growing number of unilateral and uncoordinated actions by national authorities to suspend their implementation of binding EU agreements on internal borders and asylum-seekers.* (Arditis, 2016)

This, in turn, led to a focus on tackling the problem as it had been framed: an illegal migration problem. It meant that external border protection, which was not readily visible to the European public, such as strengthening Frontex and the Libyan Coast Guard, became the only remaining option that EU member states could sell to their constituents.

The first implication for asylum seekers stems from the Dublin Regulation (European Commission, 2013b). The purpose of this EU law is to: “assign one member state to one asylum seeker to ensure that individuals do not ask for asylum in multiple countries, and that governments do not outright ignore a person's asylum request” (Jesuit Refugee Service, n.d.). Both the UNHCR and ECRE have said that the Dublin Regulation impedes asylum seekers’ legal rights, along with their right to a fair examination of their asylum claims and, where recognised, to their effective protection (ECRE, 2009). ECRE, already in 2008, had characterised the Dublin Regulation as an anachronism, as it “does not promote harmonization of EU asylum systems, seriously impedes integration, and sows dissension among Member States. It simply does not work” (ECRE, 2008). Furthermore, the Dublin Regulation has imposed “untenable pressure on those States situated along Europe’s borders, gateway countries such as Poland, Spain, Italy and Greece” (Arimatsu, Samson, & Royal Institute of International Affairs, 2011). The failing of mandatory quotas in the EU paired with the problems for both asylum seekers and countries bound by the Dublin Regulation means that political discord has grown between EU member states.

Through the framing of people entering Europe in an irregular way as ‘illegal migrants’, refugees and migrants alike have become scapegoats for discontent in Europe. Combined with a series of terrorist attacks, which were sometimes, often falsely, blamed on migrants, the right-wing movements of Europe have used migration to gather momentum for their political agenda. Security and the protection of human rights are presented as trade-offs. Together with the problems created by the Dublin Regulation and the pressure placed on the EU border member states (i.e., Greece, Italy, Spain), nationalism and protectionism have grown. Some member states have started closing their borders: for instance, Poland has not and still does not accept any refugees. Jaroslaw Kaczynski, leader of Poland's ruling Law and Justice party, said in 2016 that “after recent events connected with acts of terror, [Poland] will not accept refugees because there is no mechanism that would ensure security” (Broomfield, 2016). Nationalistic tendencies have also grown in Italy.

When Mateo Salvini, Italian Minister of Interior, was elected in the general elections in 2018, he ordered that Malta accept refugees, saying that, Italy, having accepted refugees the last two years, would not accept anyone anymore (Durden, 2018). Furthermore, he drafted a decree which would “suspend the refugee application process of those who are considered ‘socially dangerous’ or who have been convicted of a crime” (Giuffrida, 2018).

## **Conclusion**

Europe has gone from compassion to a focus on border control. According to Kingdon, when society faces a problem, a policy window can open for change if: the problem is identified, a solution is available, and the political climate is ready for change. According to Kingdon, a policy window opens when the three streams necessary for policy change – agenda-setting, policy and politics – are aligned.

This chapter analyses how a policy window opened in Lampedusa in 2013, when the problem was defined and both the political will and momentum were present. Unfortunately, the problem, despite the tragedy that occurred, was mainly defined as the illegal crossing of migrants into Europe. The problem was framed from the perspective of the rising concern among European citizens and overlooked the legitimate protection claim of the refugees and the global drivers of migration, as well as the lack of legal pathways for migration to Europe. The tragedy in Lampedusa simultaneously created pressure for change and the EU’s migration policy was shaped under this pressure. However, as the EU was not prepared to respond and because of the difficulty of coordinating the member states, the EU focused on stopping migration through the externalisation of its borders and increased border protection. Migration was framed as mainly an external problem that should be solved externally, rather than an internal EU issue.

The changed narrative in the EU show the vast difference between 2015, a peak year in terms of arrivals, but when EU policymakers tried to create a sense of togetherness and European identity (*“wir schaffen*

das’) and the present. The commitment to human rights that was still on the agenda in 2015 has slowly been eroded. This chapter argues that this was inevitable, as the problem was framed from the outset as a problem of illegal migration – something external – rather than a problem of protection – something that the EU member states could tackle together.

The policies that evolved addressed this framing of the problem. They focused on strengthening the EU border and coast guard agency Frontex, investing development funding into migration management, and making deals with third countries, even treating regimes involved in trafficking and human rights abuses, such as Eritrea and Sudan, as equals. In a strange turn of events, Eritrea will chair the Khartoum Process in 2019, despite being accused of ongoing human rights violations and being one of the main refugee-producing countries (Plaut, 2018). Now, the policy window for change has closed, locking in the current EU Agenda on Migration, and can now be characterised as a missed opportunity for policy change in line with the EU’s Charter of Fundamental Rights and international law.

From the very beginning after the Lampedusa tragedy, the stakeholders involved in EU policy making framed the problem in language that goes against international law. Refugees and migrants have different reasons for leaving their countries and, therefore, need different mechanisms of reception when they arrive in Europe. Refugees are entitled to protection and, until their claims can be examined, should be assumed to be legitimate. The EU is increasing border protection without providing adequate legal means for refugees and migrants to reach Europe. Moreover, the EU has placed the responsibility of dealing with migration on Africa and other third countries and has not made the necessary changes to the EU reception system. Due to the pressure to stop migration, it has come to dominate many of the discussions between the EU and its African partners, yet the political factors that cause migration have not been addressed and the protection of refugees in the region has been reduced.

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### Sudan and the EU: Uneasy Bedfellows

*Maddy Crowther & Martin Plant*

#### Introduction

Since this chapter was drafted, events in Sudan have brought considerable change to the country. In December 2018, protesters took to the streets demonstrating against the rising cost of living and calling for a change in regime. On 11 April 2019, former President Omar Al-Bashir, who had ruled Sudan for near 30 years, was removed from power, and a coalition of security actors assumed leadership as a self-styled Transitional Military Council, entering into negotiations with democratic forces known as the Forces for Freedom and Change. After months of continued turbulence, the Forces for Freedom of Change and the Transitional Military Council formed a transitional government, the Sovereign Council, in August 2019. The Sovereign Council will oversee a three-year transition to democracy. Second in command of the Transitional Military Council and part of the 11-member Sovereign Council is Mohammed Hamdan or ‘Hemetti’, leader of the Rapid Support Forces, whom we discuss in this chapter as assuming border control on behalf of the European Union.

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*A convergence has developed between the aims of the EU and the (former) Sudanese leadership, making them uneasy bedfellows. Through the Khartoum Process, the EU seeks to reduce migration, while the Sudanese government sees migrants as useful pawns in their attempts to reduce international pressure for reform. Trapped between them are the refugees and migrants themselves, many of whom are desperate to find sanctuary.*

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The European Union's (EU's) relationship with Sudan has been shifting. Following the refugee 'crisis', European politicians have been keen to halt (or at least reduce) the influx of refugees and asylum-seekers arriving on their shores, and Sudan has been identified as a key country of transit for those coming from the Horn of Africa. At the same time, the Sudanese authorities have been desperate to break out of the isolation in which they have found themselves as a result of sanctions imposed by the international community, which were aimed at punishing systemic human rights abuses and promoting good governance, particularly following accusations of genocide, war crimes, and crimes against humanity in the Darfur region in the west of the country (International Criminal Court, n.d.).

The EU and Sudan, therefore, have found themselves uneasy bedfellows and have for several years been quietly altering the terms of their relationship without the moral outrage, press attention or research that has accompanied deals struck with other countries like Libya or Turkey.

For the EU, the reduction in the number of refugees coming to Europe has been a high priority in recent years. This agenda has been pursued despite the cost in terms of reputational damage to the EU and the suffering of those who have been prevented from finding sanctuary on European shores. It has been achieved to a considerable degree, with European nations deploying a number of tactics, including establishing direct links with African states via the Khartoum Process (Taylor, 2018), no matter how repressive these regimes might be. As the EU's border agency, Frontex, reported in October 2018:

*The number of migrants arriving in Europe via the Central Mediterranean route [along which most refugees from Sudan travel] in September fell to about 900, down 85% from September 2017. The total number of migrants detected on this route in the first three quarters of 2018 fell to roughly 20 900, 80% lower than a year ago. (Frontex, 2018)*

At the same time, the Sudanese authorities have made considerable strides in escaping from the pariah status they found themselves in following the international outcry at the atrocities committed in Darfur. In 2004, President George Bush declared that the Sudanese regime's behaviour in Darfur constituted genocide (International Justice Project, 2013). President Omar al-Bashir was referred to the International Criminal Court for crimes against humanity, including murder, rape and extermination (International Criminal Court, 2009). This placed the Sudanese government under intense scrutiny, which it had been attempting to reduce ever since.

The Khartoum Process, initiated by the EU in November 2014, relieved pressure on the Bashir government (European Commission, 2015). It provided the Sudanese authorities with direct access to senior European leaders, who treated its representatives as equals. The United States has moved in a similar direction. One of the first acts of the Trump administration was to lift some trade and economic sanctions against Sudan – a move welcomed by the authorities in Khartoum (Downie & Zaidan, 2018). What now remains is for the United States to lift Sudan from the State Sponsors of Terrorism List, which will in turn give EU member states and members of the Paris Club the chance to offer debt relief. These developments helped the Bashir administration, whose primary objective was to secure its own survival: “Sudan’s national-security policy is driven by one overriding objective: to maintain the rule of the Islamist/National Congress Party (NCP) regime” (International Institute for Strategic Studies, 2018). The regime had existed in various guises since a coup in 1989 (Cowell, 1989), but its lack of legitimacy required it to constantly resort to repressive measures to maintain control.<sup>68</sup>

A convergence has, therefore, developed between the aims of the EU and the Sudanese regime: For the EU, the Khartoum Process is a

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<sup>68</sup> This has been most notably the case during protests which started in December 2018 and were continued throughout the first half of 2019 and lasted until after the ousting of Bashir in April 2019; during early 2019 live ammunition and tear gas killed dozens of peaceful protestors calling for the fall of the regime (Mohammed, 2019).

means of reducing migration. For the Sudanese, migrants became useful pawns in their attempts to reduce international pressure for reform. Trapped between them are the refugees and migrants themselves, many of whom are desperate to find sanctuary. At the same time, the real political agenda pursued by European leaders came up against the EU's public commitment to human rights and the protection of refugees, which it insists that it adheres to in all its activities (Council of the European Union, 2015). Hence, the question researched in this chapter is: *To what extent has the EU kept its commitments under international law in relation to human rights and refugees in its cooperation with Sudan?*<sup>69</sup>

### **Sudanese security state**

The US State Department's 2017 annual assessment of human rights provided a concise summary of the nature of the Sudanese state: "Sudan is a republic with power concentrated in the hands of authoritarian President Omar Hassan al-Bashir and his inner circle. The National Congress Party (NCP) continued 28 years of nearly absolute political authority" (US State Department, 2017). The authoritarian state is underpinned by the work of the Sudanese police, defence forces, and security forces, which collectively account for as much as three-quarters of all government expenditure (Baldo, 2016). Understanding the nature of Sudan's security state is essential to obtaining an accurate picture of how EU interventions are implemented on the ground, as these are the partners the EU necessarily engages, emboldens, and even directly funds in its efforts to stem migration from, and through, the country. This is also the world into which a refugee steps upon entering Sudan.

### ***National Intelligence and Security Service***

One of the most powerful of Sudan's security bodies is the National Intelligence and Security Service (NISS). It is also often the most harmful and invasive, particularly for those living or working near its

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<sup>69</sup> Considerable changes took place in Sudan during the period of writing and this chapter aims to provide a reflection of the EU's policy with Sudan on migration in the period 2016–2019.



headquarters in the capital city, Khartoum. The NISS functions independent of any ministry and is ultimately responsible only to President al-Bashir.<sup>70</sup>

Its mission is the strict maintenance of internal security and intelligence, which it interprets as keeping a tight grip on the public according to ‘red lines’ on issues it sees as posing a threat to regime longevity. Opposition politicians, students, human rights activists, or those simply from marginalised groups and conflict areas, are arrested. Journalists disappear and newspapers are regularly confiscated, or print runs confiscated to financially ruin publications (African Centre for Justice and Peace Studies, 2018b).

Those who are detained can expect to be held without charge, incommunicado, and to be beaten and tortured. Methods involve being held in inhumane conditions, for instance, in rooms crammed beyond capacity, being denied food, or sleep, and suffering beatings with electrical rods (Ahmed, 2017). Many are released only to be re-detained after agreeing to become informants, in a ‘cat and mouse’ pattern. When detainees are released it is often on the condition of family guarantee or personal security, which obliges the individual not to engage in political activities or leave the country. It gives the police the right to detain them at any time.

The NISS is effectively immune from scrutiny and prosecution. The 2010 National Security Act gives it sweeping powers of arrest and detention without judicial oversight. Constitutional amendments passed in 2015 further weakened checks on the NISS’s power and grants officers immunity for abuse. According to civil society advocates, “it is like trying to fight an enemy with your hands tied behind your back” (Anon., human rights defender, interview, May 2018).

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<sup>70</sup> At the time of writing President al-Bashir was still in power. After his ousting in April 2019, the Military Council appointed a new intelligence chief, but structural reforms to the NISS or justice for violations committed by its officers have not yet manifested. Furthermore, the NISS was accused of playing a role in the violent repression of protests in Sudan (Human Rights Watch, 2019).

## ***Police***

Police forces report to the Ministry of Interior and are deployed throughout the country. The national police have a standard mandate of maintaining public order, but they are not free from controversy. For instance, in September 2013 they violently repressed protests in Khartoum that led to the death of hundreds of unarmed democracy protestors (Human Rights Watch, 2014b).<sup>71</sup>

The police are often tasked with upholding Sudan's more outdated and repressive laws. For example, a faction of the police called the Public Order Police is responsible for policing behaviour under the Public Order Laws, which unduly target women with stipulations on morality that might, for instance, prohibit the wearing of trousers, or types of informal economic work like selling tea (SIHA & Redress, 2017). These laws also provide cover for the targeting of minorities with less strict or non-Islamic codes of conduct, such as migrants from Christian majority countries like Eritrea and Ethiopia.

## ***Armed forces***

The armed forces in Sudan include the regular army and the special forces, which function outside the army structure. Sudan has a long history of fracturing its military power and blurring command and control structures, so that it can claim plausible deniability in the face of investigations into human rights abuses. This was recognised at the height of the Darfur genocide, when the government armed local Arab groups to take up arms against non-Arab neighbours (Waal & Flint, 2005). This led to the formation of the notorious Janjaweed, which conducted acts of mass arson, sexual violence, shooting, and mutilation in Darfur.

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<sup>71</sup> The British government had supported the police with a programme worth GBP 850,000 aimed at improving police performance. The programme was discontinued following the abuse perpetrated by officers during the September 2013 protests. The programme was criticised by the Independent Commission for Aid Impact in their 2015 review for strengthening “capacity that might be misused, without a strong focus on safeguards and accountability” (Independent Commission for Aid Impact, 2015).

In 2013, the Janjaweed was disbanded and a large proportion of its fighters formed a new body, the Rapid Support Forces (RSF) (African Centre for Justice and Peace Studies, 2018a).<sup>72</sup> Although the RSF was initially incorporated under the NISS, in June 2016 responsibility for the NISS was transferred to the Sudanese Armed Forces, Sudan's main army, where it remains to this day.<sup>73</sup> However, responsibility-sharing is far from clear, and both report directly, but separately, to the President. It is possible that the rebranding of the Janjaweed into the RSF and its subsequent incorporation into the Sudanese Armed Forces were exercises designed to avoid the implementation of UN Security Council Resolution 1556 of 2004, which demanded that the Sudanese government disarm and disband the Janjaweed militia and bring their leaders to justice. The 2007 Sudan Armed Forces Act provides for this, and only the President was able to circumvent this immunity (African Centre for Justice and Peace Studies, 2018a).

The RSF continues to play a significant role in the campaigns against rebel movements, notably in Darfur, where it helped lead 'Operation Decisive Summer', which caused massive civilian displacement and was characterised by violations of human rights and international humanitarian law (OHCHR, 2017). It also now plays at least a perceived role in border control and management, which is discussed further below.

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<sup>72</sup> Colloquially, the RSF is still known as the Janjaweed to those living in Darfur. Another faction of its fighters splintered into the Border Guard Forces under the leadership of Musa Hilal. However, Hilal and many of his officers have recently been arrested and detained. In recent years Hilal had become more hostile to government policy, particularly to attempts to conduct a disarmament campaign affecting his operations, and spoke publicly about the government's attempts to stoke ethnic violence in Darfur during the height of the genocide, mobilising widespread support for his political movement, the Revolutionary Awakening Council. At the time of writing, Hilal and six others are accused of undermining the constitutional system in Sudan and murder, in a military court, crimes that carry the death penalty (African Centre for Justice and Peace Studies, 2018a).

<sup>73</sup> The UK has previously provided military training and assistance to the Sudanese Armed Forces, including officer training at Sandhurst and the Royal College of Defence Studies, which was discontinued following a legal challenge (Deighton Pierce Glynn, 2015).

## Scale of the challenge

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), there were nearly 1 million asylum-seekers in Sudan in September 2017 (UNOCHA, 2018). Many are unregistered, and the Commission for Refugees estimates that the true figure may be as high as 2 million. The largest number crossed into Sudan from South Sudan to escape the civil war that is raging there, and will likely return if the fighting subsides. Eastern Sudan is host to some 155,000 refugees and asylum-seekers, many having fled from neighbouring Eritrea or Ethiopia. This is also the site of the Shagarab camp where you are meant to officially register as an asylum seeker in Sudan. Other refugees reach Sudan from Syria, Yemen, Chad, and the Central African Republic.

The hospitality Sudan demonstrates towards different nationalities reflects its policies towards marginalised groups and those from conflict areas in the country, and also its perception of itself as an Arab Islamic country more generally. As such, predominantly Christian Eritrean and Ethiopian populations are forced to live below the radar and largely without state assistance, which they do in large numbers in the east of the country, as well as in Khartoum. Similarly, the 'black African' South Sudanese, formerly the targets of a civil war before the secession of South Sudan, have been demonised by officials, and accused of being sources of insecurity and disease (Al-Araby TV, 2017). Meanwhile, Syrian refugees, who better suit Sudan's self-perception as Arab and Islamic, have a visa waiver programme in place, the right to work and education without permits, and a citizenship track once they have been there for more than six months. There are accusations that Sudanese passports are for sale to this group as well (Suleiman & Van Dijken, 2018).

In addition to these refugees, there is a huge population of internally displaced persons (IDPs) in Sudan. Many fled from Darfur, where government forces have been suppressing a rebellion and who have been unable to return home due to deliberate policies denying them land rights in favour of Arab settlers; others were driven from their

homes in the states that border South Sudan, for instance, South Kordofan, which have been subject to the indiscriminate and targeted bombing of civilian structures. OCHA summarises the situation as follows: “The impact of the conflict in Darfur, South Kordofan, and Blue Nile has been widespread displacement, with some 2 million IDPs” (UNOCHA, 2018).

This helps explain why Sudan is not just a transit route, but also a significant source country for refugees, in fact the fifth largest globally (World Bank, n.d.). Despite this, those transiting Sudan on their way to Europe via Libya and the Mediterranean Sea have become the almost sole focus of the EU’s interventions in Sudan.

### **European response**

In November 2015, European leaders met their African counterparts in the Maltese capital, Valletta, to try to arrive at a plan to stop African migrants reaching European shores. This was made clear in the accompanying EU press release:

*The number of migrants arriving to the European Union is unprecedented, and this increased flow is likely to continue. The EU, together with the member states, is taking a wide range of measures to address the challenges, and to establish an effective, humanitarian and safe European migration policy.* (European Council, 2015)

The summit led to the drafting of an Action Plan, which has guided the EU’s policy objectives on migration and mobility ever since (Council of the European Union, 2015). Some elements of the plan were welcome, including recognition that African states bear the greatest burden of refugees – only a minority of whom actually make the journey to Europe. There was also an understanding that the camps in which so many languish need to be upgraded. Security in the camps must be improved, education and entertainment needs are to be provided, so that young men and women are not simply left to rot. There are even suggestions that some – a small, educated minority – might be able to travel via legal routes to European destinations.

The Action Plan did not end there. Other elements stood in stark contrast to the commitment in the press release quoted above to address the problem while “taking a wide range of measures to address the challenges, and to establish an effective, humanitarian and safe European migration policy” (European Council, 2015). Paragraph 4 of the Action Plan detailed how European institutions would co-operate with their African partners to fight “irregular migration, migrant smuggling and trafficking in human beings” (Council of the European Union, 2015, p. 12). Europe promised to offer training to “law enforcement and judicial authorities” in new methods of investigation and to assist “in setting up specialised anti-trafficking and smuggling police units” (Council of the European Union, 2015, p. 12). These commitments are an explicit pledge to support and strengthen elements of the Sudanese state that are – as has been seen – directly involved in human rights abuses and the repression of human rights. Displaced people, whether Sudanese, Eritreans, or Ethiopians, now face a Sudanese security apparatus enhanced by the EU and working directly with European officials.

The Action Plan was delivered under the EU-Horn of Africa Migration Initiative, known as the Khartoum Process, the name itself referring to Sudan’s capital city – something of a PR coup for Sudanese authorities. The Khartoum Process was launched in November 2014 as a forum for political dialogue and cooperation on migration between EU member states and several countries from the Horn and Eastern Africa. It is an initiative of the European Commission’s Directorate for Migration and Home Affairs and Italy, in a clear indication of how it was established to address domestic European concerns, rather than African political realities. Funds are provided in part by the Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration in Africa. A smaller pot of money specifically targets smuggling and trafficking, and is known as the Better Migration Management project led by the German government’s aid agency, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). These are both underwritten by substantial sums of money. The EU had provided just under EUR 215 million to Sudan to curb migration by April 2017 (Shah, 2017).

The concrete projects and programmes implemented under the Khartoum Process are often hard to grasp, and have been far from transparent, but it is apparent that there is a divergence between the EU's commitment to human rights and its explicit policy of working with the Sudanese state to restrict migration by almost any means. This has led to frustrations and tensions between policymakers, on the one hand, and civil society representatives and diaspora groups, on the other, among whom this approach has been the subject of intense scrutiny.

