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Istituto Affari Internazionali

Changing Migration Patterns
in the Mediterranean

Edited by Lorenzo Kamel

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network

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List of Contributors

UMMUHAN BARDAK is Senior Specialist in the Thematic Policy Unit Operations Department of the European Training Foundation (ETF), Turin.

AHMET İÇDUYGU is Director of the Migration Research Program (MiReKoç) and Professor of International Relations, Koç University, Istanbul.

LORENZO KAMEL is Associate Fellow at the Istituto Affari Internazionali (IAI) and Research Fellow at Harvard University's Center for Middle Eastern Studies (CMES).

MEHDI LAHLOU is Professor of Economics at the Institut national de statistique et d'economie appliquée (INSEA), Rabat.

SABRINA MARCHETTI is Jean Monnet Fellow at the Robert Schuman Centre for Advanced Studies (RSCAS), European University Institute (EUI), San Domenico di Fiesole.

GALIA SABAR, former Chair of African Studies at Tel Aviv University, has been researching African migration to Israel since 1996, including labour migrants and asylum-seekers.

RUBA SALIH is a Reader in Gender Studies at the Centre for Gender Studies, London School of Oriental and African Studies (SOAS).

MATTIA TOALDO is Policy Fellow in the Middle East and North Africa Programme at the European Council on Foreign Relations (ECFR), London.

ANNA TRIANDAFYLLIDOU is Professor at the Global Governance Programme (GGP) of the Robert Schuman Centre for Advanced Studies (RSCAS), European University Institute. Within the GGP she coordinates the Research Area on Cultural Pluralism.

ELIZABETH TSURKOV is a graduate student and project director and researcher with the Hotline for Refugees and Migrants (HRM), an Israeli NGO.

SARAH WOLFF is Lecturer in Public Policy at Queen Mary University of London and Senior Research Fellow at the Netherlands Institute of International Relations Clingendael, The Hague.

List of Abbreviations

ACRI	Association for Civil Rights in Israel
AMCs	Arab Mediterranean Countries
APDHA	Asociación Pro Derechos Humanos de Andalucía
CEDEFOP	European Centre for the Development of Vocational Training
Cepol	European Police College
CMSI	Central Mediterranean Sea Initiative
CNDH	National Council of Human Rights (Morocco)
COMECON	Council for Mutual Economic Assistance
DCAF	Democratic Control of Armed Forces
DH	Dirham
DMBS	Directorate of Migration and Border Surveillance (Morocco)
DRC	Democratic Republic of the Congo
EASO	European Asylum Support Office
ECHO	European Community Humanitarian Aid Office
ECRE	European Council on Refugees and Exiles
ECtHR	European Court of Human Rights
EEAS	European External Action Service
EMSA	European Maritime Safety Agency
ENP	European Neighbourhood Policy
ETF	European Training Foundation
EU	European Union
EUI	European University Institute
EURES	European Employment Services
Europol	European Police Office
FRA	Fundamental Rights Agency

GAMM   Global Approach to Migration and Mobility
HIAS   Hebrew Immigrant Aid Society
ICAO   International Civil Aviation Organisation
ICMPD   International Centre for Migration Policy Development
ICT   information and communications technology
IDP   Internally Displaced Person
IGC   Intergovernmental Consultations on Migration, Asylum and Refugees
ILO   International Labour Organisation
IMO   International Maritime Organisation
IO   International Organisation
IOM   International Organisation for Migration
ISIS   Islamic State of Iraq and Syria
JHA   Justice and Home Affairs
MENA   Middle East and North Africa
MIEUX   Migration EU eXpertise
MK   Member of Knesset
MMTF   Mixed Migration Task Force
MP   Mobility Partnership
MTM   Mediterranean Transit Migration Dialogue
NATO   North Atlantic Treaty Organisation
NGO   Non-Governmental Organisation
OECD   Organisation for Economic Co-operation and Development
OHCHR   UN Office of the High Commissioner for Human Rights
OMN   Operation Mare Nostrum
OSCE   Organisation for Security and Co-operation in Europe
PIBA   Population, Immigration and Border Authority (Israel)
RCP   Regional Consultative Process
3RP   Regional Refugee and Resilience Plan
RSD   Refugee Status Determination
SAR   Search and Rescue
SDC   Swiss Agency for Development and Cooperation
SEMC   Southern and Eastern Mediterranean country
SOLAS   International Convention for the Safety of Life at Sea
TAIEX   Technical Assistance and Information Exchange
UAE   United Arab Emirates

UK	United Kingdom
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea
UNDESA	UN Department of Economic and Social Affairs
UNESCO	UN Educational, Scientific and Cultural Organisation
UNHCR	UN High Commissioner for Refugees
UNICEF	UN Children's Fund
UNODC	UN Office on Drugs and Crime
UNRWA	UN Relief and Works Agency for Palestine Refugees in the Near East
UNSMIL	UN Support Mission in Libya
USA	United States of America
VET	Vocational Education and Training
WFP	World Food Programme

Introduction

Lorenzo Kamel

On 24 April 2015, the Tunisian Observatory for Migration hosted an international conference entitled "Changing Migration Patterns in the Mediterranean Region." About twenty scholars from leading international institutions discussed the issue of migration in the Mediterranean basin and the potential ways of coping with the huge challenges that lie ahead.

The conference was organised within the frame of New-Med, a research network of Mediterranean experts and policy analysts with a special interest in the complex demographic, cultural and strategic dynamics that are unfolding in the Mediterranean region. Established in June 2014, it is led by the Istituto Affari Internazionali (IAI), in cooperation with the OSCE Secretariat, the Compagnia di San Paolo of Turin, the Italian Ministry of Foreign Affairs, and the German Marshall Fund (GMF). At the core of the New-Med activities stands the need to rethink the role of multilateral, regional and sub-regional organisations, to make them better equipped to respond to fast-changing political, cultural, economic and security-related conditions and to address the pressing demands coming from Mediterranean societies all around the basin.

The chapters that compose this volume have been written by leading scholars within the New-Med Research Network with the aim to foster both the academic and the policy debate on the changing migratory scenarios in and around the Mediterranean. The massive movements of populations in the Mediterranean basin require thorough analyses able,

on the one hand, to take on board the historical, demographic, social, psycho-social, economic, political dimensions of the issues at stake, and, on the other, to shed light on different categories (such as "economic" migrants, refugees, asylum seekers and many others) that are too often confused and overlapped between them.

More than 53 percent of the world's refugees are in the Arab region, which is home to only 5 percent of the global population:[1] Lebanon, Turkey, Jordan are each hosting more refugees than the 28 EU member states together. Most of the remaining percentage of refugees are from, and/or residing in, African countries. This means that almost the entire burden of the current flow of migrants, legal and illegal, is beared by the Southern and Eastern Mediterranean countries (SEMCs).

Yet, the migratory waves are fast becoming one of the biggest challenges facing EU political leaders and the European institutions are trying to provide concrete answers to this. Last 13 May 2015, for instance, the European Commission released a document entitled *A European Agenda on Migration*,[2] stressing the necessity to overcome emergency measures and calling for a clear European framework for a common migration policy. Despite its merits, the document does not outline any specific strategy. Its vague recommendations can hardly favour a closer cooperation among EU member states and look weak, "both on a political and economical grounds".[3] On top of this, in the document, that in this respect in largely mirroring the European debate on migration in the Mediterranean, is largely missing a thorough debate on the reasons why a large number of migrants are willing to take huge risks in search of a better life when they cannot access legal channels of migration, on what could be done in their countries of origins, on the gender biases of migrants' countries of origin, as well as on diversity of migration patterns across the countries.