Concerns spiked when minutes of a meeting of the ambassadors of the 28 EU member states on 23 March 2016 were leaked in the German magazine *Der Spiegel* (Dahlkamp & Popp, 2016). They contained this chilling warning: "Under no circumstances" should the public learn what was being discussed. The magazine said equipment would be sent to Sudan to assist in the control of its refugee population. "...Europe want to send cameras, scanners and servers for registering refugees to the Sudanese regime in addition to training their border police and assisting with the construction of two camps with detention rooms for migrants".

This precise level of engagement never materialised in the way described by *Der Spiegel*, but (as outlined below with the operation of the Regional Operational Centre) many elements of the policy were implemented. The leak provoked public disquiet. Concerns crystallised around the issue of the EU funding various security actors within Sudan, most notably the RSF. If found to be true this would violate various EU commitments, notably an arms embargo in place dating from the conflict in Darfur. It would also call into question the value of the EU's Cotonou Agreement, which underpins the EU's relationship with developing nations in the African, Caribbean and Pacific (ACP) region, and membership of which is necessary before the EU can supply funds to state structures. Membership has been denied to Sudan because of the outstanding International Criminal Court arrest warrant in place against President al-Bashir.

Worries became most pronounced after the RSF, and its leader Mohamed Hamdan or 'Hemetti', starting making public statements about their role patrolling Sudan's frontiers, and arresting or deterring refugees. "Once we dealt with the rebellion in South Kordofan and Blue Nile and Darfur, we immediately turned to the great Sahara desert, especially after the directives from the president of the republic to combat illegal migration", Mohamed Hamdan, head of RSF, told Al Jazeera (Morgan, 2017). The tactics the RSF reportedly used reflected its historic practices when it was still known as the Janjaweed. Sometimes refugees were killed, sometimes they were forcibly returned to their countries of origin. In May 2016, more than 1,000 Eritreans were rounded up in Khartoum and along the Sudanese-Libyan border and forced to go back to Eritrea. Similarly, more than 100 were returned in August and September 2017 (Morgan, 2017). Such incidents provoked strong condemnation from the UN Refugee Agency (Radio Dabanga, 2017).

However, funding of the RSF has turned out not to be exactly the smoking gun that was expected, although it continues to be a rallying cry for human rights activists and civil society organisations. The EU is often forced to deny any such involvement, for instance, stressing in a recent factsheet and in bold type, "The Rapid Support Forces of the Sudanese military do not benefit directly or indirectly from EU funding" (Alamin, 2018).

It seems the EU may have struggled to convey this to the RSF itself, which continues to make statements to the effect that it deserves payment for the work already completed on Europe's behalf. "We do the job instead of the EU", Hemetti said in April 2018. The RSF also threaten to discontinue this work if they are not paid, effectively warning that they could 'turn on the tap' again by allowing refugees to proceed on their journeys to Europe. Hemetti continued, "That's why they should recognize our efforts and support us as we lost a lot of men, efforts and money – otherwise we will change our minds from carrying out this duty" (Alamin, 2018).



Furthermore, it remains unclear how the EU ensures that the RSF has not and will not benefit from its funding, especially if they are relying on assurances to this effect given by government bodies, like the Ministry of Interior, and without stipulations about end-user accountability. Both the Sudanese Ministry of the Interior and the Eritrean Ministry of Foreign Affairs are designated as ‘political partners’ under the Better Migration Management project (EU Emergency Trust Fund for Africa, n.d.). Such ministries are not concerned to differentiate between security actors with, and without, egregious human rights backgrounds. It is apparent that as the Sudanese security services coordinate the RSF’s operations, assistance for one arm of the state inevitably assists another, especially in a country rife with corruption. Sudan ranks 175/180 in Transparency International’s Corruption Perceptions Index for 2017, the joint-fifth worst global score (Transparency International, n.d.). In any case, what systems does the EU have in place to weed out individual members of the RSF who are assigned to tasks undertaken by the regular police or other parts of the security apparatus?

Whether the EU has, or has not, funded the RSF directly or indirectly does not mean that EU support has not had a direct impact on the ground. It has certainly served to embolden security actors and caused them to adopt new objectives that have little to do with the protection of those migrating through their territory. Rather, it has been a means of curtailing the exodus of refugees, an end that is exactly what European leaders wished for.

This is also seen in the capital, Khartoum, which has a substantial and long-standing migrant population, particularly from Eritrea and Ethiopia. Whereas before the Khartoum Process the security services largely turned a blind eye to migrant communities living in the city’s so-called ‘black belt’ of slum dwellings, the police are now emboldened by messages coming from Europe about the need to crack down on these communities. Some of those who have fled from Sudan more recently say that police harassment and fears for their personal safety, and the news stories of forcible deportations back to Eritrea or Ethiopia, were the reason for their onward travel (SIHA,

IRRI & SOAS, 2017). Previously Sudan was effectively functioning as a bulwark against migration and a container for populations that are unwanted in Europe. Ironically, now it frequently functions as the thoroughfare for repatriation that European leaders originally imagined it to be when drafting the Khartoum Process.

## **EU-Sudan security cooperation**

There are also more direct plans to integrate Sudanese, European, and other Horn of African security actors. A Regional Operational Centre (ROCK) is being established in Khartoum (EU Emergency Trust Fund for Africa, n.d.). This is its role, as described by the EU:

*The primary focus of the Regional Operational Centre, which will be developed to support this cooperation, will be human trafficking and people smuggling. Greater cooperation between the countries of the region to gather, share and analyse information, in accordance with relevant international and regional principles and standards, will lead to better and more informed decisions on migration management. This will result in more effective joint approaches to prevent and fight transnational crime. It will also protect victims of trafficking and smuggling. This is in line with the declared aim of the AU-HoA Technical Working Group on Law Enforcement, whose mandate is to conceptualise and develop a mechanism for information exchange and sharing. (EU Emergency Trust Fund for Africa, n.d.)*

There is a clear coincidence of interests between the European leaders, who wish to reduce migration, and the Sudanese state, which wishes to increase the capacity of its security services. Trapped between them are the refugees and asylum seekers, with activists attempting to hold the EU to their explicit commitment to protect human rights, which seems to have been abandoned or ignored. The ROCK has become the site of some of the closest collaboration between the EU and Sudanese security officials. A lengthy New York Times article clarified the function of the Regional Operational Centre:

*The planned countertrafficking coordination center in Khartoum – staffed jointly by police officers from Sudan and several European countries, including Britain, France*

*and Italy – will partly rely on information sourced by NISS (National Intelligence), according to the head of the immigration police department, Gen. Awad Elneil Dhia. The regular police also get occasional support from the RSF on countertrafficking operations in border areas, General Dhia said. “They have their presence there and they can help,” General Dhia said. “The police is not everywhere, and we cannot cover everywhere”.* (Kingsley, 2018)

It is reported that the German police have reached an agreement with their Sudanese counterparts to provide technology and equipment to fight trafficking and illegal migration (Sudan Tribune, 2016b). The Sudanese Director General of Police, Lieutenant-General Hashim Osman al-Hussein, said the Germans had promised to provide his police-force with advanced crime-detection equipment and training. This is confirmed by the EU in its outline of the role of the ROCK. The document details what the ROCK is expected to achieve:

*Capacity building for the development of related political and legislative frameworks to allow structured information sharing and joint operations at regional level. This could involve the signature of relevant cooperation agreements between the Horn of Africa countries, defining the national focal points that are authorised to exchange information with the Regional Operational Centre, the process for this information sharing, the type of data to be collected and the governance arrangements and principles, with full respect of human rights and data protection protocols.* (EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa, 2016. p. 11)

The document then spells out how the resources of the EU’s own border agency (Frontex) and the international police organisation (Interpol) will be put at the disposal of the ROCK and the African security agencies, including those of Sudan. The same document accepts that there is a risk of the “misuse or mishandling of data collection” and the “use of data for purposes beyond HT [human trafficking]/smuggling and serious organised crime” (EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa, 2016, pp. 13–14).

It remains to be seen how, for example, Britain's security services, which will allegedly supply up to half of the technical advisor posts within the ROCK (British Embassy representative, personal communication, by email, 2018), will cooperate effectively with their Sudanese counterparts, and whether they can guarantee that information gathered under the aegis of ROCK is not used for repressive purposes. Simply relying on self-regulation within Sudanese forces is misguided at best.

Evidence from Sudan's first foray into providing information for their European partners in an attempt to crack down on smuggling networks shows that the process can end disastrously. In June 2016, following cooperation between Sudan and Britain's National Crime Agency and the UK's Government Communications Headquarters under Project Invigor, and the operations Tokhla and Glauco 2 led by Italy, an alleged smuggling kingpin, Mered Medhanie, was arrested. Serious doubts were cast about whether the man detained was actually the gentleman in question, with Mered's own wife denying as much, and evidence that the real suspect is living the high life in Uganda (Tondo & Mwesigwa, 2018). Indeed, in July 2019, the judge acquitted the man detained and confirmed it was a case of mistaken identity (Tondo, 2019).

Europe also announced plans to build a new detention centre in the Northern Sudanese town of Dongola (Chandler, 2018): "The proposal came from us, because we have nowhere to keep people", the head of Sudan's Ministry of Interior Passports and Civil Registry Authority told IRIN newsletter. "Every month we have to intercept almost 100 or sometimes 500 irregular migrants; we have to process their return and their protection – it gives us real challenges – where to keep them?" Martin Weiss, the Better Migration Management Programme project head in Germany, insists that the programme aims to protect migrants (Chandler, 2018). The "BMM [Better Migration Management Programme] is not about border surveillance, but about protecting refugees, facilitating migration, and improving conditions for people who are fleeing their homes", he wrote in an email (Chandler, 2018). But the EU and its partners do not appear to

have a viable strategy to mitigate human rights abuses. In the case of the Better Migration Management Programme, the EU and GIZ claim that its steering committee, which is composed of the European Commission, Germany, UK, France, Italy, and the Netherlands, oversees human rights risks remotely from Brussels.

### **Government complicity in human trafficking**

There is one further complication: evidence that the very Sudanese authorities with whom the EU are co-operating to end human trafficking are themselves engaged in this practice. Evidence of this emerged in the UN Monitoring Report to the UN Security Council on Somalia and Eritrea for 2011. This report pointed to General Teklai Kifle ('Manjus'), commander of the Eritrean border forces as well as the western military zone, as being at the heart of this operation. The reports laid out the role General Manjus plays in smuggling arms across the border in violation of the UN sanctions, as well as his links with senior Sudanese officials. The experts then explained the General's role in human trafficking (UN Security Council, 2011).

Survivors of human trafficking interviewed by Professor Mirjam Van Reisen, Meron Estefanos and Professor Conny Rijken described how the Eritrean Border Surveillance Unit drove them out of Eritrea (Van Reisen & Mawere, 2017). They were hidden under covers in trucks and four-wheel drive vehicles so as to avoid border check points. Members of the Eritrean diaspora in Western countries reported paying USD 5,000–7,000 for a safe way to get a relative out of Eritrea. This means that if: "...you pay a high rank official, the relative doesn't get checked at the checkpoints, the official will drive your family member all the way to Khartoum and that is where he receives the money". Other researchers have corroborated this conclusion. A report by the Sahan Foundation and the Intergovernmental Authority on Development (IGAD) Security Sector Program described how Eritreans with sufficient money and connections pay for a comfortable four-wheel drive vehicle to take them to Khartoum and are simply put on a flight to a European capital (Sahan & IGAD,

2016). Given the tight security in both Sudan and Eritrea, none of this would be possible without the collaboration or collusion of government officials.

Evidence from Sudan points to a similar conclusion. A report by Clingendael (Tubiana, Warin & Saeneen, 2018) contains a wealth of evidence showing the collusion of the RSF in smuggling, with testimonies describing RSF guards simply driving migrants back to Khartoum “from time to time ... in order to show the authorities that we are doing the job”. A report by Human Rights Watch (2014a) found that in Eastern Sudan police and military officials had handed victims over to traffickers, and turned a blind eye at checkpoints, as well as routinely failing to identify and prosecute traffickers and corrupt officials, even when they clearly violate the Human Trafficking Act passed by Sudan’s Parliament in March 2014. This raises questions around the authorities’ willingness or capacity to uphold the rule of law. It would appear evident that the officials and governments with whom the EU is negotiating have very different objectives in relation to the migrants and refugees caught up in this process. For the Sudanese and Eritrean officials, these people are seen as ‘hostages’ from whom they can extract financial rewards, while at the same time using them to enhance their standing with their international partners.

Hovil and Oette (2017) summarised the situation as follows:

*The involvement of Sudanese, Eritrean and Egyptian officials – both street level bureaucrats but also some officials of senior rank – in smuggling and trafficking has been documented. SIHA [the Strategic Initiative for Women in the Horn of Africa], for instance, argues that “the human trafficking and smugglers networks operating in Sudan, Eritrea and Egypt are led by top government and military officials in all three countries. These networks expand from these countries reaching to Europe and Asia. These smuggling and trafficking networks are strong, profitable, well established and protected.*

In the circumstances, the EU’s decision to focus only on the criminality of non-state actors, and to strengthen the capacity of

government bodies, is questionable at best. It means that European officials are almost certainly collaborating with the very people directly or indirectly involved in the human trafficking and smuggling that the programme is designed to eradicate.

### **Blocking the Mediterranean crossing**

These developments are only one element of a much more complex response to the arrival of asylum seekers on European soil by the EU, and the construction of a system of what might be described as ‘defences in depth’, from Europe far into Africa itself. This was outlined in the EU’s New Migration Partnership Framework of 7 June 2016 (European Commission, 2016a). The Framework’s aim was explained as:

*Building on the European Agenda on Migration, the priorities are saving lives at sea, increasing returns, enabling migrants and refugees to stay closer to home and, in the long term, helping third countries’ development in order to address root causes of irregular migration.*

The reality of this Framework soon became clear. For African migrants it means that the EU is working with the Libyan government to halt the flow of asylum seekers and migrants across the Central Mediterranean, preventing rescue attempts by international NGOs and supporting the Libyan government in its efforts to arrest, detain and return potential migrants to their countries of origin. As one report put it, this policy: “focuses largely on equipping the Libyan government with the means to prevent maritime departures, pull back boats that depart, and offer stranded migrants a one-way ticket home” (Collett, 2017).

Amnesty International provided a detailed analysis of how this is operating and the consequences of what they term the ‘outsourcing’ or ‘externalising’ of the EU’s borders (Amnesty International, 2017). The report says that some 10,000 Africans were being held in Libyan detention centres, in appalling conditions. A small number (around 2,000 as of August 2019) have been freed and flown to Niger from

where they await re-location to third countries, but the majority remain imprisoned (Elumami & Lewis, 2018). Their appalling treatment, including slavery, torture and rape, has not deterred European politicians from dealing with Libya:

*EU member states have entered into a string of co-operation agreements with Libyan authorities responsible for grave human rights violations, in particular the Libyan Coast Guard (LCG) and the General Directorate for Combating Illegal Migration (DCIM) within the Ministry of Interior, with the aim of increasing their capacity to tackle smugglers, carry out search and rescue operations, and prevent irregular departures. The policy has been successful: the number of arrivals in Italy has fallen by 67% between July and November 2017, compared with the same period in the previous year, and deaths at sea have reduced commensurately. But EU countries should not feign shock or outrage when the human cost of these deals is laid bare.* (Elumami & Lewis, 2018).

The crux of the EU's policy is, therefore, to work as closely as possible with African governments, including notoriously abusive regimes like Sudan and Eritrea. The opening of the ROCK in Khartoum is an example of this intention. Similar pacts have been signed with other Sahel nations, including Niger, an important transit-route to the Mediterranean (European Commission, 2016b). This was strengthened in April 2017 when the Italian government signed agreements with tribes in southern Libya to halt the inflow of Africans (Grignetti, 2017). These initiatives are designed to keep migrants as close to their country of origin and well away from the states in northern Africa that border the Mediterranean Sea, and Libya in particular. The second element is designed to halt attempts to cross the Mediterranean Sea by preventing marine rescues by organisations like Medicines Sans Frontiers or Open Migration, or equipping the Libyan security services with the ability to close down the smuggling operations (Petrillo & Bagnoli, 2018).

Most recently, EU leaders have agreed to establish 'migrant centres' around the Mediterranean Sea to allow for the speedy assessment of those that disembark from boats on the northern side of the sea and for their return to African centres on its southern edge



(Baczynska, 2018). The EU decided at a summit in June 2018 to explore what it termed ‘regional disembarkation centres’ as a key objective (ECRE, 2018). This is the clearest example yet of the EU’s policy of border externalisation, which reimagines northern Africa as Europe’s southern periphery. It comes at a time when there has been a massive reduction in those making this perilous journey, which seems to be the only indicator Europe uses in assessing the success or value of migration partnerships like the Khartoum Process.

### **Right to asylum or forcible repatriation?**

While the EU has given priority to halting migration, the question remains, what to do with those who have successfully made it to Europe and claimed asylum? What we are seeing across Europe is an attack on the arguments Sudanese asylum-seekers use to verify their claims, as well as practical steps to identify and return those whose claims are rejected as a result. The denial of the right to asylum of Sudanese nationals is built into the very core of the Khartoum Process, which imagines Sudan as purely a country of transit, not origin, for substantial numbers of asylum seekers. However, Sudanese are in fact one of the largest asylum-seeking groups (World Bank, n.d.). In a key example of how Sudanese were at the forefront of the so-called ‘refugee crisis’, they formed up to half of the residents in the ‘Jungle’ camp in Calais before it was demolished (Patterson & Jackson, 2017).

There has been a similar change in attitude among UN bodies, which regularly report on the improved security situation in Sudan, despite human rights activists casting doubts on any rose-tinted interpretations of recent developments. A key example is the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which is negotiating its own exit from the country, partly due to budgetary concerns imposed by the United States, but employing the logic of improvements on the ground.

This has emboldened home ministries across Europe to start amending asylum guidance and make decisions along similar lines,

arguing that Sudan is now safe, or at the very least that relocating outside of the conflict areas, such as Khartoum, is a viable option. There are also attempts to downplay the palpable risks to physical security that individuals face upon return to the country, particularly as an asylum seeker. The most egregious example of this is Country Guidance (case law) in the UK, which states that because of “the extremely common phenomenon of arrest and detention”:

*The evidence draws a clear distinction between those who are arrested, detained for a short period, questioned, probably intimidated, possibly rough handled without having suffered (or being at risk of suffering) serious harm and those who face the much graver risk of serious harm. (UK Upper Tribunal, Immigration and Asylum Chamber, 2016)*

An exact definition of ‘rough handling’ and its legal differentiation from the legal term assault or from torture, which is prohibited by the Refugee Convention, is not provided. As a result, in the UK and around Europe it is increasingly difficult for Sudanese to claim asylum (European Commission, 2018).

The increased security cooperation under the aegis of the Khartoum Process has provided a model for bilateral agreements between Sudan and various member states. These are outlined by country below, but all involve the use of Sudanese officials to interview and adjudicate on individual claims. On the one hand, the EU is externalising borders into Africa, on the other hand, it is allowing the long arm of the continent’s security services to reach deep into Europe in an attempt to weed out those with allegedly baseless claims. This risks violating the principle of non-refoulement.

### ***The Netherlands***

The Netherlands has had a memorandum of understanding with Sudan since 2011, which provides for cooperation for the voluntary or forced repatriation of Sudanese nationals and the issuing of ‘laissez-passers’ by the Sudanese diplomatic representation (Netherlands Ministry of Foreign Affairs, 2017). The domestic branch of Amnesty has since documented at least one case where a

man was subjected to a 13-day ordeal involving torture, following his return to Sudan on 6 December 2017 (Amnesty International, 2019).

### *Italy*

Italy was one of the first European governments to put in place a formal bilateral agreement on returns and readmission. It signed a memorandum of understanding in August 2016 aimed at increasing police cooperation in the fight against transnational organised crime and especially irregular immigration (Borletto *et al.*, 2017).<sup>74</sup> It included provisions for missions of officials from the respective territories to help investigate details to facilitate returns, for instance, the ability to conduct identification interviews in consular offices, but also in ports, police stations, and detention centres, and the subsequent production of documentation for removal (*laissez-passers*). The agreement allows Sudanese officials to be based in Italy and embedded in the Italian immigration process. Press statements at the time made explicit links to the framework of the Khartoum Process (Sudan Tribune, 2016a).

This cooperation led to the forcible return of at least 40 individuals (estimates are as high as 48) who were arrested in Ventimiglia while attempting to cross into France, on a charter flight to Sudan in August 2016, after Sudanese officials were allowed to interview them for repatriation. Testimonies received by NGOs confirm accounts of detention and interrogation on arrival, with some individuals witnessing beatings, as documented by Amnesty International (Amnesty International, 2016). The human rights monitoring group Huqooq also provided the testimony of a gentleman nicknamed ‘Barakat’ in 2016 (Huqooq, 2016). Barakat claims he was beaten by the NISS while the returnees were detained and has since gone into hiding. Other testimonies suggest that the deportees now live in fear for their physical security, as well as that of their families, and that they believe they are being monitored by the NISS, including via their mobile phones. Five of the returnees lodged an application before the European Court of Human Rights claiming they had been forcefully

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<sup>74</sup> The same organisation (Associazione per gli Studi Giuridici sull’Immigrazione) believes Italy has signed similar agreements with Tunisia and Libya.

repatriated in violation of the prohibition of torture, prohibition of collective removal of foreigners, right to an effective remedy, and prohibition of discrimination (ANSA, 2018).

### ***Belgium***

In December 2017 it was reported that several individuals deported to Sudan from Belgium alleged being tortured. The decision to deport them was made by the Federal Secretary of State responsible for Asylum and Migration, Theo Francken. This followed Francken inviting Sudanese officials on an identification mission to assess Sudanese migrants, some of whom had been arrested in a raid on a makeshift camp in Brussels' Maximillian Park (Crisp, 2017). The delegation was widely believed to have been from Sudan's NISS. They were allowed to question Sudanese without Belgian officials present.