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[1] Maha Yahya, "3 Big Trends That Will Shape the Arab World", in *The National Interest*, 11 May 2015, http://nationalinterest.org/node/12850.

[2] European Commission, *A European Agenda on Migration* (COM/2015/240), 13 May 2015, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52015DC0240.

[3] Antonio Mutti, "Le migrazioni oltre l'emergenza", in *Il Mulino online*, 10 June 2015, http://www.rivistailmulino.it/item/2852.

The contributions in this volume provide informed answers to these and a number of other key issues. It is divided in three main parts. The first one (chapters 1, 2 and 3) provides general analyses on migration patterns and perceptions, or issues such as gender and youth. The second (chapters 4, 5, and 6) focuses on single states such as Libya, Turkey, Morocco and Israel. The final section (chapters 7 and 8) moves to the issue of multilateral governance of migration and policy recommendations.

Ummuhan Bardak, senior specialist at the European Training Foundation of Turin, looks (chapter 1) at the continuity and change of youth migration patterns from the Arab Mediterranean Countries (AMCs). Continuity and change are discussed through reviewing typical profiles of migrants (age, gender), their education levels, labour market status and reasons for migration. The traditional Arab migrant destinations of Europe and the Gulf are revisited in terms of economic and political developments and the evolution in their migration policy. A particular reference is made to the EU's policy developments and the impact of the Arab Spring on emigration flows. The chapter ends with the conclusions of: small change based on "path-dependency," continuing pressure of emigration flows, and the unfitting skills set of potential migrants within the context of global job market. Recommendations focus on improving skills and education cooperation between the EU and the AMCs.

Anna Triandafyllidou, professor at the Global Governance Programme (GGP) of the European University Institute (EUI), contends (chapter 2) that after the positive vibrations that the Arab Spring sent around Europe in 2011, today we are witnessing a reversal of that positive trend. The escalation of violence and insecurity in the region is sending shock waves across Europe and North America. Negative vibrations have been acutely felt in Europe, not only with the *Charlie Hebdo* events in Paris, but also in relation to the so-called foreign fighters question. Several thousand young people (mostly men but also women), a tiny, albeit dramatically visible, part of the European Muslim community have joined ISIS forces in Syria to fight a jihadist war. Triandafyllidou argues that while the weaknesses and tensions of integration policies exist and may have intensified since the start of the new century, the seeds of minority Muslim youth recruitment in Europe has more to do with today's global-local connections rather than with failed integration.

Ahmet İçduygu, Dean of the College of Social Sciences and Humanities at Koç University, Istanbul, analyses (chapter 3) the evolution of Turkey's migration policies and the way in which EU-Turkey relations have affected Turkey's migration laws and practices. It is often argued, particularly in Europe, that Turkey is primarily a country of emigration (or migrant-sending country) and a source country for asylum seekers. İçduygu shows instead that Turkey has morphed into a country of immigration, and more prominently a transit country, as a result of intense migratory movements over the last two decades.

Mattia Toaldo, Policy Fellow for the Middle East and North Africa Program at the European Council on Foreign Relations in London, investigates (chapter 4) the dynamics of migration through and from Libya, focusing on the economics and politics of illegal trafficking. His research discusses EU and member state policies for tackling and reducing Mediterranean migration through Libya and argues that the externalisation of push-backs is neither desirable nor realistic. Finally, he offers policy recommendations that propose an overhaul of the current system with the aim of building partnerships with local actors and multilateral institutions while also creating legal corridors for migration into Europe.

In chapter 5, Mehdi Lahlou, professor of Economics at Rabat's National Institute of Statistics and Applied Economics (INSEA), argues that before starting to take fully into consideration the issue of irregular migration through its territory, Morocco knew a period of "non-migratory-policy'' between the beginning of the 90's and 2002/2003. This historical phase was marked by a rising of the transit migration, mostly in situation of irregularity, towards Spain and other European Union countries. The author connects this complex past with the most recent developements and detects changes and continuities in the region's past, providing analytical tools for understanding future scenarios that might lie ahead.

Galia Sabar, former Chair of African Studies at Tel Aviv University, and Elizabeth Tsurkov, project director and researcher with the Israeli NGO Hotline for Refugees and Migrants, shed light (chapter 6) on the specific case of Israel's policies toward Sudanese and Eritrean asylum-seekers from 2002 to 2014, a period during which 60,000 entered the country on account of its lax border with Egypt. After introducing Isra-

el's unique immigration regime the article focuses on Israel's asylum system, emphasising the low recognition rates and its chaotic "patch work," "on the move" character. The second part examines the ways Israel has made it difficult for asylum-seekers to live within its borders after entering, focusing on their limited access to social and other public services, and – since 2012 – the adoption of a policy of prolonged detention without trial and active encouragement of those detained to leave Israel "willingly" to Uganda and Rwanda. Finally, the authors use interview data to analyse asylum-seekers' daily realities and explore their understanding of and struggle against Israel's immigration and asylum policies.

In chapter 7, Ruba Salih, a reader in Gender Studies at the London School of Oriental and African Studies (SOAS), and Sabrina Marchetti, Jean Monnet fellow at the EUI, propose a gendered critique of the European Neighbourhood Policy (ENP), a policy framework that, amongst other things, aims to facilitate the mobility of migrants to the EU from the bordering countries. They highlight the ambivalences of European regimes of gender and migration, and take issue with the celebration of the "feminisation of migration." They argue that the former fails to offer opportunities to women to safely embark on autonomous migratory projects, while the latter contributes to reproduce traditional gender biases in the countries of origin as well as of destination. The authors conclude by suggesting that the EU critique to emigration countries for failing to tackle women's discrimination falls short of persuasiveness when confronted with the curtailment on women's independent mobility within the ENP framework.

Sara Wolff, lecturer in Public Policy at London's Queen Mery University, looks (chapter 8) at the main aspects that are paralysing the EU migration governance. Since the EU is by and large failing to deliver, the author reviews the role and activities of other international organisations (IOs) such as UNHCR, IOM and OSCE in the region. Taking stock of EU difficulties to address the issue, she ponders their added value in the transnational management of migration in the Mediterranean and makes recommendations as to how IOs can influence EU policies in order to be more responsive.

1.

Continuity and Change in Youth Migration Patterns from the Mediterranean

Ummuhan Bardak

Labour emigration has been a structural feature of the Arab Mediterranean Countries[1] (AMCs) economies since the 1960s. According to the World Bank,[2] 3.7 million Egyptians, 3 million Moroccans, 1.2 million Algerians, almost a million each Lebanese and Syrians,[3] 750,000 Jordanians and 650,000 Tunisians live outside their countries of origin. Nevertheless, the proportion of emigrants in these countries' populations remains low due to continuous population growth. The main destination for emigrants from the French-speaking Maghreb countries has been Europe (France, Belgium, the Netherlands, Germany in particular, and, more recently, Spain and Italy), mainly due to bilateral labour agree-

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[1] This work covers only eight Arab Mediterranean countries from the region: Algeria, Egypt, Jordan, Lebanon, Morocco, Palestine, Syria and Tunisia and uses the definition of "migrant" by the United Nations: "a person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months), so that the country of destination effectively becomes his or her new country of usual residence." Despite the usage of this broader definition, the chapter limits itself to labour migration and excludes the emergent (involuntary) humanitarian and refugee movements to remain focused.

[2] World Bank, *Migration and Remittances Fact book 2011*, 2nd ed., Washington, World Bank, 2011, http://go.worldbank.org/QGUCPJTOR0.

[3] The number for Syria is for the pre-crisis period and does not include the millions of refugees who have left Syria in the last four years because of the civil war. For the same reason of decades-old Palestinian refugee problems, the number of labour migrants from Palestine is unknown.

ments signed in the 1960s. Migrants from Lebanon have typically headed to North America, while emigrants from Egypt, Jordan, Palestine and Syria have gone mainly to the oil-producing Gulf countries and Saudi Arabia.

Currently the AMCs are undergoing significant political, economic and social transitions. Some countries experienced extraordinary political changes in what is now called the Arab Spring. "Employment, Liberty, Dignity" was the slogan of the Jasmin Revolution of January 2011 in Tunisia, which created a domino effect across the whole region. The first economic impact of the Arab Spring was rather negative owing to political turbulence and social unrest, particularly on the tourism, production and export sectors as well as on foreign direct investment, which was down already as a result of the global economic crisis.

Even before the Arab Spring, difficult labour market conditions and a lack of decent jobs for young people were well documented for the AMCs.[4] Labour markets have been segmented along public/private, formal/informal and modern/ traditional lines, and are characterised by large informality and precariousness, very low female participation, high unemployment and significant agricultural employment. Indeed the region has the highest youth unemployment rate in the world (28 percent in 2013 after the Arab Spring), and this is projected to increase further to 29 percent by 2018.[5] The majority of unemployed people (up to 80 percent in some countries such as Egypt) are young, first-job-seekers with no previous work experience.

Beyond this challenging political and economic context, what is unique about youth in the AMCs is their high proportion in the population. AMCs are experiencing the largest cohorts of youth population in

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[4] Iván Martín and Ummuhan Bardak, "Union for the Mediterranean Regional Employability Review. The Challenge of Youth Employment in the Mediterranean", in *ETF Reports*, 2012, http://www.etf.europa.eu/web.nsf/pages/UfM_regional_employability_ review; Ummuhan Bardak, "Labour Market and Education: Youth and Unemployment in the Spotlight", in *IEMed Mediterranean Yearbook 2014*, p. 78-84, http://t.co/0Z4e Y88J67.

[5] ILO, *Global Employment Trends: Risk of a Jobless Recovery*, Geneva, January 2014, p. 64, http://ilo.org/global/research/global-reports/global-employment-trends/2014/ lang--en/index.htm.

their history, which is likely to continue for the next four to five decades at least. Whether youth is a "gift" or a "burden" is a matter of long discussion, but demographic pressure is a key feature of education systems and job markets in these countries. The share of the population under the age of 30 years has exceeded 60 percent, and the working-age population (15-64 years old) is approaching 70 percent.[6] Nonetheless, on average only half (even less than half) of the working-age population is economically active and part of the work force in the region, which means countries are largely missing the "demographic opportunity window" of having a young population.

Considering the high aspirations of youth for education, jobs, marriage, housing and many other consumption items, the situation described above puts a tremendous pressure on national political and economic systems and keeps in place the strong push factors for the emigration of youth from the region. Within this context, this chapter looks at the continuity and change patterns of migration from the AMCs, with a particular focus on youth who are attracted the most to the idea of emigration and who constitute the absolute majority of migrants from the region.

Continuity and change in migration patterns are discussed through reviewing typical profiles of migrants (age, gender and marital status), their education levels/types and labour market status, reasons for migration (economic, social, political), and international student flows. Then, the traditional Arab migrant destinations of Europe and the Gulf are reviewed in terms of economic and political developments and the evolution in their migration policy. A particular reference is made to the EU's policy developments, and special attention is given to whether the Arab Spring has increased emigration flows. After an overview of the main migration outcomes so far, the chapter ends with policy conclusions: the sustained nature of emigration flows from the AMCs and the importance of skilled labour in the global competition for international job markets. Recommendations focus on the potential cooperation between the EU and the AMCs on educational improvements.

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[6] UNDESA, *World Population Prospects, the 2012 revision*, New York, United Nations, 2013, http://esa.un.org/wpp.

1.1 DIVERSITY OF MIGRATION PATTERNS ACROSS THE AMCS

Despite some similarities, each Arab Mediterranean country has its own context-specific migration patterns. Therefore, it is difficult to make generalisations for the whole region, and even for the sub-regions of the Maghreb or the Mashrek. As already mentioned, FR-speaking Maghreb countries are the source of labour emigrants towards Europe – typically low-skilled or unskilled male workers – with sustained flows through family reunification. Recently there are signs indicating a marginal increase of young and skilled emigrants from the Maghreb to Europe and North America as well as to the Gulf region, while Maghreb countries themselves have become transit and immigration countries for refugees and immigrants from Sub-Saharan Africa.

In the Mashrek migration has always been mixed more with politics, as significant and long-standing refugee populations from Palestine, Iraq and recently Syria have been accommodated by Jordan, Lebanon and Syria. On the other hand, the labour migrants from the Mashrek (in particular Egypt, Jordan, Palestine, Syria), who were largely better-educated, have typically headed to the Gulf region, where they were employed as engineers, doctors and teachers.[7] Later on, their profiles in the Gulf became diversified as well, including a range of other occupational sectors that were less skilled and lower-paid. Putting aside current refugee problems, Jordan still sends young and high-skilled work in the Gulf, while it receives low-skilled immigrants from its neighbours and Asia. High-skilled labour flows from Lebanon (and partially from Egypt) to North America have continued as well. In Lebanon, a university education is viewed as a good springboard for migration, and 39 percent of university graduates emigrate.

In summary, migrants are far from a homogeneous group in terms of

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[7] This is partly due to the special inter-governmental schemes, which allowed public servants of sending countries to work in the public administrations of the Gulf countries for certain period of time; they can be considered as "secondment" or "national detached experts."

their profiles. When examined as a whole, though, Arab migration flows have historically provided a low proportion of skilled individuals in the total migration stock, particularly in Europe.[8] By and large, these flows were dominated by unemployed people from rural areas, reducing the unemployment pressures of the abundant labour surpluses and increasing individual earning prospects. The World Bank reports the share of low-skilled migrants from the Maghreb countries at 70 percent, while from Egypt it is 55 percent with the remaining 30 percent being high-skilled and 15 percent medium-skilled.[9] This pattern can be largely explained by demographic transition, transformation of traditional agriculture and the generally low education and skill levels of the populations, with most migrants having only basic education.

1.2 The irresistible attractiveness of the 'migration idea' to the youth

Migration is a common aspiration of young people in many AMCs, mainly due to the difficult labour market conditions and limited economic options at home. Youth surveys on intentions to migrate continuously document a high proportion of young people considering migration; e.g. youth surveys in Egypt show half of the young people intending to migrate. According to the ETF surveys in Egypt, Tunisia and Morocco, around half of the young population (more than half in Tunisia) would like to migrate, and the absolute majority of these people are young males.[10] Despite the attractiveness of the idea of migration, however, the

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[8] Çağlar Özden and Maurice Schiff (eds.), *International Migration, Remittances and the Brain Drain*, Washington/Basingstoke, World Bank and Palgrave Macmillan, 2006, http://hdl.handle.net/10986/6929.

[9] Jennifer Keller et al., *Labor Migration from North Africa. Development Impact, Challenges and Policy Options*, Washington, World Bank, 2010, p. 14, http://documents.worldbank.org/curated/en/2010/05/16830843.

[10] Jesus Alquezar Sabadie et al., *Migration and Skills: The Experience of Migrant Workers from Albania, Egypt, Moldova, and Tunisia*, Washington, World Bank, 2010, http://hdl.handle.net/10986/2421; Michael Collyer et al., "Migration and Skills in Armenia, Georgia and Morocco: Comparing the Survey Results", in *ETF Working Papers*, July 2013,

likelihood of migration in reality is much lower (around 10 percent). Due to the tight limitations on legal migration opportunities and the limited means for migration, the reality frequently does not match up to their ambitions.