In total, the testimonies refer to nine Sudanese who were sent home. All describe a period of detention on arrival at the airport and interrogation lasting several days, then being released subject to a family guarantee/personal security, as described earlier in this chapter. A few describe physical torture (being beaten with a stick) or emotional torture.

As it stands, the Belgian Commission that independently handles asylum claims (Office of the Commissioner General for Refugees and Stateless Persons) has reported that on balance it did not find the testimonies credible, although doubts do remain (Commissioner General for Refugees and Stateless Persons, 2018). In the meantime, Sudanese identification missions will continue, although with greater oversight by Belgian officials.

### ***France***

There are rumours that bilateral discussions have been held between the French and Sudanese governments to arrange for the return and repatriation of Sudanese living in France from as early as 2014. Internal memos of the Sudanese Embassy, seen by Street Press journalist Tomas Stadius, show there were regular discussions between Embassy staff and the French police about identifying

rejected asylum applicants or other Sudanese migrants, also mentioning plans for an identification mission including NISS officials (Stadius, 2017). This contributed to 205 forcible expulsions of Sudanese nationals from 2014–2016.

Then Street Press found that in early 2017 an identification mission had been allowed to visit at least three removal centres, and also misrepresented themselves as NGO staff (Stadius, 2017). The mission delegates seemed to show particular interest in those individuals who had been formerly imprisoned in Sudan. Mr Stadius suggests this may be because the security services are able to verify their presence and activity in the country through fingerprint technology implemented in 2012. Mr Stadius has identified four people deported to Sudan following a Sudanese delegation visit. He said that he encountered difficulties when trying to monitor those returnees and report on their wellbeing post-return (Stadius, 2017).

In addition, documents produced by Sudan’s Foreign Ministry have come to light that mention Sudanese concerns about a particular community in a Paris suburb that Sudanese authorities wanted to see returned to Sudan, and a request for France to share a contact database (it is unclear if this was agreed to). This letter indicates Sudan’s clear interest in the behaviour and members of its diaspora, particularly as Paris is a hub for opposition activity (Stadius, 2017).

### ***United Kingdom***

Having historically been a ‘critical friend’ to Sudan, as its former colonial power, the UK changed the nature of its relationship with the country in 2016 to one of ‘phased engagement’, launching a UK-Sudan Strategic Dialogue. Meetings are held biannually to discuss areas of mutual concern, among which migration has remained topmost, especially given the predominance of Horn of Africa asylum-seekers and migrants among the total number reaching the UK (Sudan has consistently remained in the top five countries of origin for asylum seekers in Britain) (Gov.UK, 2019). Returns and readmission procedure is an active area of interest for strategic dialogue delegations, whereas the creation of safe, legal migration

pathways is not. It remains to be seen what form this will take, but domestic NGOs like Waging Peace<sup>75</sup> have warned about inappropriate procedures, including the disclosure of confidential information (for instance, about region of origin or family background) to Sudanese officials, which could then easily be forwarded to the NISS, and that individuals were threatened, or even bribed, without Home Office or independent interpreters present.

Although these interviews did not lead to forced removals, Waging Peace and others have documented dozens of instances where individuals were ill-treated, or even tortured, upon arrival in Sudan after having travelled from the UK. These testimonies also evidence the fact it is sometimes an individual's 'sur place' activity abroad that provides the basis for their asylum claim, as Sudanese intelligence officials operating in the UK take an active interest in diaspora activities, readily (and often rightly) assumed to be anti-regime.

It is surprising then that the UK officially states that it knows of no substantiated cases of returnees being mistreated on return, as does other EU member states (UK Home Office, 2018). The information gap here is the lack of appropriate post-return monitoring systems, as under refugee law it is presumed that once an adverse decision is made regarding an individual's asylum claim then it has been determined that they do not need to avail themselves of the protection of another state and can be returned without incident. Worse still, there are few organisations able or willing to monitor the fate of those returned.<sup>76</sup>

That those who return to Sudan are not safe is amply demonstrated by the above. Thus, the presence of Sudanese officials in European capitals places asylum seekers and migrants from Sudan doubly at risk. It increases the reach of the Sudanese intelligence, while minimising the checks and balances in place to guard against

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<sup>75</sup> One of the authors, Maddy Crowther, is Co-Executive Director of Waging Peace.

<sup>76</sup> Waging Peace is in fact listed as the only viable option for monitoring returnees on several public forums, despite admittedly having few options open to it.

inadvertent or intentioned refoulement. The fate of those who are returned to Sudan is neither known nor particularly cared about.

However, the weight of evidence is becoming difficult for home ministries to ignore in domestic asylum cases and case law. Most notably, in June 2018, a man named Bishara Hassan Jameel Allah managed to film himself being detained and tortured on arrival at Khartoum International Airport. The Sudanese officials focused their physical abuse at his chest after he explained that he had only recently undergone surgery in that area. There are also rumours that a companion travelling with him was killed (see Arends, 2018 and, for a version with English subtitles, Apache.be, 2018). This is good evidence of what happens to a returnee to Sudan, and the possible circumstances of those forcibly removed to Sudan, whose fates are currently unknown.

## **Conclusion**

The European Union's relationship with the Sudanese government (and the wider Sudanese security state) is worrying. The Khartoum Process has cemented formal ties between the EU and Sudanese authorities. This has taken place despite the well documented and internationally-acknowledged human rights abuses carried out by the Sudanese government, led by President Omar al-Bashir, himself indicted by the International Criminal Court. It is difficult to square this with the oft-repeated assurances of European officials that human rights are integral to EU activities. There is evidence that strengthening the capacity of the Sudanese and Eritrean state has meant collaborating with officials and bodies implicated in the human trafficking the EU says it is attempting to end.

Reciprocally, the EU has even allowed these security actors direct and deep access to European states, either because of bilateral deals relating to the forcible deportation of rejected asylum-seekers, or under formal bodies like Regional Operational Centre in Khartoum (ROCK). All of this exists in the context of the EU's 'defences in depth' approach to deterring migration. Every avenue has been

explored – whether it is preventing aid agencies from rescuing drowning refugees from the waters of the Mediterranean, to the construction of detention centres in Sudan. One is forced to conclude that there is an overt European policy that respects human rights, while simultaneously a covert policy that accepts that these niceties must be ditched if targets to reduce migration are to be met.

The unilateral assumption of power by the Transitional Military Council in the spring of 2019 continued to face opposition on the streets of Khartoum, with protesters congregating in a square in front of the army headquarters, staying there for weeks, and taking part in creative forms of solidarity and resistance. On 3 June 2019 the Transitional Military Council, led by Hemetti's RSF forces, stormed the square, killing over 120 individuals, raping over 70, and prompting international condemnation.

Largely in response to this outcry, the EU has put on hold the more controversial aspects of their migration and human trafficking control programmes, namely any aspects of the Better Migration Management programme that involve contact with the Sudanese Ministry of Interior, as well as the ROCK, both of which are challenged in this chapter.

At the time of writing (August 2019) two things remain unclear: what the EU is planning to do to reconsider its approach to tackling migration in the region considering this drastic turn of events in Sudan and how, and if, Sudan itself will develop governance structures that better respect human rights, equal citizenship, and peace now that the Transitional Military Council and Forces for Freedom and Change have reached a tentative agreement and formed a transitional government.

We urge readers to be part of efforts to monitor what happens in Sudan, with respect for the wishes of the Sudanese people, and those who live in or pass through its territory. Among the victims are the many migrants and refugees. The circumstances that forced these vulnerable men, women and children to flee from their countries have



not altered, particularly in Sudan and Eritrea. The question, therefore, remains: Where can these vulnerable populations seek shelter, and find protection under international law, and are they safe once they get there?

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### Uncomfortable Aid: INGOs in Eritrea

*Makeda Saba*

#### Introduction

Any international organisation working in Eritrea must safeguard against operating as an extension of the government, which has been accused of ongoing crimes against humanity (UN Human Rights Council, 2016) and appears to have no intention of revising its policies to address human rights issues (UN Human Right Council, 2018; Keetharuth, 2018; UN Human Rights Council, 2019). The Government of Eritrea's attitude towards independent civil society organisations – including national and international non-governmental organisations (NGOs and INGOs), national religious organisations, community-based organisations, and international bilateral and international donors – is

marked by suspicion and antagonism. This was clearly expressed by Dr Nerayo Teklemichael, head of the Eritrean Relief and Rehabilitation Agency, the government agency set up to supervise the activities of NGOs: “it is naïve to believe that NGOs always carry out

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*INGOs in Eritrea operate in a highly restricted space under the direct supervision and control of the government. Three NGOs still work in Eritrea in the development sector, including in education. As the legal basis for their work is uncertain, they depend on the personal favour of key persons in power. As the government has integrated education with the Warsay Yikaalo National Development Programme and indefinite National Service, which involves forced labour, these NGOs are propping up a system that uses slave labour and a government that oppresses its people and has been accused by the Commission of Inquiry on Human Rights in Eritrea of ongoing crimes against humanity.*

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their activities with integrity. Some have a hidden agenda and engage in activities which the government and the people do not want” (Adgoi, 1994). According to the Eritrean government, all civil society organisations must be mobilised and organised by the government and aligned with national priorities and strategies (Bertelsmann Stiftung, 2018).

This centralised approach started during the liberation struggle in the 1970s. At that time, the Eritrean People’s Liberation Front (EPLF), now in government as the People’s Front for Democracy and Justice (PFDJ), mobilised the population to support the struggle. The mass mobilisation strategy was in line with Leninist thinking that revolutions cannot be expected to happen spontaneously, they must be planned and have a theoretical framework, and that it is the role of the elites to plan and implement such revolutions (Lenin, 1987). In the case of Eritrea, the EPLF, and subsequently the PFDJ, assumed the role of planning and implementing the revolution, based on the assumption that the party works in the interest of the people.

Post liberation (1991), the Government of Eritrea has continued with the control of mass organisations. Therefore:

*... [Associations] and interest groups acting independently of the PFDJ are prohibited. The party claims that the Eritrean people are a single mass sharing the same interest and that it’s the only organisation representing the interest of all social groups...* (Bertelsmann Stiftung, 2018)

Therefore, the only types of civil society organisations that are acceptable in Eritrea are the mass movement organisations established by the PFDJ, such as the National Confederation of Eritrean Workers (NCEW); National Union of Eritrean Women (NUEW); and National Union of Eritrean Youth and Students (NUEYS). Operating as extensions of the government, these groups implement government priorities in their sectors, as opposed to representing the interests of their constituencies in the process of policy formulation.

This policy of the government has led to the severe restriction of civil society organisations and a cycle of expulsion of INGOs, which started as early as 1992, with the expulsion of SOS Sweden Children's Village, and culminated in 2011, when Oxfam GB, Vita, Lutheran World Federation, and Norwegian Church Aid were asked to close their programmes. Currently, there are three INGOs working in Eritrea: Finn Church Aid (FCA), the Norwegian Refugee Council (NRC) and Vita. These INGOs are working in education, livelihoods and capacity building. They operate in a context where the Government of Eritrea keeps strict control over all aspects of life, severely constraining all political and civil rights, and where serious human rights abuses are taking place, including ongoing crimes against humanity (UN Human Rights Council, 2016).

According to Van Reisen and Estefanos (2017), such policies are guided by the deliberate impoverishment of the people, as a strategy to curb any potential opposition. This strategy juxtaposes the state against the people of Eritrea, raising questions about the assumption that the civil space is organised by the PFDJ for the wellbeing of the Eritrean people. The question then is, are the three INGOs working in Eritrea entrenching authoritarian rule? Specifically, how do the INGOs in Eritrea understand their accountability in the restricted context of Eritrea? Is it possible to be accountable to both the Eritrean government and its people? How is the responsibility to 'do no harm' to the people of Eritrea upheld? And, finally, what is the legitimacy of the INGOs in working with the Government of Eritrea, if this government is a threat to the wellbeing of the Eritrean people?

The accountability of INGOs is governed by the interaction of moral and ethical responsibilities and national and international frameworks for human rights and humanitarian law (ICRC, 2004), as well as codes of conduct and guidelines such as the Humanitarian Charter (OHCHR & UNDP, 2004; Sphere Project, 2018; see also OHCHR, n.d.). As INGOs are guided by their own mission and principles, which explicitly state accountability towards the people served by their actions, the dilemma is stark. If the Government of Eritrea is unable or unwilling to serve the interests of the Eritrean people, what

is the *raison d'être* for the three INGOs to be present in the country and can they escape government control to serve the interests of the Eritrean people? The main research question investigated in this chapter is, therefore: *Are the three INGOs currently working in Eritrea able to uphold their duty to the people of Eritrea to 'do no harm'?*

## **Theoretical framework**

This chapter analyses the ethical/human rights accountability of INGOs working in Eritrea through the deontological lens of human rights duty bearers (Breakey, 2015), who are required to 'do no harm' (Anderson, 1999a). The accountability model applied (Breakey 2015), states that human rights duties arise as a result of:

- **A duty bearer's specificity:** A duty bearer's responsibility covers a specific time and is specific to the particular duty bearer.
- **Relationship tracking:** This links the duty bearer's responsibility to a given situation or relationship. When a duty bearer has caused a situation, especially any sort of harm, the duty bearer is morally responsible for the outcome. When the duty bearer has an existing relationship with one of the right holders, it is even more appropriate for the duty bearer to bear rights-based duties (Breakey, 2015).

The Humanitarian Charter was developed as a result of the efforts of the International Federation of Red Cross and Red Crescent (IFRCRC) and various NGOs to improve the quality of their response during emergencies, as well as their accountability to the people they serve. It incorporates both human rights and humanitarian law (i.e., its scope is not limited to conflict). The charter requires NGOs to act:

*... in accordance with the principles of humanitarian action set out in this Charter and with the specific guidance in the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organisations (NGOs) in Disaster Relief.* (Sphere Project, 2018, p. 31)

The IFRCRC's code of conduct, which is part of the Humanitarian Charter, requires NGOs to work impartially and independently from governments and not to become, either knowingly or through negligence, tools and extensions of governments (IFRCRC, 2002).

The key principles of the Charter (Sphere Project, 2018; OCHA, 2012) are:

- **Humanity:** Human suffering must be addressed wherever it is found.
- **Neutrality:** Those who provide aid must not take sides in conflicts or engage in hostilities of a political, racial, religious or ideological nature.
- **Impartiality:** Aid is to be provided on the basis of need alone, giving priority to the most urgent cases, irrespective of nationality, race, gender, religious belief, class or political opinion.
- **Independence:** Those who provide aid must be autonomous from the political, economic, military or other objectives with regard to areas where assistance is being provided.

Both the FCA and NRC are signatories to the IFRCRC code of conduct, which is now part of the Humanitarian Charter (Sphere Project, 2018) In addition, for FCA, the ACT Alliance Code of Conduct incorporates the spirit of the Charter through the following provisions:

- *Acting in ways that respect, empower and protect the dignity, uniqueness, and the intrinsic worth and human rights of every woman, man, girl and boy;*
- *Working with communities and individuals on the basis of need and human rights without any form of discrimination, ensuring that the capacities and capabilities of communities are considered at all times, and especially targeting those who are discriminated against and those who are most vulnerable;*
- *Speaking out and acting against those conditions, structures and systems which increase vulnerability and perpetuate poverty, injustice, humanitarian rights violations and the destruction of the environment;*

- *Working in ways that respect, strengthen and enable local and national-level capacity;*
  - *Not using humanitarian or development assistance to further a particular religious or political partisan standpoint;*
  - *Upholding the highest professional, ethical and moral standards of accountability, recognizing our accountability to those with whom we work, to those who support us, to each other, and ultimately to God;*
  - *Meeting the highest standards of truthfulness and integrity in all of our work; and*
  - *Endeavouring not to act as instruments of government foreign policy.*
- (ACT Alliance, 2011)

Although Vita is not a signatory to the Humanitarian Charter, from its reports and its mission statement it is clear that Vita aspires to the same principles (Vita, 2017). And, given that, in addition to being a statement of shared beliefs, the Humanitarian Charter is as statement of recognition of established legal rights – i.e., human rights and humanitarian law (Sphere Project, 2018) – despite the fact that Vita is not a signatory, the Charter provides a basis for measuring the ethical and human rights duty of the organisation.

According to Breakey’s (2015) accountability model, the three INGOs, presently working in Eritrea have an overarching duty based on ethical and human rights standards to the people of Eritrea, and specifically to their beneficiaries, to ‘do no harm’. They have a duty to ensure that their actions do not cause harm, for example, by strengthening the restrictive environment by entrenching authoritarian rule, which is preventing the people of Eritrea from exercising choice and restricting their freedom and opportunities, where opportunities are understood as contributing to the development of capabilities (i.e., what a person can do by accessing the means available to them) (Sen, 2004).

## **Methodology**

The study was conducted as a desk review of available data and information (such as documentaries, documents, and codes of



conduct for INGOs), including the author's direct observations and experience in governance in Eritrea. For reasons of security, the author has published this chapter under a pseudonym.

### **Policy framework for government control**

President Isaias Afwerki has been in power since 1991 and has never been endorsed by elections. The Government of Eritrea has no democratic institutions. The National Assembly has not met since 2002 and, hence, there is no parliamentary oversight. In addition, the President is not subject to any inner party (i.e., PFDJ) review or elections – the last PFDJ congress was in 1994 (Bertelsmann Stiftung, 2018). National budgets are not published and there is no rule of law or independent judiciary. Political parties are banned and the 1997 Constitution remains unimplemented. Government institutions report directly to the President and a group of trusted PFDJ senior officials appointed by the President, who report directly to him (Human Rights Concern Eritrea, 2018).

It was hoped that the peace process with Ethiopia would mean a change in the current situation, especially government control over the countries' labour force. However, since the Government of Eritrea signed the peace agreement in June 2018, there has been no indication that it intends to reform its development model and associated policies, or restart the democratisation process and re-open political, social, and economic space. Despite this fact, the Eritrea-Ethiopia border posts of Om Hajer (The Citizen, 2019), Zalembessa and Burre have been opened (Shabait.com, 2018).

### ***Restrictions on international cooperation***

Soon after independence from Ethiopia in 1991 the then Provisional Government of Eritrea started restricting political and civil society space through the following actions: the banning of political parties; closure of existing civil society organisations; introduction of Proclamation No. 60 of 1994 (Schröder, 2004); introduction of a Proclamation for the Administration of NGOs; and constraints on religious bodies through Proclamation No. 73 of 1995, A Proclamation to Legally Standardise and Articulate Religious

Institutions (Schröder, 2004; UN Human Rights Council, 2015, Annex 3), which requires religious groups to register with the government and limits them to pastoral work. (Human Rights Concern Eritrea, 2018).

The NGO Proclamation No. 60 of 1994 governs the administration of NGOs and was a precursor to Proclamation No. 145 of 2005, A Proclamation to Determine the Administration of Non-Governmental Organisations (UN Human Rights Council, 2015, Annex 3). Prior to the enactment of the 1994 Proclamation, the Eritrean government had already started to impose restrictions on civil society organisations that were not mass movement organisations (i.e., the NCEW, NUEW or NUEYS).

In 1994, following the enactment of Proclamation No 60/1994, Dr Nerayo Teklemichael, who was at the time the head of the government's Eritrea Relief and Rehabilitation Agency (which later became Eritrean Relief and Rehabilitation Commission), introduced the 1994 NGO Proclamation. He explained that the purpose of the proclamation was to restrict the activities of NGOs and ensure the government's control of the sector. According to Dr Nerayo:

*.... [the proclamation] is mainly designed to make NGOs, be they international or local, realise that ERRA [Eritrea Relief and Rehabilitation Agency] is there to supervise their work. ... [Supervising the work] of NGOs is important because NGO activities anywhere, without outside control might create a situation where the inhabitants of a certain village or province secure relief aid while those in other localities get none. ... [I]n some countries NGOs perform tasks which under normal circumstances, should be undertaken by national governments like the implementation of health, educational, agricultural and other projects. (Adgoi, 1994)*

By 1997, despite the fact that Eritrea was a newly-formed state with many humanitarian and post-conflict needs, local NGOs were closed, and INGOs either left the country or were expelled. All NGO property was confiscated. National organisations closed included

national religious organisations and churches, such as Kalehiwet Church of Eritrea (Human Rights Concern Eritrea, 2018).

The government's view that civil society has no role to play in the development of the country, except as an extension of the government, was confirmed during a joint evaluation of Swedish, Norwegian and Danish projects:

*Regarding NGOs (both foreign and local) the GoE [Government of Eritrea] does not see a major role for NGOs in Eritrea's development efforts in its aid policy. Increasing bilateral donor support through NGOs and their subsequent increase in numbers has played an important role in restricting NGOs activities in 2005 by the GoE. (Michael, Ooichen, Slob & Jerve, 2008)*

As a result of government policies, both local NGOs and INGOs experience difficulties in terms of their operations in Eritrea.

### ***Humanitarian assistance***

Following the Eritrea-Ethiopia border war (1998–2000), more than one million Eritreans (i.e., approximately one-third of the population) were internally displaced (State of Eritrea, 2004). Humanitarian assistance was needed, and the government welcomed international and independent NGOs.

National and international NGOs, the UN and other agencies contributed to a swift emergency response, not only during the post-border war emergency, but also during the drought that followed in 2002 and 2005. All of this received very little recognition from the government, which portrayed itself in the local media as the only actor responsible for the response.

The hope was that this pragmatic opening of space for civil society actors would herald a new approach not only towards civil society, but also in the area of human, civil and political rights. It was hoped that the 1997 Constitution would be implemented, political parties established, electoral laws enacted, and, finally, at the end of 2001, that there would be a general election, which never happened.

### ***2001 crackdown and international response***

In 2000 and 2001, there was public demand for accountability and more open public participation and consultation on how the country should be managed (Human Rights Concern Eritrea, 2018). In 2001, these demands were championed by Cabinet members (now referred to as the G15) as well as students. However, these ‘dissenters’ were arrested by the government. More than 5,000 university students were arrested and taken to Wi’a and Gelalo, two notorious military prisons, where they were tortured and made to do forced labour, leading to the death of many (Van Reisen & Estefanos, 2017).