Economic considerations such as joblessness, low wages, poor career prospects and low standards of living are overwhelmingly cited as the main reasons for emigration by young people. In particular wage and income differentials rather than unemployment levels as such are primary reasons. Nevertheless, unemployment, underemployment and temporary/insecure employment are direct factors prompting young men to migrate, whereas young women appear to migrate more for other reasons (as more of a life project).

In addition to economic reasons, surveys in several Arab countries have recurrently evidenced young peoples' dreams of having a migratory experience and their preference for the West over the Gulf, if opportunities are given to them. Linked with the Western intellectual dominance and cinema industry, the desire to live within Western cultures and lifestyles is quite high. Indeed, in the ETF surveys of Tunisia, Egypt and Morocco, there is a consistent 10 percent of young people who would like to migrate because they think that "there is no future" in their country.[11] This is linked with the gloomy prospects of socio-economic and political transition, but also heavily influenced by the positive perceptions of Western lifestyles.

Another factor to be mentioned is "geography of migration" that interacts with "migration culture." While the intention to migrate is as strong in rural and urban areas, the ETF findings in Egypt, Tunisia and Morocco highlight significantly different regional patterns, learnt by seeing examples in the best-established out-migration areas. In Morocco, for example, the regions with the highest proportions of potential migrants are mostly associated with traditional areas of emigration, i.e. Agadir and Souss, where more than half of the population intends to move abroad.[12] A second important area of traditional out-migration is

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http://www.etf.europa.eu/web.nsf/pages/Migration_and_skills_Armenia_Georgia_Morocco.

[11] Jesus Alquezar Sabadie et al., *Migration and Skills*, cit., p. 32.

[12] European Training Foundation, "Migration et compétences au Maroc. Résultats de

Oujda, close to the Algerian border, with 45 percent potential migrants. The areas with limited inclination to emigrate are Rabat and Tangier, which are rapidly growing and dynamic locations that may generate the kind of optimism that keeps people attached.

1.3 MODEST BUT CONSISTENT INTERNATIONAL STUDENT FLOWS

Education is sometimes mentioned as a motivation for migration by youth in Lebanon, Morocco, Algeria, Tunisia and Egypt. Indeed, studying abroad is a popular idea shared by many youth, but in reality only around 5 percent of potential migrants would go abroad for "education."[13] Among the returnees, however, a sizeable minority of migrants moved for education and training purposes from Morocco, Tunisia, Lebanon and Egypt. The international student flows were characterised by a high proportion of returnees, reflecting "brain circulation" and the high premium placed on education acquired abroad within the domestic labour market context. Indeed, brain circulation can play a positive role in development, as migration increases human capital and enhances the acquisition and exploitation of global knowledge, technology and networks.

With the exception of a couple of countries (the UK, France), Europe appears to be less attractive than the USA and Canada in the circulation of international students from AMCs, with the best and the brightest tending to prefer North America as their main destination. Language is an important contextual factor in the direction of these flows, with some EU member states gaining more than others. For instance, English-speaking countries such as the UK and Ireland attract students from countries where English is the primary foreign language, while France draws more students from Maghreb countries where French is the pri-

l'enquête 2011-12 sur la migration et le lien entre compétences, migration et développement", in *ETF Working Papers*, August 2013, p. 52-53, http://www.etf.europa.eu/web.nsf/pages/Migration_and_skills_Morocco.

[13] Ummuhan Bardak, *Migration and Skills Development Agenda in Partner Countries. ETF Position Paper*, October 2014 (unpublished).

mary foreign language. The case of France is somewhat interesting. Although it is a destination for low-skilled labour migrants from the Maghreb, it seems at the same time to be a natural preference for higher education studies for French-speaking students from the region.

Another interesting emerging pattern is the Arab student mobility towards the Gulf countries. While historically Cairo, Beirut, Damascus and Baghdad had hosted many Arab students in their education institutions in the past (mostly in Arabic, but also some in English), today the tide has moved to the Gulf countries, where intense investment in education made over the last decade has started to attract Arab students from neighbouring countries for post-graduate studies (combining both English and Arabic). Studying abroad brings the issue of qualification recognition into the agenda as well. The practice so far shows that only some highly-educated migrants apply and receive recognition of their academic qualifications to study abroad. However, this is not linked to the professional recognition, and it is almost unthinkable for those with medium (and VET) education levels to receive recognition.

1.4 CHANGING PROFILES OF MIGRANTS: YOUNG, SINGLE, LESS-EDUCATED MEN?

The typical profile of migrants from the AMCs has been of young men in their 20s, mostly with primary education (Morocco, Egypt) or secondary education (Tunisia, Algeria, Jordan). Women from the AMCs have primarily migrated as a "family member," rather than being a "migrant worker." Migration is always linked to young ages, but the linkage of being young and having the intention to migrate is extremely strong in the AMCs, and intention to migrate dramatically decreases after the age of 30. In contrast, the age range of migrants from Eastern Europe is older (middle-aged). Potential migrants have also fewer family links in the AMCs, most likely being "single" and/or without children. The thesis that family ties reduce an individual's desire to emigrate is strongly supported by data on marriage and children.[14]

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[14] Ibid.

What seems new is a slight increase of young educated women migrating independently of their male family members.[15] Studies examining the mobility of women from the Maghreb shed light on this within the context of migration to Europe (Algeria, Tunisia, and Morocco to a lesser extent),[16] while others show an increasing trend of educated female migrants from Lebanon, Egypt and Jordan. Considering the limited mobility of young women in these societies, this is a special group of young, educated female migrants who are generally coming from middle-class families.

Despite many differences in migrants' skills, however, the education and skill levels of migrants largely reflect the overall education levels of the populations and the structure and performance of education systems in the AMCs. Access to education and training has increased greatly in recent decades, particularly in Jordan, Lebanon and Tunisia, but there are still significant levels of illiteracy in Morocco and Egypt.[17] Furthermore, technical/vocational education has played an extremely small role in comparison to secondary general education in the whole region (except in Egypt). Thus, typical migrants from Morocco are still more likely to have only primary education and no vocational skills, while at the same time an increasing number of young university graduates (in particular in technical fields such as engineering) emigrate to study and/or work abroad. Recent trends confirm signs of this uneven record of education for individual migrants in each country.

Another interesting feature of potential migrants in the AMCs is their higher levels of employment compared to non-migrants,[18] which is ex-

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[15] Zahra R. Babar, "Mobility and Migration from the Southern Mediterranean States to the GCC", in *IEMed Mediterranean Yearbook 2014*, p. 318, http://t.co/0Z4eY88J67.

[16] Jennifer Keller et al., *Labor Migration from North Africa*, cit., p. 16-17.

[17] Morocco is the most dramatic example of low education levels of 15+ population: 80 percent of people have primary or basic education, 12 percent have a medium level of education and only 7 percent have higher education. According to UNESCO, more than 40 percent of the population was illiterate in 2010. Moreover, the share of people with vocational training at secondary and post-secondary level is less than 5 percent. See Iván Martín and Ummuhan Bardak, "Union for the Mediterranean Regional Employability Review", cit., p. 33-36

[18] Ummuhan Bardak, *Migration and Skills Development Agenda in Partner Countries*, cit.

plained by the fact that employed people generally have better access to information and connections. The strong empowering effect of education is particularly important. Higher education normally reduces the intention to migrate while increasing the opportunity to do so. This empowerment effect is very visible in all AMCs (especially Morocco, Egypt, Palestine, Jordan, Lebanon, and Tunisia), where overall education levels are far lower and graduate unemployment is higher. For example, higher-educated people from Morocco and Egypt tend to be more mobile, but they also tend to return home after a period abroad. Overall, it is possible to see a slight and slow change in migrant profiles towards a medium-education level, but the 'path-dependency' of migration patterns largely persists.

1.5 EVOLVING DESTINATIONS: DEVELOPMENTS IN EUROPE AND THE GULF AND THEIR POLICIES

Traditional migrant stocks in Europe and the Gulf create a natural gravity for new migrant flows through diaspora knowledge and networks in those destinations. This largely keeps the path-dependency of new flows, which are shaped by historical legacies, colonial links, the language factor, migrant/diaspora networks and family reunification. However, political, economic and labour market conditions of destination countries have also evolved, leading to changing immigration policies. For example, a trend of saturation for low-skilled migrants is observed in the old European destinations (in particular in northern Europe), with Eastern European migrants (mostly from the new enlargement countries) now filling most medium-skilled jobs. At the same time, new opportunities have arisen in Italy and Spain (as well as Portugal and Greece to a lesser extent) for low-skilled migrants from Egypt, Tunisia and Morocco, but the recent economic crisis has reduced these flows. Another marginal increase is in better-educated out-flows to the oversees – USA, Canada, Australia, and New Zealand – with limited intake and a special migrant profile.

Overall, public opinion in Europe is increasingly against immigration, leading to more restrictive policies. Migration and its management has

become a very important item in the EU policy agenda, squeezed be-
tween the needs of labour and security. The main dilemma is how to
manage legal migration and mobility within an environment secure
against the risks of irregular migration. An EU communication opened
the way to temporary legal migration schemes for the first time, intro-
ducing mobility partnerships as the main strategic, comprehensive and
long-term migration cooperation instrument for the EU and third coun-
tries.[19] In 2011, this approach was systematised in the Global Approach
to Migration and Mobility (GAMM), which is a key EU policy document
that provides a framework for an external migration policy compliant
with EU foreign policy, development policy and the Europe 2020 Strate-
gy.[20] GAMM establishes four pillars: (1) facilitating legal migration and
mobility; (2) preventing irregular migration and trafficking; (3) promot-
ing international protection and asylum policies; and (4) maximising the
development impact of migration and mobility.

GAMM thus emphasises the role of good migration governance
through the signature of mobility partnerships (MP) with the European
Neighbourhood countries. MPs cover all migration-related issues in a
single package under the four pillars listed above and bring the Com-
mission, signatory EU member states and the third country together at
one table. Under the pillar of legal migration, the focus is mainly on the
significant role of temporary/circular migration and the importance of
matching jobs and skills for migrants. Within this framework, the EU has
signed MPs with Moldova (2008), Georgia (2009), Armenia (2011), Mo-
rocco (June 2013), Azerbaijan (December 2013), Tunisia (March 2014)
and Jordan (October 2014). Recently similar negotiations were also
launched with Belarus and Lebanon, and the intention to launch similar
negotiations with Egypt and Libya was announced.[21]

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[19] European Commission, *On circular migration and mobility partnerships between the European Union and third countries* (COM/2007/248), 16 May 2007, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52007DC0248.

[20] European Commission, *The Global Approach to Migration and Mobility* (COM/2011/743), 18 November 2011, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52011DC0743.

[21] It must be emphasised that the EU external migration policy builds on EU legisla-tion and legal instruments that have recently incorporated measures to facilitate circu-

Another interesting transformation has also happened in the Gulf. Arab migrants particularly from the Mashrek and Egypt used to make up the bulk of the Gulf's workforce beginning in the 1960s, but over time their percentage has shrunk significantly and the national composition of the Gulf's foreign workforce has altered. According to Babar,[22] in 1975 the percentage of Arab migrants in the Gulf workforce was 72 percent, but by 2009 this figure had dropped to 23 percent. Today most of the foreign workers in the Gulf (estimated to be 17 million) are Asia-based or international, and recent figures suggest about 2.4 million Arab migrants are present in the Gulf.

This is the result of the shift in recruitment policies of the Gulf countries due to both political and economic factors. The authoritarian monarchies of the Gulf were concerned about the potential for non-Gulf Arabs to radicalise the local population through promoting political ideas considered to be destabilising (e.g. the Pan-Arabism of the 1960s, the support for Saddam's Kuwait intervention in the 1990s, the expansion of the Muslim Brotherhood movement, sectarian divisions, and the Arab Spring in 2011). Having the same language, religion and cultural affinity and mostly bringing their families, young Arab migrants could easily infect local Arab populations with revolutionary ideas. Asian workers are not only cheaper to bring in, but also socially and politically easier to manage. Moreover, the Gulf countries themselves started to experience high youth unemployment among their own native populations, with an

lar migration, including directives on legal and irregular migration, visa facilitation and readmission agreements, common visa application centres, a visa information system and the EU immigration portal. Also, political instruments such as bilateral policy dialogues and action plans are combined with operational support and capacity-building instruments where project support is provided to numerous stakeholders. Capacity-building instruments include the support provided through the EU agencies such as FRONTEX (frontiers), EASO (asylum), EUROPOL (law enforcement), ETF and the EU programmes such as TAIEX and MIEUX. MPs fit in this articulated context. See the *EU Immigration Portal* (http://ec.europa.eu/immigration), which was launched in 2012 in different languages as a one-stop-shop (first point of entry) for clear, accessible, up-to-date, targeted and practical information on EU and national immigration procedures and policies, including visas and work permits for potential migrants.

[22] Zahra R. Babar, "Mobility and Migration from the Southern Mediterranean States to the GCC", cit., p. 317.

increasing number of youth who are also better educated. Nationalisation policies of skilled Arab migrants were put in place in many sectors with mixed success, so the absorption capacity of the Gulf for the Arab migrants is increasingly limited.[23]

1.6 HAS THE ARAB SPRING INCREASED EMIGRATION?

When the Arab Spring broke out at the end of 2010, the AMCs were the source of almost 8 million first-generation migrants, 62 percent of whom were living in an EU member state, 27 percent in another Arab state (20 percent in the Gulf) and 11 percent in another part of the world.[24] Libya, a major receiver of international migrants, was the only country with a small percentage of emigration (1 percent of its population). The same factors that had produced emigration – the frustration of young people faced with unemployment, low rewards to education, state authoritarianism and lack of fundamental freedoms – were now triggering protests.

According to Fargues and Fandrich,[25] the period immediately preceding the Arab Spring revolutions was one of intense emigration in most of the AMCs. From 2001 to 2010, the aggregate number of AMC emigrants to the OECD countries increased by 42 percent, from 3.5 million to almost 5 million. The lion's share of this increase in Arab emigration has been destined to Europe (91 percent) and particularly to the three closest neighbours of the Arab states: Spain, Italy and France. In the first two countries, low- or medium-skilled migrants were attracted by jobs left vacant by natives in conjunction with booming economies and rapidly rising standards of living. In France, however, the recent increase

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[23] Martin Baldwin-Edwards, "Labour Immigration and Labour Markets in the GCC Countries: National Patterns and Trends", in *LSE Kuwait Programme on Development, Governance and Globalisation in the Gulf States*, No. 15 (March 2011), http://eprints.lse.ac.uk/55239.

[24] Philippe Fargues and Christine Fandrich, "Migration after the Arab Spring", in *MPC Research Reports*, No. 2012/09 (2012), p. 1, http://hdl.handle.net/1814/23504.