The draconian action taken by the Eritrean government in response to dissent by the students and members of the G15 resulted in a formal protest by the European Union (EU). Subsequently, in 2001, the Italian Ambassador, Mr Antonio Bandini, who was the EU Senior Ambassador to Eritrea, was expelled from Eritrea. EU countries responded by withdrawing their ambassadors and expelling the Eritrean Ambassador to Italy. According to the EU, relations with Eritrea had been seriously undermined by the Eritrean government’s actions and normalisation of EU-Eritrea relations would require Eritrea to improve its human rights situation (Plaut, 2016, p. 87). For some donors: “The deterioration of the political, social and economic environment of Eritrea, which started in 2001, had set the stage for scaling down or outright discontinuation of overall bilateral aid to Eritrea” (Michael *et al.*, 2008).

The 2001 government crackdown against political dissidents, the closure of the independent press and the expulsion of the Italian Ambassador to Eritrea provoked a tense relationship between the Eritrean government and the international diplomatic community (i.e., donors) (Michael *et al.*, 2008). Unfortunately, although there has been no improvement of the human rights situation in Eritrea, since 2001, many EU countries have normalised diplomatic relations with the country (Plaut, 2016).

From 2002, the Government of Eritrea has pursued a policy of shrinking civil space through the expulsion, de-registration and

restriction of the movement of NGOs. The latter is achieved through intense National Service roundups; the enforcement of the requirement for travel permits not only for nationals, but also for internationals; checkpoints; and the denial of fuel, even if fuel is allocated through fuel coupons (author's observation and experience).

In the US State Department's *Country Report on Human Right Practices – Eritrea*, the Department states that: “In May the government cut off fuel supplies to international NGOs. Similar restrictions were placed on UN agencies in April. These restrictions have prevented NGOs from visiting project sites, implementing new projects or carrying out resettlements” (US Department of State, 2008). The movement of staff of NGOs and INGOs was also restricted, which impeded the monitoring of projects, and entry and exit visas were denied for key staff. In addition, offices were raided by the military and key staff members were harassed and arrested. Finally, in 2011, the remaining INGOs were asked to close their projects by end of 2011, forcing a closure of operations. Lutheran World Federation, Norwegian Church Aid and Oxfam GB closed their operations and had their assets confiscated (US Department of State, 2011).

In addition, in 2002/2003, Danish Church Aid/Demining Group and Halo Trust were expelled, and, by 2005, the World Food Programme's operations were closed following a programming dispute regarding the shift from food aid to cash for work, and the government confiscated the World Food Programme's warehouses and food supplies from the European Commission and Mercy Corps (Plaut, 2006). These actions were followed by the confiscation of the United Nations High Commissioner for Refugees (UNHCR) warehouses and 44 UN vehicles that had been assigned to various projects with the government, as well as NGOs (36 of the vehicles had been assigned to the United Nations Development Programme [UNDP]-funded Mine Action Capacity Building project, as observed by the author).

In 2002, the UN Secretary General and UNDP Eritrea attempted to stop or delay the expulsion of mine clearers from Eritrea, but their requests were ignored (Africa Intelligence, 2002). A delegation headed by the UNDP Resident Representative and Humanitarian Coordinator in Eritrea and the Head of the UN Mine Action Service met with President Afwerki in his Asmara office. They asked the President to give the mine clearance experts more time to hand over their activities to Eritrean counterparts, but the President refused. Following the expulsion of Danish Church Aid/Demining Group, the Danish government closed its embassy and terminated its bilateral relationship with Eritrea, which had been in place since 1993 (Michael *et al.*, 2008).

At the time, of the closure of the World Food Programme's operations in Eritrea, according to WikiLeaks, the total amount of food aid confiscated by the Eritrean government was 90,000 tonnes. Some of it was supplied to the army, but the bulk expired in a warehouse:

*The GSE [Government of the State of Eritrea] extended its control over the economy by recently confiscating grain from many private wholesalers and traders, although grain was seized, much of it disappeared into the black market. The GSE has also forced farmers to sell their harvest to government traders at deeply discounted prices. Again, government policy forced much food supply into the black market.* (WikiLeaks, 2008)

An attempt to distribute expired corn-soya blend in 2006 was protested against by health personnel. Regardless of their protest, expired material was distributed under duress and many children were poisoned and had severe diarrhoea (Hagdu, 2009).

By July 2005, the Government of Eritrea requested the United States Agency for International Development (USAID) to terminate its development programme in Eritrea. USAID said that this was:

*...at a time when it was estimated that due to the ongoing drought and the impact of the recent border war, there were a 2 million Eritreans (population estimate 3.5*

*million) at risk of food insecurity and requiring an 352,900 metric tons of food aid.*  
(USAID, 2005a)

No reason was given for the request. At the time, US Ambassador, Scott De Lisi, stated that: “The government has told us they are uncomfortable with the activities of USAID” (BBC, 2005).

### ***Continued closing of space for INGOs***

Following the enactment of Proclamation No. 145/2005 on the administration of NGOs (UN Human Right Council, 2015) restrictions escalated. Independent, national NGOs that had been established since 2000 were deregistered. Although some, such as Haben, appealed their deregistration, their appeals were not successful. At this time, some of the INGOs that objected to the operational restrictions imposed by Proclamation No. 145/2005 left Eritrea. Others applied for registration, but were rejected. A total of two-thirds of the NGOs working in Eritrea ceased operations; of the 37 NGOs present in the country at that time, only 13 remained (Hoapoliticalscene.com, 2007). By 2006, a further 9 INGOs (6 Italian and 3 from other countries) were denied registration and expelled. Their equipment and supplies were confiscated (Hagdu, 2009; Sudan Tribune, 2006).<sup>77</sup>

The remaining four INGOs – Lutheran World Federation, Norwegian Church Aid, Oxfam GB, and Vita (Hoapoliticalscene.com, 2007) – adapted, hoping that they could continue to work in the country (author’s observation and experience). Irrespective of the provisions of Proclamation No. 145/2005 restricting the work of NGOs to humanitarian work, with the tacit consent of the government, the remaining INGOs started carrying out development work on water and sanitation, nutrition, food

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<sup>77</sup> Some were not able to renew their NGO registration, others were asked to leave and others still were asked to complete their projects by a specific time, irrespective of the status of the project (US Department of State, 2008). During the year the government demanded that departing NGOs hand over paperwork and documents to government officials. After the forced closure of several NGOs in 2005 and 2006, the government required that all NGO property be turned over to it, including such items as computers, printers and vehicles.

security and livelihoods. The projects implemented retained elements of humanitarian response, but were increasingly focused on development.

Despite these efforts, in 2011, the Eritrean Ministry of Labour and Human Welfare, requested that the four INGOs complete all projects by 31 December 2011. This directive was irrespective of the fact that Lutheran World Federation, Norwegian Church Aid, Oxfam GB, and Vita were implementing multi-year projects and that there were also a number of multi-year projects in the pipeline awaiting final approval (US State Department, 2011; author's observation and experience).

The government's decision to close INGO projects by 31 December 2011 was made without consulting the relevant line ministries or the NGOs – it was a clear 'get out notice'. Consequently, during 2011, Lutheran World Federation, Norwegian Church Aid and Oxfam GB closed their operations in Eritrea. However, Vita remained and struggled with the uncertainty till 2013. At this time, Vita signed a tripartite agreement with the Irish Agriculture Research Agency, Teagasc, and the National Agricultural Research Institute, an agency within the Ministry of Agriculture of Eritrea. At the end of 2011, Vita was the only INGO operating in Eritrea.

Vita did not close its operations. The Vita audit reports of 2010 and 2011, contrary to their claims regarding transparency (Vita, 2014), do not mention the request by the Ministry of Labour and Human Welfare for INGOs to close all projects by the end of 2011, nor do they mention the closure of Lutheran World Federation, Norwegian Church Aid and Oxfam GB (Vita, 2010; 2011). In the 2010 annual audit report, Vita mentions that in response to regulatory changes in both Eritrea and Ethiopia they implemented administrative changes (i.e., the appointment of National Directors). In the report, Vita also refers to the impact of the Eritrean government's control on projects:

*... [The government's stringent] control on NGO work has impacted Refugee Trust Ireland (RTI now Vita) Limited's ability to deliver change on the ground and in*



*2011 Vita (RTI) Limited will have to be flexible to changing circumstances and possible risk...* (Vita, 2010)

The process of restricting and closing the space for all independent national civil society organisations, including for national religious organisations, continues to this day. The government has closed the Catholic School, Medhanie Alem Minor Theology School, the Orthodox School at Enda Mariam, and the primary health care centres operated by the Catholic Church. It has also attempted to close Al Diia Muslim School. All of these actions have been accompanied by threats and acts of intimidation, including arrests and disappearances, and has led to the death of school leaders (UN Human Rights Council, 2018; Human Rights Concern Eritrea, 2019).

### **Ongoing crimes against humanity**

There is no freedom of speech in Eritrea, with the government silencing and imprisoning its opponents. For example, in early September 2018, former Minister of Finance Berhane Abrehe, in a recorded message to the Eritrean people, emphasised the fact that the National Assembly (i.e., parliament) has not met since 2002 (Abrehe, 2018; Tefala, 2018). He reminded President Isaias Afwerki that although many of the members of the National Assembly are in exile, have been arrested and are even dead, it is still the legitimate legislative body of the country and must be called into session. In addition, he challenged the President to a national televised debate as to the status of the country, pointing out that for Eritrea to move forward it is necessary for President Isaias to resign.

The Eritrean government's response was to arrest the former Minister on 17 September 2018 and, like so many others before him, his whereabouts are currently unknown (Keetharuth, 2018). This is a clear message that in 2018, just like in 2001, there is no freedom of speech in Eritrea and no capacity or willingness on the part of the government to engage constructively with dissent or to discontinue the one-party, one-man rule. The situation of the country is well

summarised by Ms Sheila Keetharuth in the latest UN Human Rights Council press release:

*... [During] the past 17 years, the Government of Eritrea has maintained tight control over the country, stifling any form of public debate and participation. I have received reports that the former Minister of Finance, who recently wrote two books on the current state of affairs in the country, including the rule of law, has been arrested in Asmara during the morning of 17 September 2018. If confirmed, this arrest on the eve of the anniversary of the 2001 clampdown would add to the apprehension that improvements in Eritrea's external relations are not mirrored inside, especially regarding respect for fundamental rights and freedoms.... [Comprehensive] reforms at the domestic level are required on the path towards a free, just and democratic society, with citizens enjoying all their human rights...* (Keetharuth, 2018)

Therefore, the conditions that have given rise to human rights violations in Eritrea and that are linked to the impoverishment of the population (Van Reisen & Estefanos, 2017), through a process of reduction of opportunity and of choice, as well as means (i.e., capabilities), remain. It is argued, therefore, that FCA, NRC and Vita – which are currently operating in Eritrea under such conditions are not able to maintain a position of impartiality and independence from the Government of Eritrea (The Sphere Project, 2018).

### **INGO engagement in Eritrea**

Any INGO working in Eritrea must safeguard against operating as an extension of the Government, which has been accused of crimes against humanity (UN Human Right Council, 2018; Keetharuth, 2018; UN Human Rights Council, 2019). However, presently, there is no evidence that FCA, NRC and Vita can function independently in Eritrea, due to the legal framework for NGOs in Eritrea and the practices of the Eritrean government. This section presents the findings of this study in terms of the ability of the three remaining INGOs operating in Eritrea to do so independently, for the benefit of the Eritrean people, without entrenching the authoritarian regime.

Article 7 (1) of Proclamation No. 145/2005 (Government of State of Eritrea, 2005) restricts the work of NGOs in Eritrea to humanitarian responses: “The activities of every NGO shall be limited to relief and rehabilitation work”. However, as already stated, FCA, NRC, and Vita are working in education and sustainable livelihoods, which are development areas. Although Article 7 (2) allows NGOs to apply to the Ministry of Labour and Human Welfare in writing for a change in programme, there is no evidence that FAC, NRC, and Vita have actually been provided with any formal authorisation to work in development-oriented programmes. However, this is overlooked by the government. There seems to be a state of ambiguity that everybody is willing to live with.

Article 7 (4) goes on to provide that NGOs wishing to engage in development need the support of the relevant line ministry. However, this is subject to approval by the Ministry of Labour and Human Welfare and, the line ministries are not consulted by the government (i.e., the President) when decisions, such as the one taken in 2011 that led to the closure of the Lutheran World Federation, Norwegian Church Aid and Oxfam GB programmes, are taken.

Post 2004, the government shifted its focus from recovery and reconstruction and reintegration to development (State of Eritrea, 2004), therefore, also shifting the focus of the work of the remaining INGOs, but without amending Proclamation 145/2005, thereby establishing a shadowy system for the sector and ensuring that ongoing NGO operations are dependent on the good will of the government and not the rule of law. This system also allows the government to expel organisations at will, as it has done in 1997, 2002, 2003, 2005, and more recently in 2011. As nothing has changed, any INGO working in development must do so under the supervision of the government and their programmes are subject to the benevolence of the top leadership of the government, which has historically been whimsical and arbitrary, therefore undermining the independence of these INGOs (Hagdu, 2009; US Department of State, 2005; 2011). In addition, by having to partner with the government to implement development programmes, the INGOs

operating in Eritrea severely compromise their independence and risk working only to the governments' objectives (US Department of State, 2011).

According to Proclamation No. 145/2005, NGOs in Eritrea are obliged to work with the concerned government entities (Article 6) and INGOs must have a component for institutional capacity building and training (Article 9). In this way, the three NGOs working in Eritrea are enhancing the capacity of the Government of Eritrea, a one-man, one-party government charged with ongoing crimes against humanity (UN Human Rights Council, 2016). There is no evidence that the three NGOs have considered the possibility that their work in Eritrea is sustaining the continuation of such human rights abuses. Nor is there any evidence that they have taken precautions to avoid harming the Eritrean people.

As well as strengthening the government's capacity, the three INGOs operating in Eritrea also strengthen the government economically. NGOs are required to open foreign currency and nakfa accounts for their projects and transfer funds from the foreign account to the nakfa account as the project progresses. Such transfers are made at the government-controlled rate, which does not reflect the economic reality of the country. The Foreign Currency Oversight Board, which is charged with the management of foreign currency accounts, is comprised of the Ministry of Finance, Bank of Eritrea, Commercial Bank of Eritrea, and PFDJ Economic Affairs Department. However, the Board has not met since 2009 (UN Security Council, 2011). Instead, the management and oversight of foreign currencies in Eritrea is carried out by the PFDJ Economic Affairs Director, Hagos Gebrehiwot (also known as Kisha), including funds deposited by INGOs into foreign currency accounts:

*According to several former Eritrean Government officials involved in finance and intelligence operations, Mr. Gebrehiwot is the overall financial coordinator of all hard currency operations relating to Eritrea's procurement activities, including support to armed groups in the region. (UN Security Council, 2011, p. 99)*

The PFDJ's control of economic space in Eritrea involves a much higher proportion of hard currency transactions than the formal sector. Hard currency transactions are almost all entirely managed off shore through the PFDJ's network of companies, individuals and bank accounts. In many cases, affiliation with the PFDJ or Eritrea is not made known. The impact of this is to render both the Ministry of Finance and the Central Bank of Eritrea (i.e., the Treasury), two essential state institutions, irrelevant to the economy of the country (Human Rights Concern Eritrea, 2018).

It can be concluded from this that the INGOs working in Eritrea are indirectly funding illicit and illegal activities. In such a situation, FCA, NRC and Vita cannot guarantee that their presence and their work avoids complicity with crimes against humanity by increasing the power of the PFDJ, which is in full and sole control of the policies perpetuating these crimes.

### ***Requirement to work only with government***

FCA claims that it is a rights-based organisation guided by international humanitarian standards and principles and that it actively: “defends [the] space that civil society actors need for their work and supports actors in strengthening their capacities” (FCA, 2017b; see also FCA, n.d.). Vita (n.d.) recognises that Eritrea is a country where it is not able to engage the government on issues of governance and human rights. Accordingly, Vita undertakes that it:

*... will take cognisance of in-country human rights issues in programme countries and will take appropriate precautions and mitigating actions where external factors relating to human rights and governance impose critical risks to programme delivery, staff safety, impact and sustainability. (Vita, 2016)*

NRC, like FCA, is committed to the international humanitarian standards and principles (NRC, n.d.) and simply states that: “The Norwegian Refugee Council is an independent humanitarian organisation helping people forced to flee”. However, how this independence is realised is unclear, because in Eritrea the government has ordered that any INGO working in the country can only work

with government entities (see Proclamation No145/2005, State of Eritrea, 2005)

In Eritrea, the government is not just developing key policies that must be considered, nor is it a simple regulator, it demands that it be the main partner and intermediary between NGOs and the Eritrean people (State of Eritrea, 2005; author's observation and experience). In addition, the ability of NGOs to conduct wide and independent assessments to develop their own strategies and priorities is severely limited by travel restrictions, as well as the fact that it is not possible to conduct such assessments independently. Finally, as already mentioned in this chapter, the government is historically suspicious of autonomous NGOs, considering them tools of foreign domination and undercover spy operations that need to be brought under its control.

FCA, NRC and Vita have accepted these restrictions in their bid to work in Eritrea. Consequently, like the mass movement organisations (NCEW, NUEW, and NUEYS), they are operating as extensions of the Government of Eritrea. This undermines any claims they may have of benefiting the people of Eritrea or 'doing no harm'.

### ***Complicity with forced labour***

According to FCA, the objective of its programme is to improve the facilities at Mai Nefhi Technical College and Hamemalo Agricultural College (TesfaNews, 2015; Madote, 2016). Such efforts directly link the FCA's programme to Eritrea's militarised education system, which is designed to develop human resources for deployment to the National Service/Warsay Yikaalo National Development Programme, as recently confirmed by the Minister of Local Government (Eritrea Profile, 2019). This programme has been labelled by the UN Commission of Inquiry on Human Rights in Eritrea as forced labour tantamount to slavery (UN Human Rights Council, 2015). This is also confirmed by Eritrean students, interviewed by the author, who have laboured under this system, who consistently say that the situation in Eritrea is modern-day slavery (NTN various interviews with author, face-to-face, Kenya, 24 May–

10 June 2018). Hence, through its programme, the FCA can be said to be maintaining, and perhaps even contributing to, the system of forced labour and slavery in Eritrea.

***Putting local staff in danger***

The extensive network of spies and informants of the PFDJ means that there are people who inform and report on activities of international organisations and their employees. This way of controlling NGOs is well a documented practice in Eritrea, as reported by the Commission of Inquiry on Human Rights in Eritrea: “The Commission collected a body of testimony that indicates the existence of a complex and multi-layered system to conduct surveillance of and spying on the Eritrean population, both within and outside the country” (UN Human Rights Council, 2015, para. 340)

Eritrean citizens, particularly those working for international organisations, are subjected to comprehensive surveillance that is based on a distributed intelligence system up to a neighbourhood level, with informants reporting to the power structure of the regime, the PFDJ. A former NGO worker told the Commission that NGOs are under constant surveillance. He said:

*[The] Government was spying on what we do. The executive committee usually has meetings with them. One of the university students, he was part of the national security, he sometimes came to the association [...] I was under their surveillance. When we had the general assembly, we reported to them, if they had questions, we answered them professionally. They knew in detail what projects we were doing. I usually did not mention any political opinion. I even tried to act as if I was sympathetic of the Government because everywhere there are spies. [...] Everywhere there are spies. In Eritrea you do not really trust anyone next to you. (UN Human Rights Council, 2015, para. 345)*

Foreigners, including diplomats and journalists, are also under a high level of scrutiny. A former UN staff member recalled:

*[At] a sensitive meeting with a certain diplomat, I was told that we should meet on the terrace as the office security may be compromised. The diplomat informed me that he had just attended a meeting with the Government where certain things he had said confidentially and in the privacy of his office to other diplomatic members of his office, had been repeated to him precisely. (Anon., personal communication with author, Asmara, 2005)*

The government's prevailing attitude is that NGOs have hidden agendas, therefore, Eritreans working for NGOs and other international organisations are working as spies for foreigners. (Adgoi, 1994). For this reason, the activities of INGOs attract scrutiny and their Eritrean employees become the target of attention from the national security apparatus.

Consequently, NGO staff are harassed, threatened and routinely arrested. Such arrests often happen when they are on leave or immediately after an NGO had been asked to leave the country or has left. This process is designed to instil fear in local staff. Exposing national staff to such risks is contrary to the principle of 'do no harm' (Hagdu, 2009; US Department of State, 2008).

Government suspicion extends to national staff working with embassies and the UN. From 2001 to 2010, the Eritrean Government arrested 48 employees of the US Embassy. Some have never been released, others were detained in horrible conditions for years or months and then released. No charges have been brought against them. Ali Alamin and Kiflom Gebremichael (both translators), Fitwi Gezae (webmaster), and Biniam Girmay (facility management assistant) were all arrested in 2001 and are still held to date without charges (Awate, 2018).

The arrest of US Embassy staff in 2001, at the height of the then political crisis, served as a warning to all Eritreans employed by international organisations, including the UN and other embassies,



that they were on a watch list and targets of the national security apparatus. There is no evidence that FCA, NRC, and Vita have considered such issues or that they have conducted any due diligence assessment to ensure that they are able to protect their local staff from such risks (Anderson, 1999a; 1999b).

### ***Promoting the government's agenda***

The three INGOs working in Eritrea have unwittingly become promoters of the Eritrean government's political agenda. FCA's development project is in higher education and it has signed a memorandum of understanding with the National Commission of Higher Education, an entity established in 2006 (now known as the National Higher Education Research Institute) to manage and coordinate the higher education sector, which reports directly to the Office of the President.

The highly-political nature of the relationship that the FCA has entered into with the government is highlighted by the fact that under present arrangements, it reports to the head of the PFDJ's Political Affairs, Yemane Gebreab (observed by the author in Asmara, August 2016) and Dr Haile Mihtsun, head of the Medical Board, which is responsible for approving Eritrean citizens travel for medical treatment, and head of the National Higher Education Research Institute, which is responsible for coordination of the higher education sector. According to information received, Dr Mihtsun, despite the availability of funds, halted the Italian-funded programme that facilitated the hiring of international qualified staff (i.e., including diaspora Eritreans) by colleges of higher education (GF, personal communication, Facebook Messenger, 14 June 2018), a clear indication that their relationship depends on the benevolence of the government elites and that there is no interest on the part of the government in developing an open and transparent higher education sector. Both Yemane Gebreab and Dr Haile Mihtsun are trusted political fixers for President Isaias Afwerki. In the case of Dr Mihtsun, he has recently been identified by witnesses as the doctor responsible for visiting political prisoners (i.e., G15). Therefore, he is closely connected with the ongoing detention of political dissidents

without trial and the associated human rights violations (Human Rights Concern Eritrea, 2018).