[25] Ibid.

was mainly due to family reunification. Morocco itself was the largest and fastest-growing sender of migrants to OECD countries, with 62 percent increase of emigrants in 10 years.[26]

Looking at the annual statistics of the (legal) immigrant stock trend over the last five years, no particular break was observed in 2011 in Germany, Italy, Spain and the UK. Thus, legal migration to Europe has not accelerated after the Arab Spring, apart from a short-lived movement from Tunisia, but has simply continued along previous trends.[27] Just after the revolution started in both countries, Tunisia and Libya became points of departure for boats smuggling scores of migrants and refugees into Italy. Due to national goverments' loss of border control, this seems to be re-routing existing flows of irregular migration more than stimulating new ones. In sharp contrast, migration within the AMCs has been deeply affected by the events in Libya, Syria and Iraq, which have resulted in considerable population displacement and millions of refugees fleeing instability and violence to the neighbouring countries. Therefore, change happens only gradually and slowly with the rise of new opportunities, with the exception of sudden political/security shocks.

1.7 WHAT ARE THE MAIN MIGRATION OUTCOMES?

Labour migration plays an important economic and social role in the AMCs, which have been and continue to be supportive of the out-migration of their citizens. It is even possible to mention an implicit "labour export" strategy, not only the export of low-skilled but also high-skilled labour. It eases the demographic pressure on the labour markets of the AMCs, particularly the graduate unemployment problem, while brain drain does not represent a serious threat for the development of most AMCs (the possible exception is Lebanon and some sectors in Morocco and Tunisia). Indeed labour markets in AMCs indicate that the en-

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[26] Ibid., p. 1-2.
[27] Ibid., p. 3.

vironment for the productive use of education in the domestic economy is poor, suggesting that the actual "lost" output from skilled migration is even lower.[28]

Remittances are particularly high in countries such as Egypt and Morocco, and they constitute a high share of the gross domestic product in Lebanon and Jordan. They do not seem to affect average wages that are very inelastic due to the abundance of labour, the prevalence of informal employment and the high levels of unemployment. Many studies confirm the positive impact of migration in improving the socio-economic conditions of migrant households and poverty reduction in all AMCs, despite the big discussion on the unproductive consumption of remittances.[29]

The migration experience itself leads to modest skill gains in subtle ways, particularly in countries where education levels are generally low, such as Morocco.[30] Migrants develop new skills during their time abroad by extending their knowledge, experiences, empowerment and learning in formal, informal and non-formal settings – in particular building language skills, vocational and technical skills learnt at work, work organisation and ethics. However, most of these new skills are never certified or made truly visible in the domestic labour market upon return. Moreover, migration experience activates people and increases employment levels upon return in many AMCs, especially for women. A high proportion of returnees work as employers or become self-employed, with entrepreneurship tending to be especially high among returnees in Morocco, Egypt and Tunisia. Despite limited information about (voluntary) return migration, the return rate from the Gulf seems much higher compared to Europe.

There are negative externalities of migration as well. Despite the positive impact of remittances, they increase the consumption and investment in non-tradable sectors (e.g. construction) and the demand for labour in family-driven activities. Migration affects the labour market behaviour of young people negatively, namely through an increase in res-

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[28] Jennifer Keller et al., *Labor Migration from North Africa*, cit., p. xviii.

[29] Ibid.; Ummuhan Bardak, *Migration and Skills Development Agenda in Partner Countries*, cit.

[30] Michael Collyer et al., "Migration and Skills in Armenia, Georgia and Morocco", cit.

ervation wages and a decrease in their activity rates (e.g. Jordan). Increased reservation wage increases the labour costs particularly in certain skilled professions in the AMCs, which is detrimental for companies due to the low number of such professionals. The high rate of emigration among university graduates is clearly causing a problem in terms of loss of human capital in Lebanon, while there is also evidence that skilled migration might be causing shortages of skilled labour in certain sectors in Morocco and Tunisia.

Finally, the models and values that migrants have been exposed to in destination countries may work behind the scenes in shaping political opinions and ideologies, through a mechanism commonly described as social, or ideational, remittances. Fargues and Fandrich argue that migrants to the Gulf states could be potential vectors of dissemination of Wahhabi or Salafi models that prevail in the host society, while migrants to the West may convey secular values to their origin countries[31] – e.g. studies confirm the decreasing number of children in households with migrants to the West and the increasing number of children in households with migrants to the Gulf and Saudi Arabia. For transfers to operate in the expected direction, however, migrants must be well integrated in their destination. Failed integration may act otherwise and produce the rejection of mainstream values and models of the host society.

POLICY CONCLUSIONS AND RECOMMENDATIONS

The Arab Spring and emigration are linked by common determinants, in particular intense frustration of young people who are increasingly educated but at the same time denied agency and acceptable futures. If the revolutions end with the establishment of regimes that are responsive to peoples' demands and instil trust, economically and politically, one can expect emigration to gradually decline and even some return migration to take place. The opposite can be expected if revolts stall and fail to provide political freedoms and economic security. History shows that

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[31] Philippe Fargues and Christine Fandrich, "Migration after the Arab Spring", cit., p. 2.

revolutions tend to be followed by years and sometimes decades of instability. Considering the current instability caused by the Arab Spring on the economies and societies, the migratory pressures will continue if not increase due to the youth demographic expansion, economic pressures and labour market pressures – all structural factors independent from the political developments.

Unfortunately, the global context is not favourable to migration. The preferred destinations of Arab migrants (the West and the Gulf) are facing growing unemployment among their native populations, there is labour competition from other emigration countries (i.e. Eastern Europeans in Europe, Asians in the Gulf), and anti-immigration opinions are rising everywhere. In the destinations, migrants and natives are probably not always competing for the same jobs as labour markets are segmented, and perhaps when the crisis is over, migrants will still be needed to fill certain segments of the economy – in particular in rapidly ageing Europe. However, the AMCs should be aware of the evolving EU migration policies, which are increasingly focusing on temporary and circular migration schemes, in particular for the low-skilled jobs. Indeed circular and other forms of short-term mobility have become more common.

As seen in the EU 2020 Strategy and the box below with EU directives to facilitate legal migration, on the one hand the EU aims to attract more talent in the global race and promote Europe as a whole as a world centre of excellence for studies and vocational training. For this reason, the EU directives were adopted to facilitate easy entry for researchers, students and the highly-skilled (Blue Card) into the EU. Due to the modest implementation results of these directives, recently there was a proposal for a recast directive integrating and extending the scope of two existing directives (researchers and students) into one for knowledge-based migration.[32] The "European Agenda on Migration" within the work programme of the new European Commission also plans to revise the EU Blue Card directive to attract more high-skilled migrants to Eu-

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[32] European Commission, *Proposal on the conditions of entry and residence of third-country nationals for the purposes of research, studies, pupil exchange, remunerated and unremunerated training, voluntary service and au pairing* (COM/2013/151), 25 March 2013, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52013PC0151.

rope. On the other hand, low- and medium-skilled migration is projected to be temporary, seasonal and circular, with specific sets of core and soft skills in the occupations needed.

Box – Key EU directives for facilitating legal circular migration

EU Directive 2003/86/EC on the right to family reunification

EU Directive 2003/109/EC on the status of third-country nationals who are long-term residents

EU Directive 2004/114/EC on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service

EU Directive 2005/71/EC on the admission of third-country nationals for the purpose of scientific research (Researchers directive)

EU Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment (Blue Card directive)

EU Directive 2011/98/EC on the application procedure for a single permit for third-country nationals to reside and work in the territory of a member state and on a common set of rights for third-country workers legally residing in a member state (Single Permit directive)

COM(2010)378 - Proposal for a directive on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

COM(2010)379 - Proposal for a directive on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment

While the demographic profile of AMCs fits the European labour needs, its average skills sets do not. Cedefop's projections of European skill needs identify a number of labour and skills shortages across the skills spectrum, with significant demand for medium-level skills.[33] Similarly, the EU skills panorama and competitiveness reports reveal skill shortages in many member states for technical-related occupations.[34] Based

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[33] Cedefop, "Skill needs in Europe. Focus on 2020", in *Cedefop Panorama series*, No. 160 (2008), http://www.cedefop.europa.eu/en/node/11099; Cedefop, "Future skills supply and demand in Europe. Forecast 2012", in *Cedefop Research Papers*, No. 26 (2012), http://www.cedefop.europa.eu/en/node/11872.

[34] For more information, please see: http://euskillspanorama.cedefop.europa.eu;

on current education and skill levels, AMCs would provide a poor match to the projected skill needs in Europe. In the global competition for the international job markets, skills of migrants are key for success. The profile of migrants from a given country does not change overnight, as this is the outcome of long-term human development investment.

One policy recommendation, therefore, is improving the education and training systems of the AMCs significantly, in both quantity and quality aspects.[35] While the number of graduates from different stages of education is increasing in AMCs, the majority lack the core competences and soft skills needed in a modern economy.[36] The crucial question is how education can meet the challenges of knowledge-based society, which are more than traditional literacy and schooling rates. With few exceptions, curricula and teaching methods give high importance to memorising and rote learning, and the prevailing environment does not reward the acquisition of knowledge and creativity. When talking about migrant workers, issues of work ethics, individual manners, work attitudes and culture come up. Indeed, key competences and soft skills (e.g. teamwork, learning to learn, analytical and critical thinking, languages, ICT, gender equality at work) are increasingly sought-after from migrants.

Current and future migration patterns imply the need for internationalised education and training, meaning that curricula must consider international trends in order to produce qualifications comparable, readable and portable to possible destinations. Such changes require structural adaptation of the entire education system. Several EU initiatives are interesting examples in providing access to learning and employment opportunities in different countries. EU tools such as the Bologna Process, Copenhagen Process, European Qualifications Framework, Europass (European CV, Language Passport, Europass Mobility, Certificate Supplement and Diploma Supplement), EURES, youth ex-

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and http://europa.eu/!bb46rm.

[35] Iván Martín and Ummuhan Bardak, "Union for the Mediterranean Regional Employability Review", cit.

[36] Ummuhan Bardak, "Brain Circulation and Knowledge Society in the Mediterranean Region", in *IEMed Mediterranean Yearbook 2007*, p. 99, http://www.iemed.org/anuari/2007/aarticles/aBardak.pdf.

change programmes (Erasmus, Socrates, Leonardo da Vinci) and VET quality assurance mechanisms could be used for initiating reforms. There is a higher chance of success for future migrants when education systems perform well in instilling the requirements of a knowledge economy and its values, attitudes and practices.

The EU and Mediterranean countries must work together to improve the education and training systems of the AMCs for both human development and migration management. Training, internship and student exchange programmes (i.e. of the Erasmus-Mundus type) could be increased for young people, students, artists, cultural workers, researchers and academics from the AMCs. Twinning arrangements in VET, higher education and training institutions could encourage cross-border cooperation and exchanges that can contribute to the alignment and recognition of curricula, certificates and qualifications. In the VET sector, the establishment of dual certification programmes could be useful in specific in-demand sectors of labour mobility. An open and accessible system for the recognition and validation of migrants' skills and qualifications could improve matching between available jobs and migrants' skills, but establishing such a system requires greater transparency, better quality qualifications and effective cooperation on both sides.

Improving education systems alone will not pay off unless there is an enabling environment that allows a productive use of knowledge in the AMCs' economies. Among the most distortive policies inhibiting the productive use of educated labour (and all labour) in the region is the legacy of the public sector. Given the sensitivity of migration to employment and economic developments, job creation policies are essential for both EU and AMC governments. Supporting economic growth and decent work opportunities in the Mediterranean must be part of a migration policy aimed at retaining skilled workers, as this is still a key variable in economic development. Within the mobility partnerships with Morocco, Tunisia and Jordan, migration management must be closely linked to other national policies, socio-economic equity and democratic transition. Indeed political instability, corruption, high informality, etc. seem to be just as significant bottlenecks in progress toward higher productivity and growth. These are the very same factors that encourage some of the best and brightest to leave the AMCs in the first place.

2.

European Muslims: Caught between Local Integration Challenges and Global Terrorism Discourses
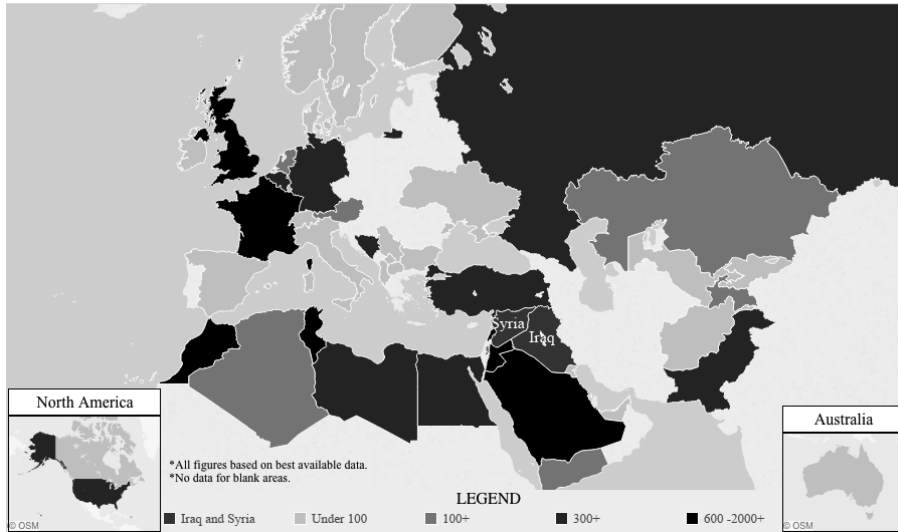
Anna Triandafyllidou

After the positive vibrations that the Arab Spring sent around Europe in 2011 with the peaceful but intense grassroots activity in Egypt, Tunisia, but also Syria, and the rebellion against Gheddafi in Libya, today we are witnessing a near complete reversal of that positive trend. In Egypt the democratic revolution has failed, Libya and Syria are on the verge of collapsing, and the whole Middle East is imploding. The only Arab spring country that seems to be surviving the test of democratic reform is Tunisia. Jihadist terrorism as professed by ISIS and its followers has recently attacked both the military-ruled Egypt through the execution of 21 Egyptian Christian workers in Libya and the democratic and moderately Islamist Tunisia with the attack on the Badhou Museum in Tunis in March 2015. This escalation of violence and insecurity in the region is sending shock waves across Europe and North America, leading to various coalitions to help Syria, Iraq, the Gulf States and Saudi Arabia to combat terrorism and ISIS.

Negative vibrations have been acutely felt in Europe, not only in the killing of the entire editorial team of the *Charlie Hebdo* left-wing satirical magazine by three Islamic extremists in early January 2015 in Paris, but also in the so-called foreign fighters question. Several thousand young people (mostly men but also women), a tiny, albeit dramatically visible, part of the European Muslim community (some of whom are second-generation migrant youth of Muslim origin, while others are young

Figure 1

Foreign Fighters In Iraq and Syria: Where Do They Come From?

Mouse over each country for details.

North America

*All figures based on best available data.
*No data for blank areas.