Hence, it can be concluded that FCA is operating directly under the instruction and supervision of the Office of the President and the President's inner circle, for whom the key nation building project is the horizontal integration of National Service with the Warsay Yikaalo National Development Programme and education, a policy directly responsible for the indefinite National Service and the institutionalisation of forced labour in Eritrea.

The 2003 education reform replaced Asmara University with unaccredited colleges in various parts of the country that were not ready to receive students, as their physical infrastructure and academic resources were inadequate (Riggan, 2016). The reform integrated education with National Service and the Warsay Yikaalo Development Programme – all policies that are directly responsible for the indefinite National Service by Eritrean youth. The formation of the National Higher Education Research Institute was not part of the 2003 education reform strategy. Much like the Warsay Yikaalo National Development Programme, it is an initiative of President Isaias Afwerki, who has centralised all aspects of the governance of Eritrea within his office, bypassing all government institutions. In education, as in other sectors (i.e., finance), the President operates parallel systems (Van Reisen & Estefanos, 2017; UN Security Council, 2011).

The NRC is implementing a vocational training programme targeting students who for various reasons, including the government's policy of not re-admitting students who have dropped out, are not in school. According to the NRC, graduates from the vocational training project are assisted to establish cooperatives and find employment within the private sector (NRC, 2017). However, this strategy of the NRC overlooks the fact that there is no legal framework in Eritrea to establish cooperatives and that to establish a business Eritreans are required to have a licence, which is only available to those who have

completed National Service. Therefore, graduates will have the following options:

- join the National Service, which could be indefinite
- pay an official or other person to obtain a licence irrespective of the fact that they have not completed National Service
- join the informal economy

The higher education programme presently implemented by the Eritrean government, which starts from grade 12, is designed to ensure that there are a large number of youth available for National Service and the Warsay Yikaalo National Development Programme, and to contain and destroy any independent student movement in Eritrea, as evidenced by the closure of Asmara University (Kibreab, 2014). Therefore, collaboration with the education system promotes the government's political agenda. Specifically, it serves to obscure the terrible state of education in the country, without any way of improving it and the fact that the whole system is providing labour for National Service and the Warsay Yikaalo National Development Programme. It is important to note that, at this stage, despite the peace process with Ethiopia, there is no plan to delink the education system from National Service and the Warsay Yikaalo National Development Programme (Chapter 5, *'Sons of Isaias': Slavery and Indefinite National Service in Eritrea*, by Mirjam Van Reisen, Makeda Saba & Klara Smits).

### ***Legitimising the government***

As NGOs, FCA, Vita and NRC are ethically required 'to do no harm'. International norms and their own codes of conduct also require that they work independently of the government and in the interest of the people. However, they are working within a context that does not tolerate such independence, legally or in practice (see Proclamation No.145/2005, State of Eritrea, 2005). Therefore, like the Eritrean mass movement organisations (NCEW, NUEW, and NUEYS), they are operating as an extension of the Eritrean Government.

Vita, in particular, has given the government a political platform in the EU, as explained in this blog post on Shedelli:

*It seems that Vita has given Isaias Afewerki the pleasure of acquiring his own diplomatic Trojan horse. Far from its mission of helping poor farmers improve their livelihoods, it is actually endangering their lives. By playing the role of lobby group and enabling one of the top advisers of the criminal regime to appear at a conference at the EU, it is helping the regime gain diplomatic ground that will allow it to continue to commit more crimes against its own people. (Yohannes, 2016)*

The education system that these three INGOs are supporting has become a major mechanism for the recruitment of Eritreans into the National Service and Warsay Yikaalo National Development Programme (Kibreab, 2014). It is also the education system that in 2017 was the principle source of public protest, as a result of the government's efforts to implement restrictions on religious bodies and bring faith-based schools directly under government control. Journalist Brummelman reported last year on the protests associated with the education reform:

*However, it is not just Muslims, but also Christians that participate in the protest. "Muslims and Christians are united. They want the government to stop meddling in their education. That is why people took to the streets," according to the spokesperson in Asmara, who himself is not a Muslim. And, he adds, it is not just about the restriction of religious freedom. "This regime restricts all possible freedom of its citizens. That is why so many people flee Eritrea. This has to stop. That is why we pray for this government to disappear."*

*The banned Eritrean opposition, which is operating without any political space and with great fear for their life, has asked the international community to pay attention to the repression in Eritrea. "Foreign countries must send observers to find out what is happening here," according to an opposition member speaking over the phone from the Eritrean capital of Asmara to a journalist. (Brummelman, 2017a).*

Although this unrest has died down, resistance is likely to continue. The same source in Asmara states:

*Of course, I am afraid. So many people are afraid. We are under great risk. However, new protests will emerge. Maybe they will be small in the beginning, in different places. And maybe they will grow into something big. That is why it is so important for the world to know what is going on here* (Brummelman, 2017b).

Vita is one of the International NGOs that was asked to close its programme by the end of 2011. However, Vita found a way to stay, building an alliance with Irish research and marketing institutes for potato farming, and signing a memorandum of understanding with the National Agricultural Research Institute of Eritrea (Vita, 2012).

Vita has established a strong link with the Irish government (one of its main donors) and Irish potato farming institutions. Such links are instrumental in the initiative taken by Member of the European Parliament, Brian Hayes, to organise an event on the ‘Future development of Eritrea’, at the time of the Irish Presidency of the EU, in 2016. The conference provided the Eritrean government with a valuable platform in the EU Parliament for political messaging (Yohannes, 2018; Chyrum, 2016). The EU meeting was attended by high-level political representatives of President Isaias Afwerki, Yemane Gebremeskel (Minister of Information) and Saleh Osman (Minister of Foreign Affairs). Prior to the conference and to his visit to the Vita project in Eritrea, in March 2016, Member of the European Parliament Hayes stated in a YouTube video that: “[We] need to ensure that human rights are defended in the circumstances where there is such corruption in Eritrea ... [there] must be conditionality ... [in] terms of human rights” (Hayes, 2016b, transcribed by author).

No such conditionality or defence of human rights in Eritrea was in evidence at the conference on the ‘Future development of Eritrea’. At the conference, there was no engagement with Eritrea on human rights or on its National Service or the Warsay Yikaalo National Development Programme. The meeting provided the Eritrean government with an international platform to assert, with no challenge, that thanks to the policies it is implementing, Eritrea is progressing, therefore, standing in contradiction to the findings of the

UN Special Inquiry on Eritrea and the UN Commission for Human Rights (Hayes, 2016a).

In addition, during the 37<sup>th</sup> session of the Human Rights Council in March 2018, the Eritrean government hosted a side event with the participation of representatives from Nevsun Resources Ltd, a Canadian mining company, and Danakali Ltd, an Australian mining company. The objective of the event was to dispel the findings of the UN Commission that the mining sector in Eritrea, in contravention of international law, is using forced labour (Eritrea Profile, 2018; TesfaNews, 2018).

Vita's Chief Executive Officer, John Weakliam, was at the meeting as part of the government and mining industry-led panel, legitimising the position of the Government of Eritrea that mining companies have not used, and do not use, forced labour (TesfaNews, 2018). However, it is common knowledge that mining companies contract national construction companies, which are owned by different sectors of the government (such as the PFDJ and military) and they all use National Service personnel and, therefore, forced labour. (Eritrea Focus, 2018; UN Human Rights Council, 2015; 2016; UN Security Council, 2011; 2017; Human Rights Watch, 2013).

Commenting on the event, the Director of Legal Advocacy at the Australian Human Rights Law Centre, Keren Adams, was of the view that, given the Eritrean government's poor human rights record, the promotion of its record by the Australian company (Danakali Pty Ltd) was deeply concerning:

*Eritrea's record has come under consistent criticism at the United Nations... [An] estimated 5,000 refugees flee the country's repressive policies every month. In these circumstances, for an Australian company to participate in a staged public relation exercised for the Eritrean Government is staggering.* (Human Rights Law Centre, 2019)

If the participation of Danakali Pty Ltd in such event was 'staggering', how much worse is the participation of Vita, which, as an INGO, is

supposed to ‘do no harm’ and maintain a position of: humanity, neutrality, impartiality and independence? Vita’s actions have legitimised the Government of Eritrea and helped it to restore its reputation abroad.

To assist with public relations exercises that present the Eritrean totalitarian government in the best possible light, Nevsun has hired Ruby Sandhu, a former partner of Brooks Consultancy LLP;<sup>78</sup> founder of RS Collaboration;<sup>79</sup> and Bronwyn Bruton, Deputy Director of the Africa Centre at the Atlantic Council (Christophe, 2017; Vincent & Plaut, 2019). Ms Sandhu was initially hired as Nevsun’s Business and Human Rights Consultant (Nevsun, 2015) and has since repeatedly intervened, through social media, to ridicule and diminish the findings of the UN Commission of Inquiry as to Human Rights in Eritrea. The most recent effort is a Twitter post of 16 March 2019 in support of the Eritrean government’s denial of any human right crisis in Eritrea during the UN Human Right Councils Enhanced Interactive Dialogue on the Situation of Human Rights in Eritrea (Sandhu, 2019; UN Human Right Council, 2019). Similarly, Ms Bronwyn Bruton, through her articles (Bruton, 2016), interviews (Castiel, 2015; Saba, 2019), workshops and representations to the US government (Christophe, 2017; House Foreign Affairs Committee Republicans, 2016), has also worked to present the Government of Eritrea in a positive light. In each case, Ms Bruton accepts that there are human right abuses and then proceeds to defend the status quo. This defence overlooks the fact that there is no independent economic sector, due to the policies that the government has implemented as well as its efforts to control the economic sector through its policy of indefinite National Service (Human Rights Concern Eritrea, 2018; UN Security Council, 2011).

Irrespective of these efforts, the issue of the use of forced labour by Nevsun Resources Limited is presently a matter of dispute in the Canadian courts (Alsharif, 2016; Anderson, 2019; CBC News, 2016;

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<sup>78</sup> <https://www.thebrookeconsultancy.com/>

<sup>79</sup> <https://www.rscollaboration.com/>

Geoffrey, 2018; Kassam, 2017; Plaut, 2018, 2019). The presentation of a rosy picture of Eritrea overlooks the concerns of the World Bank and the EU that Nevsun mislead investors, that the government has a history of taking over profitable businesses and that the potential: "...environmental impact and the effect of mining on the local communities will be significant" (Mines and Communities, 2012). This picture also overlooks the fact that as there is no published budget for the country, there is no transparency or accountability of the government, and revenue from the mining sector is not accounted for (UN Security Council, 2015).

## **Conclusion**

The three remaining INGOs working in Eritrea, FCA, NRC and Vita, are working in a country run by a totalitarian regime, headed by President Isaias Afwerki. This regime has been found by the UN Commission of Inquiry on Human Rights in Eritrea to have committed crimes against humanity, which are ongoing (Keetharuth, 2018; UN Human Rights Council, 2015, 2016). As a result of this, and the government's policy of indefinite National Service, Eritrea has become the ninth largest producer of refugees (UNHCR, 2017).

FCA, NRC and Vita, through their interventions in agriculture, vocational training and education, state that they intend to prevent the exodus of Eritreans. But, in reality such interventions are not addressing the Government's human rights record and policy framework responsible for the impoverishment of Eritreans, as well as the exodus resulting from indefinite National Service and forced labour (Van Reisen & Estefanos, 2017; Melicherová, 2019).

The presence of INGOs in Eritrea is currently merely a political expedient. Although, FCA, NRC and Vita may have good intentions, given the restrictive context of the country, its history of contempt for civil, political, and religious freedom, and the finding of crimes against humanity by the UN Commission of Inquiry on Human Rights in Eritrea (UN Human Rights Council, 2016) it is argued that their presence in the country is misguided, harmful and contrary to



the principle of ‘do no harm’ and the Humanitarian Charter (Sphere Project, 2018). It is also contrary to human rights and humanitarian law, as well as the International Federation of the Red Cross and Red Crescent Code of Conduct and these INGOs’ own codes of conduct and guidelines (FCA, 2017a; IFRCRC, 2002; Act Alliance, 2011).

Since the start of the Ethiopia-Eritrea peace process in June 2018, Eritrea has restored regional diplomatic relationships. Despite the Eritrean government’s human rights record and the mass exodus of refugees, border posts have been reopened. However, there has been no indication that the military will be demobilised, National Service will be limited to the statutory 18 months, the constitutional government will be restored, the government’s policy of integrating of National Service, the Warsay Yikaalo National Development Programme and education will be rescinded, the ban on opposition political parties will be lifted, or political and religious prisoners will be released. Nor has there been any indication that the PFDJ will hold a National Congress, internal elections, or a review of the state of the nation, as well as of PFDJ.

The presence of INGOs in Eritrea is politically convenient, as it creates an image of engagement and openness and promotes the government’s political goals. However, tight constraints on INGOs remain and there is no indication of an opening of space for national NGOs.<sup>80</sup> The three INGOs operating in Eritrea are overlooking these restrictions on freedom of speech, assembly and association, the banning of any national civil society that is not directly controlled by the government, and the repeated expulsion of INGOs. Their presence legitimises the Government of Eritrea and its restrictions on civil society.

By providing legitimacy by acting as ‘civil society’ and ‘independent donors’, while in reality working under direct instructions of the government, FCA, Vita and NRC are reducing the scope for national

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<sup>80</sup> According to Eritrean Ambassador to the UN, Mr Gerhartu, the Eritrean government is busy creating a proliferation of mass movement like organisation (Gerhartu, personal communication, Geneva, 2017).

civil society to fight for space in Eritrea and ignoring the call by Eritrean citizens for international observers to monitor the human rights situation in the country (Plaut, 2017). FCA, Vita and NRC have failed to take into consideration the risk to Eritrean citizens as a result of their presence and the implementation of their projects. In this totalitarian environment, FCA, Vita and to a lesser extent NRC, in addition to acting as an extension of the government whose legitimacy is questionable, are providing it with legitimacy and an international platform for its political messages. Hence, it is concluded that these INGOs are entrenching the authoritarian regime in Eritrea and enabling it to pursue its policy of forced labour, creating complicity in relation to crimes against humanity.

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# Complicity in Torture: The Accountability of the EU for Human Rights Abuses against Refugees and Migrants in Libya

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### Introduction

This chapter addresses serious allegations about the complicity of European governments and state actors, in particular Italy and the European Union (EU), in the abuse of African refugees and migrants in Libya. The analysis is based on the *prima facie* findings – accepted as correct until proven otherwise – of a groundbreaking report by Amnesty International, published in December 2017 (Amnesty International, 2017). Building on the main findings of Amnesty International, this chapter raises additional critical questions about accountability that are not adequately addressed in the report. This will be done in a way that charts out possible mechanisms of not only legal accountability, but also moral and political accountability, for the alleged complicity of European governments in the serious violation of international human rights law being committed in Libya. The

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*Amnesty International estimates that there are 20,000 refugees and migrants detained in horrific conditions in different Libyan detention centres administered by the country's General Directorate for Combating Illegal Migration, a government entity that receives support from Italy and the EU. In addition, horrendous violations are committed against African refugees and migrants by the Libyan Coast Guard, another government entity receiving enormous amounts of support from Italy and the EU. The EU and EU governments carry responsibility for the situation of refugees in Libya and they need to be held accountable for their complicity in the human rights abuses taking place.*

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chapter will also look at the obstacles that lie ahead of any accountability measures related to the alleged complicity of European governments.

We start by making some key assertions about contemporary global challenges, one of which is the so-called ‘migration crisis’ in Europe. With the advent of the Internet and other recent technological advancements, the world has become increasingly smaller and interdependent – benefiting immensely from the fruits of globalisation. At the same time, the world is also “becoming a more troubled place today than it was many years back” (BBC, 2018). Most recently, the former UN Secretary-General, Kofi Anna, had the following to say: “The world is particularly messy today when we look at what is happening in the Middle East, what is happening in some parts of Africa, some parts of Asia, and the fact that I don’t see strong leaders around” (BBC, 2018).

Our world is currently experiencing multiple crises, ranging from the catastrophic consequences of climate change, to rising levels of inequality, a retreat from universal commitments about the protection and promotion of human rights, the rise of populist political parties and leaders, and the unprecedented number of victims of forced displacement, to mention a few examples. This chapter focuses on the latter challenge, the growing number of refugees at the global level, particularly in Europe, and how this problem is shaping policy and practice in European decision-making processes, including its far-reaching influence on Europe’s long-standing commitment to the protection and promotion of human rights, as well as adherence to the obligations emanating from international refugee law and international human rights law. The chapter will pay particular attention to the emerging discourse on the complicity of European governments in the suffering of African refugees and migrants stranded in third countries, most notably Libya.

The main question looked at in the chapter is: *Are the EU and EU governments complicit in the human rights abuses of refugees and migrants in Libya and, if so, can they be held accountable and by what mechanism?* The

chapter is organised as follows. Following this general introduction, a brief account is given of the horrendous abuse suffered by African refugees and migrants in Libya. This is followed by an analysis of the legal grounds for the alleged complicity of Italy and the EU, as well as the gravity of this alleged complicity. The section that follows sets out the accountability options, including prosecutorial measures and non-prosecutorial measures, as well as the reparation of the rights of victims and relatives of victims. This discussion takes into account the EU and international legal framework applicable to accountability measures for complicity in atrocity crimes. Looking beyond legal accountability, the next section proposes what are considered to be long-term and sustainable solutions to the so-called ‘migration crisis’ in Europe. This will be done by emphasising the need to contextualise European migration debates in light of the unfolding global migration crisis, the effects of which are not limited to Europe. This is followed by re-visiting the alleged complicity of Italy and the EU in human rights abuses and the need to look at this problem as an early sign of the emergence of recalcitrant government behaviour in Europe – a problem that requires the proactive engagement of sensible and responsible European citizens. The final section summarises the main findings of the chapter and draws some conclusions.

### **The abuse of refugees and migrants in Libya**

Due to its geographical proximity to Europe, Libya is the most important and highly-populated transit country for refugees and migrants coming to Europe. Since the downfall of the previous regime of Muammar Gaddafi, the country has been in chaos, in which context numerous serious human rights violations are being committed with impunity. Violations against African refugees and migrants are the norm, not the exception.

In the interest of clarity, it is important to briefly explain here the difference between the two seemingly similar, but different, terms: ‘refugee’ and ‘migrant’. The latter is a person who moves from one place/country to another in order to find work or better living conditions. The reason for his/her movement is usually economic.

Any violation that such a person may suffer is addressed by the corpus of what is generally known as international human rights law. In the case of migrant workers, a thematic treaty was adopted in 1990 known as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (UN General Assembly, 1990).

A refugee, on the other hand, is a person who has been forced to flee their country of origin due to one of several grounds of forced displacement, such as war, natural calamity or gross human rights violation. Persecution or grave danger to one's own personal security is the most important element in defining a person as a refugee. The conditions under which a person may be defined as a refugee are stipulated in Article 1 of the 1951 UN Convention on Refugees. Unlike a migrant, a refugee is literally forced to flee his or her country of origin by one of the grounds listed in this convention.

Therefore, in terms of meaning, there is a huge difference between a migrant and a refugee, although these terms are often used interchangeably, in particular by mainstream media. Relatively speaking, refugees are more vulnerable to abuse. The focus in this chapter is on refugees, but cursory reference will also be made to migrants due to the fact that the main focus country of this research (Libya) is host to a large number of African refugees and migrants. According to the statistical data of the International Organization for Migration (IOM), up to September 2017, there were around 416,000 migrants and more than 44,000 people recognised by the United Nations High Commissioner for Refugees (UNHCR) as refugees in Libya (IOM, 2017). Amnesty International (2017, p. 22) cautions that "the actual number of such individuals is again likely to be much higher, given UNHCR's limited mandate in the country".

In terms of the various categories of population movements involved, the experience in Libya fits well with a situation of mixed migration. Organisations working on the broader topic of migration, such as IOM and UNHCR, understand the phenomenon of mixed migration as the complex movement of people, including refugees, asylum



seekers, economic migrants, environmental migrants and other migrants, as well as unaccompanied minors, smuggled persons, victims of trafficking and stranded migrants (Mixed Migration Hub, 2018).

Amnesty International estimates that there are 20,000 refugees and migrants detained in horrific conditions in different Libyan detention centres administered by the country's General Directorate for Combating Illegal Migration, a government entity which receives all sorts of support from Italy and the EU – this being one of the most important links in establishing European complicity in the ongoing suffering of African refugees and migrants in Libya. This is in addition to other horrendous violations committed against African refugees and migrants by the Libyan Coast Guard, another government entity receiving enormous amounts of support from Italy and the EU (Amnesty International, 2017, pp. 26–40). The alleged complicity of Europe in the ongoing abuse of African refugees and migrants needs to be seen in this context, as will be elaborated in some detail in the next section.

### **Alleged European complicity**

The December 2017 report by Amnesty International makes serious accusations against European state actors, alleging complicity in the continued abuse of African refugees and migrants in Libya. Based on a thorough analysis of the jurisprudence of international courts and tribunals, regional and international human rights bodies, as well the opinion of eminent publicists, scholars and practitioners of international law, Amnesty International concludes that Italy and the EU have knowingly aided and abetted in the perpetration of grave violations of international human rights law and international refugee law in Libya. One of the most common abuses committed against African refugees and migrants is the crime of torture (Amnesty International, 2017).

Among the many intriguing arguments Amnesty International puts forward to substantiate its conclusions is the one based on the

interpretation of the scope of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN General Assembly, 1984). Citing General Comment No. 2 of the UN Committee Against Torture (2008), Amnesty International argues that obligations emanating from the Convention against Torture are binding even when the torture in question is committed in a geographic location far from the national boundaries of a given European country.

Based on the definition of the scope of the UN Convention against Torture, provided by the UN Committee against Torture, a country may be held accountable for the crime of torture when the crime is committed in a situation in which the country in question “exercises, directly or indirectly, *de facto* or *de jure* control over persons in detention” (Committee Against Torture, 2008, p. 56). Similar guidance is found in the jurisprudence of the UN Human Rights Committee. In one of its landmark decisions (UN Human Rights Committee, 2006), involving the interpretation of the scope of the International Covenant on Civil and Political Rights (UN General Assembly, 1966), the Committee concluded:

*A State party may be responsible for extraterritorial violations of the Covenant, if [there] is a link in the causal chain that would make possible violations in another jurisdiction. Thus, the risk of an extraterritorial violation must be a necessary and foreseeable consequence and must be judged on the knowledge the State party had at the time.* (UN Human Rights Committee, 2006)<sup>81</sup>

The above arguments need to be understood in the context of the overall political situation in Libya, not only as a major transit country for African refugees and migrants to Europe, but also as a country in complete chaos. Since the downfall of the regime of Muammar Gadhafi, Libya is suffering from a breakdown of the rule of law and has seen the continued enfeeblement of the central government and the proliferation of several armed groups, criminal gangs, and militias, all

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<sup>81</sup> In support of its conclusion, the Committee cites *A.R.J. v. Australia* (UN Human Rights Committee, 1996), *Judge v. Canada* (UN Human Rights Committee, 1998), and *Alzery v. Sweden* (UN Human Rights Committee, 2005).

of which are wantonly committing human rights abuses against African refugees and migrants. There is a plethora of academic and non-academic literature chronicling in great detail the overall political situation in Libya, particularly the abuses suffered by African refugees. This includes a well-established pattern of documentation and reporting by Europe External Policy Advisors (EEPA) and its partners, including Tilburg University (Van Reisen, Estefanos & Rijken, 2014; Van Reisen & Rijken, 2015; Van Reisen & Mawere, 2017; Mekonnen, 2015; Mekonnen, 2016; Sereke, 2018; Sereke, 2016).

One of the most shocking accounts of abuses against African refugees and migrants is that by CNN, published in November 2017, which showed how African refugees are being auctioned in Libya in open markets, in a practice reminiscent of the dark age of slavery (CNN, 2017). Similarly, on 25 January 2018, CNN released additional disturbing video clips in which five Sudanese men are shown being whipped by their kidnappers. As done previously in relation to the well-documented Sinai trafficking (also researched by EEPA, see Van Reisen, Estefanos & Rijken, 2014; Van Reisen & Rijken, 2015; Van Reisen & Mawere, 2017), the videos were sent to the relatives of victims in order to extract ransom (CNN, 2018).

There is a huge amount of evidence showing the prior knowledge of European governments about the abuses suffered by African refugees and migrants in Libya, making their continued cooperation with Libyan actors even more problematic. The best example, among many others, is a letter sent from the Office of the Prime Minister of Italy to Amnesty International, dated 3 November 2017, in which the Italian government is quoted to have said: “We are on the front line for the improvement of living conditions in the reception centres for migrants in Libya – whose problems have been well known to us for a long time – in co-operation with the main actors and international agencies” (Amnesty International, 2017, p. 58). Additional statements cited by Amnesty International (2017, pp. 58–59) include a comment dated 6 August 2017 and attributed to the Italian Deputy Minister for Foreign Affairs; a statement given in March 2017, attributed to UK Independent Commission for Aid Impact; a leaked report of the EU

Border Assistance Mission to Libya (EUBAM), dated 25 January 2017; extracts from an internal report by the German Embassy in Niger to the German Ministry of Foreign Affairs, titled *Return from Hell*, leaked by the German newspaper *Die Welt* in January 2017; and several resolutions of the EU Parliament.

These statements show that that Italy and other European countries are pursuing the agenda of outsourcing border control functions to the Libyan authorities regardless of the tremendous level of abuse (torture and other ill-treatment) African refugees and migrants are suffering at the hands of Libyan authorities. With regard to specific co-operation measures aimed at interceptions at sea, the actions of European governments are described by Amnesty International as that of:

*... proactively contributing to violations and abuses, in particular by providing funds, training, equipment and other forms of assistance to enhance the capacity of Libyan security agencies to intercept and detain refugees and migrants, which has led to the arbitrary detention and ill-treatment of women, men, and children. Italy and other European governments have also failed to take any reasonable measure to prevent and end violations and abuses and to require Libyan counterparts to take adequate steps towards ending such violations and abuses as a condition underpinning the implementation of any co-operation measure.* (Amnesty International, 2017, p. 59)

Another study, which resonates deeply with the findings of Amnesty International (2017), is that of Davitti and Fries (2017). The authors contend that Italy's actions in financing and ensuring the effectiveness of the Libyan Coast Guard (an entity accused of alleged cooperation with human smugglers, see Amnesty International, 2017) are part of a concerted effort by the EU to externalise migration management, in which Italy plays a key role. Thus, according to the same authors, these actions constitute a violation of Article 16 of the International Law Commission's *Articles on the Responsibility of States for International Wrongful Acts* (International Law Commission, 2001).

Following this line of argument, it can be concluded that it is difficult for both Italy and the EU to distance themselves from wrongful acts committed in Libya in the context of their ongoing migration-related dealings with the Libyan authorities. In conclusion, we believe that the argument made by Davitti and Fries (2017),<sup>82</sup> in the context of a hypothetical violation that took place in Niger and involving Italian complicity, applies in the same fashion in the context of the ongoing violations taking place in Libya. Based on this understanding, it can be concluded that Italy and the EU are in violation of Article 3 (prohibition of torture), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy) of the European Convention on Human Rights (Council of Europe, 1950) for their active involvement in the financing, setting up and monitoring of the effectiveness of the offshoring mechanism in Libya for dealing with migrants attempting to cross the Mediterranean Sea to Europe.

### **Possible accountability options**

Many of the violations that are currently taking place in Libya, with the alleged complicity of Italy and the EU, involve flagrant breaches of fundamental rights and freedoms protected by international human rights law, international refugee law, and European human rights law, not to mention African human rights law. There is no doubt that many of these violations are of serious concern to the international community as a whole. Thus, according to Article 5 of the Rome Statute (International Criminal Court, 1998), they have the characteristic features of atrocity crimes that can possibly be prosecuted by the International Criminal Court (ICC), if other accountability measures are not taken by the countries concerned, in particular Libya, Italy and other EU member states.

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<sup>82</sup> Davitti and Fries (2017) cite the following case law of the European Court of Human Rights in support of their argument: *ND and NT v. Spain* (European Court of Human Rights, 2017); *Hirsi Jamaa and Others v Italy* (European Court of Human Rights, 2012a); *MSS v. Belgium and Greece* (European Court of Human Rights, 2011); *EL-Masri v. The Former Yugoslav Republic of Macedonia* (European Court of Human Rights, 2012b); *Case of Al-Nashiri v. Poland* (European Court of Human Rights, 2014); *Kblajija and Others v. Italy* (European Court of Human Rights, 2016).

One of the four categories of atrocity crimes punishable by the ICC, as per Articles 5 and 7 of the ICC, is the crime of torture, when committed as a crime against humanity. In order to reach the threshold of a crime against humanity, torture must be committed in a *systematic* or *widespread* manner, and must be directed against any civilian population, with knowledge of the attack. There is hardly any doubt that the situation of torture in Libya fits well with the definition of crimes against humanity, at least based on the detailed findings made by Amnesty International (2017).

However, as is generally known, prosecution by the ICC takes place only when the authorities in a given situation are unwilling or unable to take necessary legal action with regard to the violations in question. While this may be the case in Libya, the same cannot be said with regard to Italy and other EU member states. Be it as it may, the authors are cognisant of the fact that at this level the possibility of initiating prosecutorial measures targeting European actors at the ICC level is undoubtedly not a priority in the near future for a number of practical and procedural reasons, which are not the direct focus of this chapter. This calls for consideration of other accountability options under national or regional mechanisms.

The possibility of pursuing accountability for these violations is by far better in Europe than in Africa, for the simple reason that most European countries, including Italy, happen to have advanced prosecutorial infrastructure. This is in addition to complementary accountability options that can be pursued at the level of the European Court of Human Rights or the ICC at a later stage, should the situation demand. The relevance of the latter option needs to be seen in the context of the complete breakdown of the rule of law in Libya.

However, as a matter related to one of the most controversial issues of public policy in Europe, prosecutorial accountability measures are not going to be that easy, even in European courts. This issue involves a potential process of criminal accountability, targeting high-ranking government officials sitting at the helm of the uppermost structures

of political power in several European capital cities, including at the level of the EU – in other words sitting heads of state. Apparently, before reaching the doorsteps of major judicial forums in Europe, such a daring exercise of prosecutorial accountability can be frustrated by a tremendous amount of pressure emanating from European capital cities.

Therefore, without discounting the possibility of pursuing prosecutorial accountability in the future, it may also be helpful to look at other accountability options that can be pursued in a less confrontational way and by way of encouraging significant departure on the part of EU policymakers from their ill-suited migration policies, which are causing immense human suffering on the part of African refugees and migrants in transit countries such as Libya. This also takes into consideration another concern, which is related to the possibility of any prosecutorial accountability being stifled by delay tactics by the EU.

Moreover, as an enormous institution of regional governance, with untapped resources at its disposal, securing a successful prosecutorial strategy against high-ranking EU politicians cannot be achieved without tremendous challenges and a prolonged legal battle. For victims and their relatives, who are in dire need of swift reparatory measures, other options that can provide timely remedial answers are more important than prosecutorial options, the success of which is subject to a great deal of uncertainty. This makes it imperative to look for other accountability options, in particular moral, political and compensatory ones.

Such options can consist of a mix of remedial measures, which include an official apology on the part of the EU and other countries, such as Italy, which are accused of complicity in the abuses perpetrated against African refugees and migrants through their provision of direct and indirect help to state and non-state armed groups in Libya (Amnesty International, 2017, p. 49), whose record on the ill-treatment of refugees is worse than any other in contemporary world history. Public acknowledgment of harm to the

victims of abuse and their relatives should be seen as a crucial component of such a public apology. Common sense also dictates that any official act of remorse with regard to the abuses under discussion would be incomplete if not supplemented by moral and financial reparation to the victims and their relatives. In the interest of long-term and sustainable solutions, there are additional steps that need to be taken by European countries. These steps require a much broader understanding of the migration crisis in Europe, as discussed in the next section.

### **Long-term and sustainable solutions**

One important aspects of the European ‘migration crisis’ that is often inadequately debated in major policy circles across Europe is the following question: is Europe really experiencing a big problem of refugees compared to other regions of the world, which are hosting a much higher number of refugees or victims of forced displacement? The answer is no, especially compared to the enormous amount of resources Europe has at its disposal, which makes it possible for European leaders (with the requisite political will) to come up with solutions that are mutually beneficial both to Europeans and the rest of the world, in particular the refugee-producing countries of the developing world.

On the other hand, it is important to note that this question does not in any way dispute the fact that Europe is indeed flooded by a growing number of refugees, at a level not experienced since the end of World War II, as also corroborated by UNHCR (2017). The truth of the matter is that this problem is not unique to Europe, but rather global. As such, it is not helpful to frame the issue as a Eurocentric problem that can only be solved by employing Eurocentric solutions. Before proposing some ideas for a long-term and sustainable solution, we need to have a closer look at some basic facts and statistics by way of debunking some myths related to the so-called ‘migration crisis’ in Europe.



We do this by citing comparable observations from different sources, starting from the following remarks made in October 2016 by one of the most popular TV channels, Al-Jazeera's *Reality Check*:

*As hundreds of thousands of refugees continue to make their way into the European Union – already the home of 1.3 million – many governments have begun passing anti-immigration laws in response. However, while the ‘wealthier’ Europe panics over the influx of asylum seekers, the numbers are much higher in Africa.* (Hasan, 2016).

From a staggering global figure of 21.3 million refugees in 2016, in Sub-Saharan Africa alone, there were 4 million refugees. In addition to this, again in Sub-Saharan Africa, there are 19.5 million people, who are of concern to the UN refugee agency, UNHCR. The largest refugee camp in the world for many years, Dadaab Refugee Camp, is located in the African country of Kenya. Apparently, compared to Europe, Africa shoulders much of the burden caused by the growing number of refugees (Hasan, 2016).

In spite of such realities, the focus of the debate in major policy circles across Europe is mostly on the “huge economic burden” refugees bring to European host countries (Hasan, 2016). Forgotten in this shallow debate, and pushed aside mostly by the narrow self-interest of European governments, are other issues of major concern to the world at large. Perhaps, it is based on this understanding that the presenter of Al-Jazeera's *Reality Check*, Mehdi Hasan, after reminding European governments “to stop navel-gazing”, asks at the end of his short account: “is a crisis a crisis only when it washes upon the shores of Europe?” (Hasan, 2016).

The view of African actors is also important in promoting a broader understanding of the issue of at hand. There are two recent observations made by two different African leaders on separate occasions that we believe are helpful in advancing our argument. These are the observations made by the presidents of Ghana and Kenya. The observation made by the Ghanaian President Nana Akufo-Addo during the first official visit to Africa by the current

President of France Emmanuel Macron offers a two-dimensional approach to addressing the global challenge of migration. On the one hand, Akufo-Addo reminds African citizens and politicians that it is their responsibility to make the continent attractive to its own young people, who are migrating in huge droves, risking death and other forms of abuses, to Europe. In his view, this can be done, among other things, by: liberating Africa from the mentality of aid dependency, building institutions that work according to the dictates of good governance, making leaders accountable, and making “sure that the monies that are placed at the disposal of leaders are used for the interest of the state and not for those of the leaders” (YouTube, 2017). Arguing that Africans are migrating to Europe not because they want to, but primarily because they do not believe they have opportunities in their own countries, Akufo-Addo makes it clear that it is incumbent on African leaders to get their countries to work, so that they can create conditions that would allow young Africans to forgo the hazardous journey to Europe. He wants to see the level of resilience and ingenuity African refugees and migrants are showing in “crossing the Sahara, finding ways to go across with rickety boats, across the Mediterranean”, invested back in Africa, in realising the continent’s prosperity (YouTube, 2017).

On the other hand, by invoking the lessons of 19<sup>th</sup> Century European history, in particular the mass exodus of Irish and Italian migrants to the American paradise in the latter part of that century, Akufo-Addo reminds Europe that migration and the movement of people does not need to be presented in a manner that suggests this is a new phenomenon. He focuses on the core message, that these problems can only be resolved sustainably by providing people with adequate opportunities in their own home countries. As a continent, with at least 30% of the most important minerals of the world, he points out that with proper political leadership Africa should be giving money to other places (YouTube, 2017).

The second observation is that of the Kenyan President Uhuru Kenyatta. Although his observation was made in specific reference to the growing anti-refugee sentiment in the United States, a problem

exacerbated after the election of the President Trump, we believe that Kenyata's observation also addresses some of the key issues raised in the migration debate in Europe. Kenyata argues that it is troubling to see that countries, which were built and developed on the basis of migration – and possibly also on the basis of the twin sisters of slavery and colonialism – are harbouring anti-refugee tendencies, gravitating towards isolationism and moving away from the dictates of globalisation. Global processes, such as migration, he argues, which were once used as the main drivers of economic progress by some developed countries, are now seen as a misfortune when it comes to the migration of Africans to Europe (CNN, 2018).

The kind of approach currently propagated by European leaders perpetuates a long-standing accusation against the Western world: that it deals with any matter related to Africa on the basis of self-serving Western double standards. This mode of thinking misses a very essential component of the equation: challenges of a global nature, such as migration, can only be solved sustainably on the basis of meaningful partnerships and a mutual understanding, not by putting up a wall of isolationism or shutting people out (CNN, 2018). This problem also requires the ability to look deeply into emerging trends of recalcitrant government behaviour throughout Europe, as will be articulated in the next section.

### **The end justifies the means**

Before concluding our chapter, we need to return to the core theme of our analysis, which is Italy and the European Union's alleged complicity in the violation of human rights of African refugees and migrants in Libya. In our view, this situation is a dark blot on modern European history, and negates some of the most important lessons of 20<sup>th</sup> Century European history, in particular that of World War II.

Modern human history is replete with unforgettable lessons regarding the initial warning signs of recalcitrant government behaviour – be it in matters of domestic policy or those of external affairs – which can easily morph into a more complex crisis of governance unless

addressed at an early stage. In most cases, such tendencies start by attacking the rights of minority groups or underprivileged societal segments, while the remaining, more privileged members of society watch in silence. Often it does not take long for such traits to degenerate into the worst form of governance problems, at which time it is too late to ‘put the genie back into the bottle’.

Some of the disturbing traits of bad governance under discussion are now observable, more glaringly in Hungary and Poland, whose governments do not shy away from using highly charged anti-refugee rhetoric – not to mention the fact that these two countries are now at loggerheads with the EU for refusing to accept refugee quotas. With regard to these peculiar challenges, a scholar from Oxford University, writing for *The Guardian*, warns as the follows:

*It is the recipe for domestic repression, crony capitalism, massive corruption, implosion of the rule of law, the rise of racism and international conflict. The values that underpinned the postwar liberal order that conferred peace, tolerance and prosperity are being torched before our eyes. It is time to take a stand.* (Hutton, 2018)

This problem is unfolding itself at a time when Europe seems to be falling into the grip of, what Hutton (2018) calls “an anti-Enlightenment populist right”. Europe is indeed gradually “reacquainting itself with its darkest demons” (Hutton, 2018). When it comes to the burning issue of refugees originating from Africa and the Middle East, there is another message that needs to be underscored. Current anti-refugee discourse in Europe flies in the face of historical accounts that show that during World War II there was actually a huge influx of European refugees to Africa and the Middle East, the two major sources of refugees in contemporary Europe. For example, Poland, one of the leading European countries adamantly refusing to accept the refugee quotas stipulated by the EU, is said to have had an estimated 35,000 of its refugees hosted in Eastern and South Africa (notably in Uganda) for more than a decade during World War II (Abraham, 2012; Taparata, 2016).

If history has any hints to offer, Europe only needs to go back to World War II<sup>83</sup> (a recent history of only 75 years ago) to find its own lessons. The most important lesson to be drawn from this is related to untamed and recalcitrant government behaviour, which can morph into a wider social problem. It is summed up in the often-cited observation of a German protestant priest, Martin Niemöller, who is cited as saying:

*First they came for the Socialists, and I did not speak out –  
Because I was not a Socialist.*

*Then they came for the Trade Unionists, and I did not speak out –  
Because I was not a Trade Unionist.*

*Then they came for the Jews, and I did not speak out –  
Because I was not a Jew.*

*Then they came for me – and there was no one left to speak for me.*  
(United States Holocaust Memorial Museum, 2018)

Equally troubling is the tendency of some European countries to forget, to gloss over the favours done for them by the developing world during their most difficult times. That is why contemporary European discourse on migration is sometimes seen by outsiders as self-deception, at best, and chicanery, at worst, propelled by the narrow self-interest of European politicians. Sensible and responsible Europeans, presumably making up the greater majority of the European citizenry, need to do something about this before it is too late. There are already clear signs of recalcitrant government behaviour throughout Europe, threatening the continent's long-standing commitment to human rights, including refugee rights. These disturbing trends need to be tamed by the proactive engagement of responsible citizens.

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<sup>83</sup> It is interesting to note that the two major world wars (World War I and World War II), although fought primarily between European governments, are dubbed 'world wars', as if the rest of the world had anything to do with them.

## Conclusion

Looking into the most recent statistics published by the UNHCR (2017), it appears that more than in any other period of modern human history, since 2016 the world is experiencing the largest number of victims of forced displacement. Some of the most common drivers of forced displacement are wars and natural calamities. Side-by-side, there are also people who move from place-to-place in search of better opportunities. These two groups of 'people on the move' are differentiated as refugees and migrants. In relative terms, the plight of the former group is the subject of a heated debate in European migration circles.

The so-called European 'migration crisis' is an incomplete picture when seen in isolation from the context of rising global figures on refugees. While the pressure European countries are feeling as a result of the increasing number of refugees is understandable in some ways, it does not justify their complicity in the gross human rights violations that are currently taking place in Libya.

In terms of scale and gravity, the level of abuse suffered by African refugees and migrants in Libya has no parallels in recent human history. This is why the alleged complicity of some European countries and the EU becomes problematic. No doubt the violations discussed in this chapter could give rise to prosecutorial accountability measures at national, regional or international levels, including those targeting high-ranking European government officials. While the prospect of pursuing prosecutorial accountability seems to be, at least for the moment, an extremely challenging exercise for a number of practical and procedural reasons, there is a need for an immediate reconsideration of European cooperation with Libya. This is in addition to repairing the damage caused by the alleged complicity of Italy and the EU – over and above other accountability measures that can be implemented within existing parameters of European and international human rights law.

Time and again, migration experts have advised the EU to shift its focus from a preoccupation with stemming the arrival of refugees to addressing the root causes of forced displacement. The former is not difficult to achieve, but its dividend is short lived because it is propelled by the need to see quick results. By their nature, hurried and short-sighted policy considerations do not lead to a lasting solution. The other option, addressing the root causes of forced displacement, requires a holistic approach, which is not beyond the reach of the EU. It may require extra hard work and improvisation at several levels of political negotiations, but surely its dividend is more permanent and sustainable. The EU is not investing sufficiently in this option and needs to re-focus its attention accordingly.

There is also a need to focus on long-term migration-related solutions. Of the many recommendations that have been proposed at different times and in different contexts, we emphasise the following two: 1) improving access to the free movement of people, and 2) in situations, like that of Libya, where horrendous violations of human rights are rampant, introducing expedited resettlement procedures with higher levels of geographic distribution and increased quotas (McAdam, 2015).

With regard to a long-term and sustainable solution, the following observations are relevant by way of concluding this chapter. Dark roots that relish the nightmares of outlandish governance behaviour are hovering over Europe, in what seems to be a gradual, but assured, process. Exacerbated by the rise of populist political parties, who do not shy away from using overtly offensive (and irresponsible) language in reference to refugees and other societal groups, the problem is taking a disturbing shape. There is an urgent need to nurture the proactive involvement of responsible and sensible European citizens and actors, in particular grassroots and civil society actors, in the migration debate. With proper planning, diligence and perseverance, progressive forces can still win the struggle for a fair and just Europe.

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# Playing Cat and Mouse: How Europe Evades Responsibility for its Role in Human Rights Abuses against Migrants and Refugees

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### Introduction

On 28 June 2018, amid heightened tensions on the issue of migration, the leaders of the European Union (EU) made a number of agreements on migration at a meeting of the European Council. The conclusions of this meeting reconfirm that “a precondition for a functioning EU policy relies on a comprehensive approach to migration which combines more effective control of the EU’s external borders, increased external action and the internal aspects, in line with our principles and values” (European Council, 2018, p. 1). Although the conclusions do not address the details of the envisaged measures, various key elements are directly relevant for mixed migration flows in Africa. These include increased support for the Sahel region, the Libyan Coast Guard, coastal and southern communities, as well as humane reception conditions,

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*The EU tries to stem migration flows before they reach its borders. Its policy of externalising its borders and cooperative migration controls puts people on the move – regardless of whether they are refugees or migrants – at risk of sometimes severe abuse. The dire situation of migrants rescued in the Mediterranean Sea and returned to Libya, where they face arbitrary detention, torture and slavery, is but one example of the many ways in which such policies can negatively affect the rights of refugees. But who is responsible for the human rights abuses against refugees and migrants? The EU cannot claim that it has no responsibility, as it controls, at least in part, the conditions under which these human rights abuses take place.*

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voluntary humanitarian return, cooperation with countries of origin and transit, and voluntary resettlement. It also involves exploring the concept of regional disembarkation platforms, in close cooperation with relevant third countries as well as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), and increased funding for the EU Emergency Trust Fund for Africa, “a partnership with Africa aiming at a substantial socio-economic transformation of the African continent”. Furthermore, it involves strengthening the supportive role of the European Border and Coast Guard Agency, Frontex, including in cooperation with third countries (European Council, 2018, pp. 1–3).

Although vaguely formulated, these conclusions fit within the broader trend of the increasing externalisation of the EU’s external borders and migration control. In fact, two years earlier, the European Commission announced the new Migration Partnership Framework, which provides for reinforced cooperation with third countries to better manage migration (European Commission, 2016a). Indeed, as will be discussed in this chapter, the EU and its member states are increasingly seeking to stem migration flows before they reach the EU’s borders, and they are doing so, among other things, by increasing cooperation with countries of origin and transit. In fact, this trend of externalisation and cooperation goes beyond the European Union, as other countries, such as Israel, Australia and the USA, have adopted similar policies (Gammeltoft-Hansen & Hathaway, 2015).

Indeed, since the 1980s, destination states have implemented policies “that seek to keep most refugees from accessing their jurisdiction, and thus being in a position to assert their entitlement to the benefits of refugee law” (Gammeltoft-Hansen & Hathaway, 2015, p. 241). The nature of such policies has changed, moving from ‘traditional’ measures to prevent refugees from reaching destination states, such as visa controls, carrier sanctions, and high seas interdiction, to cooperation-based measures, such as the offering of financial incentives and the provision of equipment, machinery, or training to

states of origin and transit (Gammeltoft-Hansen & Hathaway, 2015, p. 243). These developments in migration control policies can be explained by changes in migratory patterns and technology, policy transfers (whereby ‘new’ policies implemented by one destination state are ‘copied’ by others), and developments in international refugee and human rights law (Gammeltoft-Hansen & Tan, 2017, p. 33). At the same time, and regardless of restrictive migration policies worldwide, we have seen an increase in the number of people on the move, increased mobility and mobility options, and a growth in the smuggling networks facilitating such mobility.

The externalisation of, and cooperation in, migration control are problematic trends, because they risk exposing people on the move to harm. There is a real risk that asylum seekers who are in need of international protection are either prevented from leaving or returned to countries where they face persecution or other human rights violations. Moreover, there is a risk that people on the move, regardless of whether they are asylum seekers or not, suffer sometimes severe abuse as a result of the externalisation of migration and cooperative migration control policies. The dire situation of migrants rescued in the Mediterranean Sea and returned to Libya, where they face arbitrary detention, torture and slavery, is but one example of the many ways in which such policies can negatively affect the rights of migrants, including asylum seekers.

Although various legal challenges (sometimes successful) have been brought against unilateral migration control policies, externalisation and cooperation trends in migration control raise new legal challenges. It has, thus, been argued that “precisely when they try the hardest to protect rights beyond territorial borders, courts acquire the most significant role in providing the conditions for the rights’ further violation” (Mann, 2013, p. 369). States and courts can be said to play a cat-and-mouse game, in which “states continuously adapt and mutate their policies in an attempt to ensure their viability *vis-à-vis* legal developments” (Gammeltoft-Hansen, 2014, p. 575). As will be seen in this chapter, the development of Italian policies to constrain migration from North Africa illustrates this point. Indeed, this

chapter will show that, from a legal perspective, attributing responsibility for the human rights abuses suffered by migrants and refugees to the actors involved is not an easy task. It raises many thorny legal issues and the applicable international legal framework contains gaps and grey areas. Gaps are situations in which actors (states, non-state actors, the EU and EU agencies) can escape responsibility for their conduct, while grey areas are situations in which the law does not provide a clear answer as to who is responsible.

This chapter seeks to identify legal boundaries and define responsibilities in the area of migration control, in Africa and on the shores of the EU. The aim is to point to relevant legal concepts and discuss the limitations of the legal framework in relation to current practices. Although the UNHCR and IOM, as international organisations, play an important role in migration governance, their responsibility is not discussed in this chapter. The main research question is: *To what extent can the EU and its agencies, as well as state and non-state actors, be held responsible for the human rights violations suffered by refugees and migrants?*

The remainder of this chapter is divided into four sections. The first section gives several examples of current migration control practices: Italian and European cooperation with Libya; returns from Libya to countries of origin, including the plight of Eritreans on the move; and agreements between Israel, Rwanda and Uganda. The second section examines the responsibility of states, while the third discusses the responsibility of the European Union and relevant EU agencies. The last section offers some concluding remarks.

This chapter is primarily based on legal analysis of an area that is undergoing change, both in terms of practice and legal standards. The description of current practices in the first section is based on desk research. It is not exhaustive, but rather highlights a few examples that reveal the complexity of the issues at hand. The legal analysis in the latter sections relies primarily on case law and scholarly literature.



## Examples of migration control policies

### *Italian and European support for Libya*

Since the year 2000, Italy has signed various agreements with Libya, including the 2008 Treaty of Friendship, under which the two countries agreed to cooperate to curb migration flows. Under this agreement, in 2009, Italy intercepted migrant vessels and returned their passengers to Libya (Mussi & Tan, 2017). However, in 2012, the European Court of Human Rights in Strasbourg ruled, in the case of *Hirsi Jamaa*, that this practice breached Italy's obligations under the European Convention on Human Rights (European Court of Human Rights, 2012). It held that there was a risk that the intercepted asylum seekers would be ill-treated in Libya without access to an asylum procedure and be returned to their countries of origin (mainly, Somalia and Eritrea), where they were at risk of persecution. In the context of the Arab Spring in 2011, Italy suspended its cooperation with Libya, but after the European migration crisis of 2015–2016 and the continuing steady influx of migrants from Libya, Italy renewed its formal cooperation with Libya through a memorandum of understanding signed on 2 February 2017, which was endorsed a day later by the EU in the Malta Declaration (Hirsch & Dastyari, forthcoming, 2019).

However, the situation in the Central Mediterranean has changed in the past few years. Smuggling practices have changed, with smugglers using less seaworthy vessels, resulting in more boats in distress that need rescuing and such rescues taking place closer to the Libyan coast (IOM, 2017, p. 8). The Italian policy to limit the number of arrivals is two-fold. On the one hand, Italy tries to restrict the activities of NGO vessels carrying out rescues in the Mediterranean Sea. On the other hand, it has established a Libyan Coast Guard that can intercept migrant boats in distress and return those rescued to Libya (Heller & Pezzani, 2018). Italy, thus, provides funds and equipment to the Libyan Coast Guard, and coordinates rescue operations. The European Union supports this approach by training and funding the Libyan Coast Guard (Amnesty International, 2017). Unlike in 2009, the interceptions on the Mediterranean Sea are no longer carried out

by Italian vessels, but by Libyan vessels, operating with Italian and European support. As will be seen below, this difference has important consequences in terms of responsibility under international law. Indeed, it has been argued that the European Court of Human Rights' decision in *Hirsi Jamaa*:

*[...] contributed to understandings of how to evade judicial review in future cases. By saying that a state must not turn back asylum seekers with boats under their de jure or de facto control a court is also inviting such policies, as long as they can be conducted with no such control.* (Mann, 2013, p. 369)

The result of these policies is that migrants are returned to Libya, where they are at risk of being detained in inhumane and degrading conditions, tortured, raped, sold into slavery and even killed (Amnesty International, 2017). As discussed below, they are also at risk of being returned to their country of origin, for instance, with the help of the IOM, even when this would put their lives at risk. In such cases, the principle of non-refoulement, a binding norm in international law, is violated.

### ***Returns from Libya to countries of origin***

The horrific conditions in which migrants in Libya are held in detention centres are widely documented (UNSMIL & OHCHR, 2016; Amnesty International, 2017), with the ultimate crisis reflected in CNN's documentary on the auction of migrants (CNN, 2017). Detained in these centres, people are tortured, deprived of food and clean drinking water, and live in inhumane conditions without adequate living space, medical treatment or basic supplies (OHCHR, 2017; Amnesty International, 2017; Refugees International, 2017). While some of these centres are run by Libya's Ministry of the Interior's Department for Combatting Illegal Migration, others are run by Libyan militias, which are reportedly involved in the smuggling and trafficking business themselves (Flynn, 2017). The lack of a strong central government in Libya has left a power vacuum, creating an environment for organised crime, including trafficking and smuggling, to flourish (Shaw & Mangan, 2014; Williams, 1999). As in other risky migration routes, migrants are subjected to rape, torture,

demands for the payment of ransom, and exploitation, not only while they are en route, but also in the Libyan detention centres (Shaw & Mangan, 2014; Van Reisen & Rijken, 2015). This inevitably comes with practices of human trafficking (Philips & Missbach, 2017).

Given these circumstances, described by some as “hell on earth” (Refugees International, 2017), the African Union, the EU and Libya joined forces to release these migrants and help them return to their countries of origin. IOM assists migrants to return to their country of origin through its Voluntary Humanitarian Return programme. IOM claims that, with the support of the EU, the African Union and the Libyan government, some 23,302 migrants have been returned to their countries of origin between January 2017 and March 2018 (IOM, 2018a). This operation takes place within the larger EU-IOM joint initiative to protect and assist migrants in need in 26 states along the Central Mediterranean route. The EU-IOM joint initiative, which was agreed upon in December 2016, is funded through the EU Emergency Trust Fund for Africa (European Commission, 2016b).

IOM not only assists with returns, but also with reintegration in the country of origin. The latter is extremely complicated, because many of the migrants are traumatised during the migration. To make reintegration work, IOM takes an integrated approach that combines support for returning migrants and their home communities, with the involvement of local communities in the reintegration process. They seek to address migration in an integrated fashion, in which migration governance, including all relevant actors, can take place (Betts, 2013; Lavenex & Schimmelfennig, 2009). The question is whether this will prevent returned migrants from trying to leave their country again in search of a better place. We know from scholarly work that people embark on risky migration journeys even when the risks en route exceed the risks at home (Massey & Coluccello, 2015; see also Chapter 12, *Desperate Journeys: The Need for Trauma Support for Refugees*, by Selam Kidane & Mia Stokmans). Moreover, migrants who have returned to Nigeria, for instance, say they will try to reach Europe again (Aljazeera, 2018). Under the EU-IOM-Nigeria project ‘Strengthening the management and governance of migration and the

sustainable reintegration of returning migrants to Nigeria’, some 8,803 migrants have been returned from Libya to Nigeria (IOM, 2018b). In contrast to the high number of victims of trafficking in the detention centres in Libya and among Nigerian migrants in general, IOM reported only 311 victims of human trafficking (IOM, 2018b). This is worrisome, because if returnees are not identified as victims of trafficking they are deprived of the support and assistance available to such victims (Paasche, Skilbrei & Plambech, 2018). Moreover, migrants in need of international protection might be among the people who have been returned. As such they are denied access to international protection.

The situation of Eritrean migrants stranded in North African countries is of particular concern, because many are subjected to torture, rape, kidnapping and trafficking for ransom (Van Reisen & Rijken, 2015). Although the number of Eritrean arrivals in Europe was on the rise in 2015, their number dropped sharply in 2016; however, estimates suggest that the number of people leaving Eritrea remains high, prompting the question why the number of arrivals has decreased (Frouws & RMMS, 2017). Although during 2016, the interception and deportation of Eritreans by Sudan and Egypt was scaled up, there is no proof that Eritreans have been returned to Eritrea on a large scale. Yet, if Eritrean migrants who fled their country did not arrive in the EU and were not returned to Eritrea, where are they? Some stay in refugee camps in Ethiopia and Sudan, others settle in urban centres (sometimes as undocumented migrants) within and beyond the region. Some “disappear and do not survive the dangerous journey through the desert or across the Mediterranean” (Frouws & RMMS, 2017). Given the practice of trafficking for ransom in the recent past, there is reason to be concerned about the plight of Eritreans.

### ***Israel’s agreements with Rwanda and Uganda***

In the mid-2000s, the number of asylum seekers from Sudan and Eritrea who reached Israel through Egypt’s Sinai peninsula increased substantially, reaching over 60,000 in 2012 (Sabar & Tsurkov, 2015). In reaction, Israel built a 242-kilometre long electronic fence along its

border with Egypt, which was completed in 2014. This effectively stopped the arrival of new asylum seekers from Sudan and Eritrea (Lidman, 2018). The vast majority of Eritreans and Sudanese currently living in Israel are not recognised as refugees (Lidman, 2018). Following various legislative changes regarding the detention of asylum seekers, since 2016:

*[...] newly arriving individuals, including asylum-seekers, are detained in an immigration detention facility for a three-month period upon arrival [...] Single Eritrean and Sudanese men under the age of 60 are then automatically transferred to the semi-open Holot facility, for a period of up to 12 months mandatory residence.* (UNHCR, 2016, p. 1)

Moreover, since 2013, Israel has implemented a voluntary departure programme, under which asylum seekers are given the ‘choice’ of accepting resettlement in Uganda or Rwanda, remaining in prolonged detention in Israel, or returning to their country of origin (Sabar & Tsurkov, 2015, p. 14; see also Chapter 8, *Israel’s ‘Voluntary’ Return Policy to Expel Refugees: The Illusion of Choice*, by Yael Agur Orgal, Gilad Liberman & Sigal Kook Avivi). Between the start of the programme in December 2013 and June 2017, some 4,000 Eritrean and Sudanese asylum seekers have been relocated to Rwanda and Uganda (UNHCR, 2017). It has been reported that Eritrean asylum seekers who accept resettlement from Israel to Rwanda bypass immigration at Kigali airport and are pressured to agree to being smuggled into Uganda. The same applies to Sudanese asylum seekers flown from Israel to Uganda, who are smuggled to South Sudan or Sudan. Some of those returned are reported to have later died in the Mediterranean Sea as they tried to reach Europe (Green, 2017). In a similar vein to Italy’s current policy of providing support to the Libyan Coast Guard, which seems designed to prevent migrant arrivals without incurring responsibility for human rights violations, “[t]he process appears designed not just to discard unwanted refugees, but to shield the Israeli, Rwandan, and Ugandan governments from any political or legal accountability” (Green, 2017). In early 2018, a mass deportation plan for asylum seekers to leave Israel for unnamed destinations in Africa or face indefinite detention was delayed following legal

challenges and mounting pressure (ECRE, 2018). At the same time, Israel withdrew from an agreement with the UNHCR to implement solutions for some 39,000 asylum seekers in Israel (UNHCR, 2018a, 2018b).

These are only some examples of how the human rights of migrants and refugees are violated in the externalisation of migration control. The states and institutions that implement such policies, for instance, Italy and Israel, seem to think that they can successfully manage migration while avoiding being held responsible for such violations. Accordingly, based on a legal analysis, the next two sections discuss to what extent the practices described here enable states, non-state actors, and the EU and its agencies to be held responsible for their involvement in migration control activities outside the EU.

## **Responsibility of states**

This section focuses on the responsibility of states for violating the human rights of migrants and asylum seekers, while the next section focuses on the responsibility of the EU and its agencies. The aim is not to provide an exhaustive list of human rights violations, nor to determine which actors are responsible for what, but rather to point out areas where it is difficult to make such a determination. Under international law, there are three ways in which states can incur responsibility: direct responsibility for the conduct of state actors, failing to protect people from harm, and complicity. Each of these is discussed in turn.

### ***State actors***

Under international law, states have an obligation not to commit human rights violations and, if they do, they can be held responsible in accordance with the Draft Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA) (International Law Commission, 2001). According to Article 2 of ARSIWA, such responsibility arises if two requirements are fulfilled, namely, if the conduct is attributable to the state and if it constitutes a breach of the international obligations of the state. The violation of human rights obligations fulfils the latter requirement. As regards the requirement

of attribution, as discussed in the previous section, some of the abuses suffered by migrants, including asylum seekers, are inflicted by state agents. This is the case if, for instance, asylum seekers are deprived of their liberty in Israel or are detained by the Department for Combatting Illegal Migration in Libya (OHCHR, 2017). Because state agents – such as border control authorities and coast guards, the police, and the army – act on behalf of the state, if they commit a human rights violation, the state is responsible.

If an individual is on the territory of the state when state agents commit a human rights violation against him or her, it is relatively easy to establish that the state in question is responsible. Thus, Israel and Libya are responsible for detaining asylum seekers on their territory. However, sometimes states also act beyond their borders. This was the case in *Hirsi Jamaa*, as discussed in the previous section, where Italian border forces intercepted migrants on the high seas, i.e., beyond Italy's territorial waters. This raises the question of whether states are also responsible when they act extraterritorially. Under human rights law, states have to respect the human rights of all individuals within their jurisdiction. A state is responsible for human rights abuses if they are committed by a state agent within its jurisdiction. But when does an individual come within the jurisdiction of a state (Den Heijer & Lawson, 2013, p. 165)?

Broadly speaking, there are two situations when a state exercises jurisdiction outside its territory. First, when a state exercises effective control over territory abroad, as in the case of military occupation (Milanovic, 2011). Second, and more importantly in the context of migration, a state also exercises extraterritorial jurisdiction when it exercises control and authority over a person outside its territory (Milanovic, 2011). Thus, the question is: when does a state exercise sufficient control over a person outside its territory?

It is clear that a state exercises jurisdiction over persons when it exercises “physical power and control” over them, for instance, when they are detained by state agents abroad or on an intercepted ship, as held in *Al-Skeini and Others v the United Kingdom* (European Court of

Human Rights, 2011, para. 137). Thus, in the *Hirsi Jamaa* case, Italy exercised jurisdiction because Italian military ships had taken the intercepted asylum seekers on board (European Court of Human Rights, 2012, para. 81). However, it is unclear to what extent lesser forms of control over persons abroad also trigger jurisdiction. As mentioned above, Italy now only supports the Libyan Coast Guard through funding, equipping, training and coordinating rescues. It is doubtful that this reaches the required level of control for establishing jurisdiction. If it does, both Italy and Libya could be responsible for returning migrants, including asylum seekers, to a place where there is a risk that they will be ill-treated. However, if it does not, only Libya would be responsible for any violation of the human rights of intercepted migrants. Likewise, in the case of Israel returning migrants to Uganda and Rwanda, the absence of Israeli agents on the ground in those countries means that it is difficult to establish that Israel exercises jurisdiction over the people returned to Rwanda and Uganda, despite the fact that the asylum seekers are returned on the basis of an agreement with Israel. Nevertheless, we will see below that in both situations the states of Italy and Israel might be held indirectly responsible for their cooperation with African states.

### ***Non-state actors***

What about harm inflicted by non-state actors? As noted above, not all human rights violations are committed by states. An example of the harm committed by non-state actors is the torture of Eritrean asylum seekers by human traffickers. Another example is the arbitrary detention of migrants in Libya in detention centres, which are run by militias rather than the Ministry of the Interior's Department for Combatting Illegal Migration. In such situations, state actors are not directly involved in inflicting harm. However, in addition to having the obligation not to commit any human rights violations themselves, states are also obliged under human rights law to protect individuals within their jurisdiction from harm committed by others (Shelton & Gould, 2013). Thus, a state must protect people from a risk it knows, or should have known, about. This does not mean that a state is responsible for the ill-treatment itself, but rather for not having done everything that it could reasonably be expected to do to prevent it:



the applicable standard is one of due diligence (Shelton & Gould, 2013). If, despite this, the person suffers harm, the state still complied with its obligations and cannot be held responsible. However, if the state fails to take all reasonable measures, or even colludes with the private actors committing the harm, it can be held responsible for failing to protect the person and prevent the harm. Thus, if there are credible reports that human traffickers torture migrants in order to receive a ransom, and the state does nothing to prevent this from happening, or even facilitates it, the state can be held responsible under international law.

Moreover, in some cases, if the state exercises a high level of control over the non-state actor in question, the conduct of the non-state actor can be attributed to the state. It is then as if the state itself committed the human rights violation in question. Here also, it is unclear how much control the state must exercise over the non-state actor for the latter's conduct to be attributed to the state. Under international law the threshold is high, requiring either complete dependence or strict control, or direction or control of specific conduct (Jackson, 2015, pp. 177–178). In the case of the migrant detention centres in Libya, which are run by militias, if it can be shown that the militias are acting on behalf of the Libyan state, Libya could be held directly responsible for the human rights violations committed there.

Last, as for the conduct of state actors, a state can only be held responsible if it exercises jurisdiction over the individuals in question. Thus, in order to argue that European states are responsible for the ill-treatment of migrants, including asylum seekers, in Libya because they did not take all reasonable measures to prevent it, it must first be established that they exercised jurisdiction over them. However, this is unlikely to be the case because they do not exercise physical power and control over them.

Moreover, the extent to which states have positive obligations to prevent and protect when acting extraterritorially remains unclear. Indeed, even in situations where a state exercises jurisdiction over

individuals outside its territory, the question remains to what extent that state has to protect them from harm. If state A exercises jurisdiction over a person who is located on the territory of state B, when examining the obligations of state A, one also has to take into account the fact that state B exercises territorial jurisdiction and has the obligation to protect individuals on its territory from human rights violations (Battjes, 2017, p. 281). Moreover, it seems that the extent of state obligations is proportional to the level of control exercised over the individual in question: more control means more obligations (Battjes, 2017, p. 283).

### ***Derived responsibility***

So far the discussion has focused on situations in which states are directly responsible for human rights violations. However, states can also be indirectly responsible for human rights violations, namely, when they are complicit in human rights violations committed by other states. One provision is particularly important in this regard: Article 16 of ARSIWA. Although it is not embodied in a treaty, this provision is part of customary or unwritten law (Aust, 2011, p. 191). It provides that:

*A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:*

- a) that State does so with knowledge of the circumstances of the internationally wrongful act; and*
- b) the act would be internationally wrongful if committed by that State.*

Thus, if the requirements of Article 16 are met, a state is responsible for aiding or assisting another state in committing human rights violations, even if it does not exercise jurisdiction. The exact contours of the rule embodied in Article 16 remain unclear (Aust, 2011, pp. 99–100). In the context of migration, one particularly thorny issue is the question of causality: the aid or assistance is generally provided in order to stop migration flows and/or improve the situation of migrants in transit countries and would-be migrants in countries of origin, not to commit human rights violations (see, for example, European Council, 2018). Nevertheless, it has been argued that Italy and other European states are responsible because of the support

they provide to the Libyan Coast Guard (Moreno-Lax & Giuffré, forthcoming, 2019; Hirsch & Dastyari, forthcoming, 2019).

Likewise, in the Israeli example, if Israel knew of the violations taking place and continued the expulsions, or if it actually agreed with the authorities in Rwanda and Uganda to smuggle asylum seekers out of the country, Israel could be held responsible under Article 16 of ARSIWA. Moreover, Israel could be held directly responsible for violating the principle of non-refoulement if it knew or should have known of these practices.

### **Responsibility of the EU and its agencies**

As illustrated in the examples given in the first part of this chapter, it is not only states that are involved in migration control in Africa. The EU is heavily involved in many of the agreements that underpin migration governance outside the EU's borders, through either the facilitation of such activities, the financing thereof, or the secondment of personnel, for instance, via the European Asylum Support Office (EASO). EU institutions are the architectures of these agreements and EU agencies such as Frontex and EASO play a role in their implementation (Mitsilegas, 2015). The case of *NF v European Council* (Court of Justice of the European Union, 2017) shows that it is difficult to establish the responsibility of EU institutions for their involvement in agreements, even when these are implemented (partly) on EU territory. In this case, the Court of Justice of the European Union ruled that the EU-Turkey Statement was not concluded by the European Council, but instead by the heads of state or governments of EU member states and Turkey, and, therefore, the Court of Justice lacked jurisdiction. This decision has been interpreted as a choice by the Court of Justice not to intervene in migration control policies (Spijkerboer, 2018). Establishing responsibility is even more difficult if the implementation of the agreements concluded between the EU and third countries takes place outside the EU (Giuffré, 2012).

The question here is which rules and regulations are in place to find international bodies responsible and under what conditions can these rules be triggered. The same question arises as regards the responsibility of the agencies Frontex and EASO for their involvement in the implementation of agreements, either within EU territory or beyond. Both questions are addressed in turn below. But before this, the next sub-section addresses the responsibility of the EU as an international organisation.

### ***The European Union***

In 2011, the International Law Commission adopted the Draft Articles on the Responsibility of International Organisations (ARIO) (International Law Commission, 2011), which mirror ARSIWA. They can be seen as the little brother of, or *lex specialis* to, the ARSIWA as they have not yet reached the same level of maturity. It is generally agreed that ARSIWA has now developed into customary law, whereas, due to a lack of practice, this cannot be said about the ARIO (Boon, 2011, p. 9). Article 4 of ARIO is the equivalent of Article 2 of ARSIWA and contains the same requirements for the responsibility of international organisations, namely, a breach of an international obligation that is attributable to the international organisation. Article 10 ARIO states that:

*[T]here is a breach of an international obligation by an international organization when an act of that international organization is not in conformity with what is required of it by that obligation, regardless of the origin or character of the obligation concerned.* (International Law Commission, 2011)

The EU is an international organisation. Moreover, following Article 6 of the Treaty on the EU, it is bound by the rights in the Charter on Fundamental Rights of the EU, the European Convention on Human Rights and the fundamental rights as they result from the constitutional traditions of the EU member states. Violation of these obligations by the institutions of the EU, including its agencies, is the responsibility of the EU, if the act is attributable to it (Hoffmeister, 2010, pp. 745–746; Boon, 2011, pp. 3–9). In the case of migration governance outside the EU's territory, and especially in those cases

where the EU institutions or agencies are not directly involved in implementation, this might be problematic. For instance, the EU supports and finances the interception of migrants and their return to the Libyan coast by the Libyan Coast Guard, but has no direct control over the coast guard's activities and operations, which remain within the sovereign power of Libya.

In the same vein as Article 16 of ARSIWA, Article 14 of ARIO is a provision on aiding and assisting. Thus, if the EU aids or assists another state or another international organisation in violating human rights it can be held responsible under the condition that it knew of the circumstances and that the conduct would have been an internationally wrongful act if committed by the EU itself. Similar to what was discussed above in regard to Article 16 of ARSIWA, it is unclear how and when Article 14 of ARIO applies. This remains a grey area of the law.

The many efforts of the EU to manage migration in its external dimensions have been documented elsewhere in this book and discussed by others (Graziani, 2017; Collet & Ahad, 2017). Molenaar and El Kamouni-Janssen document how the agreements which the EU has concluded with third states in Sub-Saharan Africa fail to take into account local realities and, therefore, are ineffective and inefficient at best, and counterproductive at worst (2017, pp. 2, 64–67). The interceptions by the Libyan Coast Guard, which lead to the detention of migrants in inhumane conditions, is a sad example of such practices.

The question is, then, whether the EU can be held responsible in these situations where the violation of the rights of migrants (imprisonment) is a direct consequence of the EU's involvement. At first glance this situation does not seem to fulfil the requirements for responsibility, as there is no direct involvement and the intent of the EU's action was not the violation of these rights. However, if the EU knew that the violations are a direct consequence of its actions one could argue that the EU is responsible for aiding and assisting in the violation of human rights. As such, reports, for example, by

humanitarian organisations, on the human rights situation on the ground are indispensable for holding the EU responsible for human rights violations conducted by states and non-state actors.

### ***Frontex***

This and the following section discuss the responsibility of agencies tasked with the implementation of EU migration control policies. In general, the rules on the responsibility of EU agencies are found in the agreement establishing the particular agency. In addition, and based on the Treaty on the Functioning of the EU, the annulment procedure can be initiated against acts of EU agencies (Article 263). In such a procedure, the Court of Justice of the European Union can review the legality of the acts of agencies having legal effect. As such, it is possible to also hold agencies (such as Frontex and EASO) accountable. Unfortunately, a procedure for infringing the treaties, which would be more suitable here, can only be directed against EU member states (European Ombudsman, 2013; Parliamentary Assembly, 2013).

As we will see, Frontex is already mandated to act in the territorial waters and on the territory of third states, based on agreements with these states. Both Frontex and EASO play an important role in the implementation of policies in hotspots in Greece and Italy and might play a similar role in the future, if and when EU reception centres are established on the territory of third states, as was recently proposed by EU leaders (European Council, 2018).

Motivated by migration control and migration management considerations, Frontex as a European agency assists member states in securing their borders and the borders of the EU as a whole and in preventing ships on the high seas from entering the territorial waters of EU member states without permission. Its main task is to coordinate operations and to assist member states in the management of the EU's external borders. Frontex also assists member states in implementing operational aspects of external border management, including actions in third states (Regulation 2016/1624, consideration 3) and the return of third country nationals who are illegally present

in a member state (consideration 11) (European Parliament & European Council, 2016). In the past, Frontex has been heavily criticised for violating international human rights law (Weinzierl & Lisson, 2007; Kasperek, 2010; Human Rights Watch, 2011). Criticism continued when Rapid Border Intervention Teams (RABITs) were established for the first time in October 2010 when Greece faced a huge influx of migrants entering through Turkey. Human Rights Watch's reports on these practices indicated that Frontex violated fundamental rights with its operations on Greek territory, especially by sending intercepted migrants to Greek detention centres where conditions were dire (Human Rights Watch, 2011; Marin, 2011). Frontex then claimed it could not be held directly liable for any human rights violations taking place. It argued that it only coordinated tasks at the request of states whose actions were exercised by national professionals who were not employed by Frontex, but acted under the jurisdiction of the host state (which made the request for assistance) and remained under their national jurisdictions in relation to criminal liability and the carrying of weapons. It is debatable whether this statement can be upheld (Mitsilegas, 2015; Kasperek, 2010) and to what extent Frontex's new founding regulation (Regulation 2016/1624), has changed this situation.

Frontex is currently involved in various operations, including in and with third states. In the Mediterranean (Scherer, 2018), Frontex is involved in Operation Triton, which was replaced by Operation Themis in February 2018. Frontex vessels carry out search and rescue operations and bring migrants to a safe port in the EU. The European Union Naval Force Mediterranean (EUNAVFOR MED) Operation Sophia, in which Frontex also participates, was specifically established to disrupt criminal smuggling and trafficking networks (European Union External Action, n.d.). The training of personnel of the Libyan Coast Guard is part of this mission. In the Aegean Sea, Frontex is involved in operation Poseidon, whose focus has changed from search and rescue to border surveillance (Frontex, n.d.).

Over the years we have seen the expansion of Frontex’s operational tasks. Indeed, in 2016 the mandate of Frontex, and especially its operational tasks, were extended further in Regulation 2016/1624:

*[...] to provide increased technical and operational assistance to Member States through joint operations and rapid border interventions; to ensure the practical execution of measures in a situation requiring urgent action at the external borders; to provide technical and operational assistance in the support of search and rescue operations for persons in distress at sea.* (European Parliament & European Council, 2016, consideration 11)

However, the responsibility of Frontex did not see a similar expansion. Civil and criminal liability is dealt with at the national level, albeit in accordance with the law of the host state, and not the home state anymore (Regulation 2016/1624, Articles 42 and 43, respectively). The criminal liability of Frontex officials is now to be treated similarly to that of officials of the host member state. However, a provision acknowledging the liability of the agency has been adopted in Article 60, but is subject to the agreement underlying Frontex’s activities in a specific case. Article 60 states that “[t]he contractual liability of the Agency shall be governed by the law applicable to the contract in question” (European Parliament & European Council, 2016).

Given the current responsibility gap regarding Frontex’s activities, the question that remains is to what extent both Frontex as an agency and the EU member states involved in Frontex are responsible for human rights violations during its operations (Pollak & Slominski, 2009). The NGOs and other organisations that have reported on these practices argue that Frontex cannot escape responsibility. As we will discuss in the next section, similar questions arise regarding the involvement of other agencies and cooperation structures designed at the EU level, notably EASO (Mitsilegas, 2015).

### ***EASO***

The European Asylum Support Office, established in 2011 by Regulation 439/2010 (European Parliament & European Council,



2010), provides operational support to member states with specific needs and to member states whose asylum and reception systems are under particular pressure. As such, the EASO assists Greece and Italy in the processing of asylum claims in EU hotspots. The EU hotspots approach is defined as an:

*[a]pproach where the European Asylum Support Office (EASO), the European Border and Coast Guard Agency (Frontex), Europol and Eurojust work on the ground with the authorities of frontline EU Member States which are facing disproportionate migratory pressures at the EU's external borders to help to fulfil their obligations under EU law and swiftly identify, register and fingerprint incoming migrants. (European Commission, 2015)*

In principle, operational support by EASO is limited to the registration, identification, fingerprinting and debriefing of asylum seekers and return operations. In addition, EASO helps to process asylum applications as quickly as possible. EASO issues admissibility opinions on individual asylum applications lodged in Greece, which are then presented to the Greek Asylum Service for the final admissibility decision. This form of joint processing appears to go beyond EASO's mandate under its current regulation 439/2010, which in recital 14 provides that "the Support Office should have no direct or indirect powers in relation to the taking of decisions by Member States' asylum authorities on individual applications for international protection" (European Parliament & European Council, 2010).

Similarly, as for Frontex, these operational tasks give rise to the question to what extent EASO bears responsibility if the human rights of migrants in hotspots are violated. As is well documented, the situations in hotspots and on the Greek Islands are deplorable and inhumane (Human Rights Watch, 2017; Ćerimović, 2017; Danish Refugee Council, 2017). It is clear that EASO cannot be held responsible for the living conditions and facilities (or lack thereof) on the Greek Islands, as this is simply beyond its mandate. However, what if rights are violated while giving an opinion on the admissibility of an individual asylum application? The official standpoint of EASO

and Greece is that EASO does not formally decide on asylum applications and that this remains the sole responsibility of Greece.

Nevertheless, EASO's involvement led the European Centre for Constitutional and Human Rights to file a complaint with the European Ombudsman. The complaint claims that EASO is overstepping its mandate in conducting admissibility interviews in hotspots and that EASO's opinions amount to *de facto* admissibility decisions. The Ombudsman recognised that "there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted", but found that "ultimate legal responsibility for decisions on individual asylum applications rests with the Greek authorities". It also noted that EASO's founding regulation would likely be amended in the future to provide explicitly for such activity, and held that further inquiries into the complaint were not justified (European Ombudsman, 2018). In order to strengthen the mandate of EASO, in 2016, the European Commission launched a proposal to expand the operational tasks of EASO and to transform it into an EU Agency for Asylum (European Commission, 2016c). Pending adoption, the proposal was amended in September 2018, again expanding the operational tasks for the new EU Agency for Asylum (European Commission, 2018).

Thus, whereas states like Italy adapt their policies in reaction to legal developments, in the case of EASO, legal documents are amended in reaction to new policy developments. The cat-and-mouse game can, therefore, also be seen to work the other way around. In any event it is evident that not only states, but also the EU, make efforts to develop migration control policies which at first sight are legal, either because they exploit loopholes in the existing framework or because they adapt the legal framework itself. However, such policies, nevertheless, can lead to human rights violations and it remains unclear which actor is responsible for these violations. As regards EASO, the EU's envisioned strengthened mandate for the new EU Agency for Asylum suggests that questions of responsibility will continue to arise in the future.

## Conclusion

This chapter investigates the question: *To what extent can the EU and its agencies, as well as state and non-state actors, be held responsible for the human rights violations suffered by refugees and migrants?* First, several examples of migration control policies were considered. It was then discussed to what extent the states involved in these policies, as well as the EU and its agencies, may or may not be held responsible for the human rights violations suffered by migrants. As regards states, the chapter shows that they can be held responsible, both for the conduct of state officials and for the conduct of non-state actors. However, states need to exercise sufficient control in order to exercise jurisdiction. If that is not the case, they can only incur responsibility for aiding or assisting another state. Both as regards jurisdiction and aiding or assisting, it is unclear where the boundaries lie. As regards the EU and its agencies, the situation is similar. If they act directly, EU institutions can be held responsible on the basis of the obligations embodied in the Charter on Fundamental Rights of the EU and the European Convention on Human Rights. However, EU institutions hardly act directly in a third country in the field of migration control. The situation is, however, different for EU agencies such as Frontex, and in the future possibly also EASO, whose mandates include operational tasks. This chapter shows that it is difficult to establish the responsibility of these agencies and that this is an area very much under development. With the EU planning to further externalise migration control, it is important to clarify the legal grey areas and to fill in the gaps in the legal framework, in order for the migrants whose rights are being violated not to be left in a legal black hole.

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Professor Dr Mirjam Van Reisen holds the Chair of International Relations, Innovation and Care at Tilburg University and the University Chair of Computing for Society at Leiden University. She is a member of the Dutch Government Council on International Relations and Chair of the Council on Development Cooperation. Dr Van Reisen is the founding Director of EEPA, a research organisation based in Brussels, specialising in European external relations. In 2012, she received the Golden Image Award from Liberian President Ellen Johnson Sirleaf in the category of ‘Peace and Development’ for her support to women in peace-building. She is lead author of *Human Trafficking in the Sinai: Refugees between Life and Death* (2012), *The Human Trafficking Cycle: Sinai and Beyond* (2014), as well as *Sinai Trafficking: Origin and Definition of a New Form of Human Trafficking* (2015).

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Annick Pijnenburg is a PhD researcher at Tilburg Law School, Tilburg University. She has an interdisciplinary background, combining social sciences and law, with a strong focus on international human rights law. In her doctoral research she examined the responsibility of states under international law for human rights violations that occur as a result of policies whereby a state cooperates with one or more other states to prevent migrants, including refugees, from reaching its territory. Pijnenburg has previously worked at various international and non-governmental organisations, including the EU Fundamental Rights Agency and the Council of Europe.

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### **Conny Rijken**

Professor Dr Conny Rijken is Professor of Human Trafficking and Globalisation at the International Victimology Institute Tilburg (INTERVICT), Tilburg Law School, Tilburg University. Over the last 20 years Dr Rijken has done extensive research on various aspects of human trafficking including the European perspective, migration, labour exploitation and human rights. She has extended her field of research to other areas including global migration, European criminal law, and inclusion and exclusion through migration. Central to her research is the focus on human rights and engagement with the position of the individual. Dr Rijken has led several (EU-funded) international and interdisciplinary research projects. She has conducted innovative research on the needs of victims of human trafficking, the nexus between human trafficking and statelessness in Thailand, and Sinai trafficking.

## **Carlotta Zanzottera**

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## **Daniel Mekonnen**

Dr Daniel Mekonnen is the Director of the Eritrean Law Society and co-author (with Kjetil Tronvoll) of the internationally acclaimed book, *The African Garrison State: Human Rights and Political Development in Eritrea* (Boydell & Brewer Publishers, 2017), which made it to the prestigious annual list of ‘Outstanding Academic Titles’ of 2015, bestowed by Choice magazine, American Library Association, the oldest and the largest library association in the world. He is the first Eritrean recipient of a post-doctoral fellowship from Germany’s leading funder of research in higher education, the Alexander von Humboldt Stiftung.

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Eva Berends holds a Master of Cultural Diversity Management from Tilburg University. In her master’s thesis she explored the role of expectations in the integration process of Eritrean refugees in the Netherlands. Berends also worked as a research and advocacy assistant at Europe External Policy Advisors (EEPA) during the fall of 2019.

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Dr Ing Gertjan Van Stam lives in Masvingo, Zimbabwe. He has been involved in strategic developments in community engagement, culture and technology in Africa since 1987. He holds a degree in

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Dr Gilad Liberman holds a PhD in Neuroscience from Bar-Ilan University, Israel. He is currently a post-doctoral fellow at Maastricht University, where his research focuses on methods for magnetic resonance imaging. He has been working with the refugee community in Israel since 2013. Together with Sigal Kook Avivi and Yael Agur Orgal, he initiated and served a petition to the Supreme Court of Israel which has successfully halted the forced deportation of asylum seekers from Israel.

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Lucie Delecolle holds a Master of International Relations and Political Science from the Université Catholique de l'Ouest's Languages. She specialises in constitutional, international and European law and is deeply interested in human rights and migration movements. Delecolle worked at Europe External Policy Advisors (EEPA) as a research and lobby assistant in 2019.

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Born in South Africa, Martin Plaut received his first degree in Social Science from the University of Cape Town (1975) and an Honours degree in Industrial Relations from the University of the Witwatersrand (1977), before going on to do a Master of Arts at the University of Warwick (1978). In 1984 he joined the BBC, working primarily on Africa. He reported from many parts of the continent, but specialised in the Horn of Africa and Southern Africa. This included travelling twice to Eritrea during its long war of independence. He became Africa editor for the BBC World Service in 2003, where he served until 2013. He then joined the Institute of Commonwealth Studies as Senior Research Fellow. Plaut has advised the Foreign and Commonwealth Office, the US State Department and the European Parliament.

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Morgane Wirtz is a freelance reporter working mainly in West Africa. She has lived in Niger since 2017 and covers topics related to security, migration and social life. Agadez is the city where she works most of the time, but she has also reported on places across Niger and in Ghana, Burkina Faso and Saharawi's refugee camps in Algeria. Wirtz works in written press, video and photography. At various times she has collaborated with Le Point Afrique, Le Soir, ARD German TV and Aïr Info. She studied Press and Information at Institut des Hautes Etudes des Communications Sociales in Brussels and African languages and civilisations at Université Libre de Bruxelles.

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Sigal Kook Avivi is a human rights activist based in Israel and Palestine. She has been involved in the struggle for the rights of refugees and asylum seekers in Israel since 2011. Her involvement has included organising demonstrations, organising visits to detention centres, assisting in actualising rights, submitting freedom of information requests on deported refugees, and more. Together with Gilad Liberman and Yael Agur Orgal, she initiated and served a petition to the Supreme Court of Israel which has successfully halted

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Sigal Rozen is Public Policy Director and one of the founders of the Hotline for Refugees and Migrants (previously Hotline for Migrant Workers), Israel's leading organisation protecting the rights of refugees, migrants and victims of trafficking. Rozen founded the organisation in 1998 with a group of concerned citizens who began visiting migrant workers detained in Israel's immigration detention centres. Rozen was the Hotline's first director until 2004 and later served as the spokesperson and then Public Policy Director. Over the last 20 years, Rozen has written dozens of research reports and shadow reports and represented Hotline for Refugees and Migrants in the Israeli Parliament. She has interviewed hundreds of trafficking and torture survivors and wrote the first reports exposing the terrible phenomena of trafficking for ransom in the Sinai desert, including *The Dead of the Wilderness* (2011) and *Tortured in Sinai, Jailed in Israel* (2012). Rozen served as coordinator of the Israeli Refugee Rights' Forum and the Committee for Advancement of Refugees from Darfur. Rozen holds Bachelor of Arts from Tel Aviv University in English and French literature.

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