LEGEND

Iraq and Syria   Under 100   100+   300+   600 -2000+

Australia

© OSM

Proportion Of Foreign Fighters By Country

(Adjusted for population size)
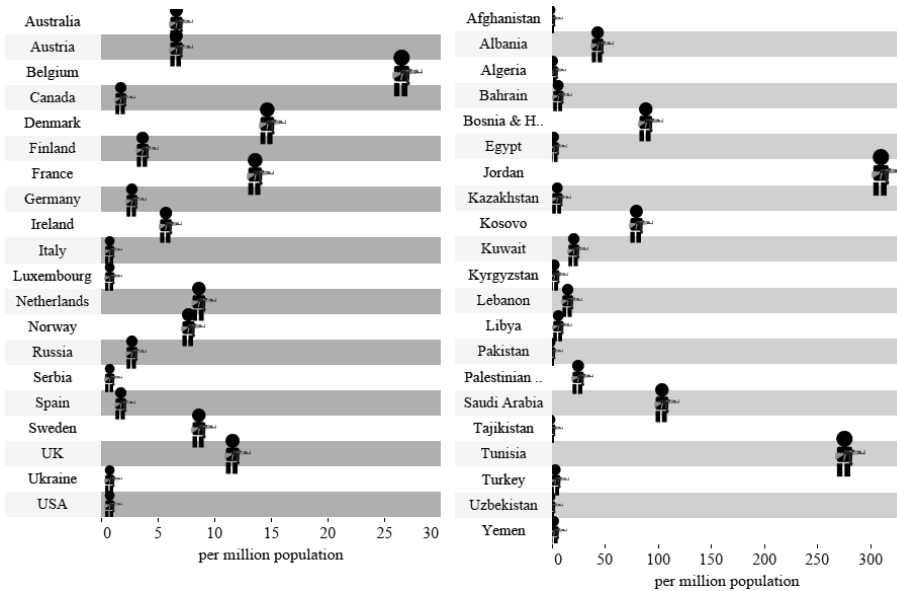
Note: Data from French Interior Ministry, British Government, Belgian Government, Austrian Interior Ministry, US government, Australian government, The International Centre for the Study of Radicalisation and Political Violence, Reuters, France24, Deutsche Welle, The Local Sweden, Sveriges Radio.

Source: Radio Free Europe/Radio Liberty, http://public.tableau.com/shared/7KY76J2DZ.

converts) have joined ISIS forces in Syria to fight a jihadist war. In September 2014 it was estimated that there were 2,000 foreign fighters from Western states, but recent reports estimate 3,500 within a total of approximately 19,000 foreign fighters from all over the world[1] (see also Figure 1).

Much has been said since the summer of 2014 about how the recruitment of these young people by extremist imams or directly through the internet testifies to the failure of the different models of migrant integration in Europe. Furthermore, several media reports and popular wisdom have suggested that the behaviour of these youngsters reveals a failed integration process, leaving a second generation that feels foreign in its country of birth and quintessentially Muslim, extremist and illiberal despite all the so-called good efforts of the institutions of the receiving countries to incorporate them into society and in the labour market.

Second-generation Turkish youth in Germany and the Netherlands, Maghrebins in France and Bangladeshis and Pakistanis in Britain do less well than native and other migrant youth in terms of educational attainment and labour market integration. They often abandon school or professional training before completion and have higher than average rates of unemployment. While this does not necessarily indicate an inability to integrate – but, rather, points to important aspects of discrimination, what Heath and Cheung have aptly called the "ethnic penalty"[2] – this trend is often portrayed in the media as a "proof" of the failure of Muslims to adapt to Western liberal free market democracies.

My aim in this chapter is to argue that, while the weaknesses and tensions of integration policies exist and may have intensified since the start of the new century, the seeds of minority Muslim youth recruitment in Europe has more to do with today's global-local connections rather than with failed integration.

It goes beyond the scope of this work to discuss how these fighters

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[1] Kukil Bora, "ISIS Continues Steady Recruitment As 20,000 Foreign Fighters Join Extremist Groups In Syria, Iraq", in *International Business Times*, 11 February 2015, http://www.ibtimes.com/node/1812440.

[2] Anthony F. Heath and Sin Yi Cheung (eds.), *Unequal Chances. Ethnic Minorities in Western Labour Markets*, Oxford, Oxford University Press, 2007.

are recruited as foreign fighters and, in particular, as terrorists. I start with a critical survey of the integration policies of different European countries with large Muslim populations and discuss their tensions and weak spots. I then point to the increasing connectivity that characterises today's world and the ways in which such connectivity projects local tensions to global conflicts, preventing local actors from seeing their local or national solutions and also creating an overall negative climate fed by global terrorism which prevents a local focus that would be more beneficial to local problems.

2.1 EUROPEAN MUSLIMS

Muslims are the largest immigrant (non-indigenous) group in Europe, a fact that has raised important challenges for ethnic, cultural and religious diversity. European Muslims cannot of course be considered as a uniform group in any respect, as they come from different countries, live in different countries, speak different languages, adhere to different versions of Islam, are more or less moderate in their beliefs and claims.[3] Despite these multi-level differences within the Muslim communities of Europe, Muslims are often portrayed in the media and policy discourses as a single community, as a population that shares common traits and that can be dealt with by the same type of policies – or indeed that cannot be integrated into or assimilated by for the same type of reasons.[4]

Since the 1990s there has been a tendency across Europe to label immigrants in religious terms rather than in the light of their ethno-cultural background or social roles in society. This tendency, whereby Muslims in particular are seldom categorised as Turks, Moroccans or Pakistanis (or as students or workers), holds in several European countries, where debates over integration and toleration of differences invariably centre on Muslims, and where religion is often associated with po-

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[3] Anna Triandafyllidou (ed.), *Muslims in 21st Century Europe. Structural and Cultural Perspectives*, London and New York, Routledge, 2010.

[4] For a more detailed discussion of Muslims in Europe see Ibid., p. 1-27.

tential conflict. Public discussions tend to take place in an "us-them" framework: Islam is increasingly constructed in opposition to Western (British, Dutch, Swedish, Spanish, French, Italian and so on) values of democracy and equality.

The countries with the largest Muslim populations in Europe are France (estimated at 5 million), Germany (3.8-4.3 million), the UK (1.6 million), the Netherlands (1.1 million), Italy (1 million), Bulgaria (1 million), Spain (0.7 million), Greece (0.5 million) and Sweden (0.35 million).[5] These numbers are estimates based on data from the countries of origin and include both first- and second-generation migrants; there are no European official religious statistics. In Bulgaria Muslims are a native historical minority. The first Muslim communities settled in Bulgaria in the 14th century. Apart from Turks and Tatars, who are almost exclusively Muslim, numerous ethnic Bulgarians and Roma also belong to the Bulgarian Muslim community. Similarly, the estimated 85,000 Muslims who live in north-eastern Greece, in the region of western Thrace, are mainly of Turkish and Roma ethnicity. Most other Muslim populations in Europe are of immigrant origin. In the UK and France they are linked to pre-existing colonial ties and the decolonisation process in North Africa and Southeast Asia. In Germany, the Netherlands, Italy, Spain, Greece and Sweden, on the other hand, Muslims came as economic migrants without any previous special relationship between the country of origin and the country of destination.

In terms of nationality the vast majority of Germany's Muslims are Turks (or of Turkish origin). French Muslims are mainly of Moroccan, Algerian and Tunisian origin. British Muslims are South-East Asians for the most part, in particular Pakistanis and Bangladeshis. In the Netherlands the largest Muslim populations are Turkish and Moroccan. In Italy and Spain the vast majority of Muslim residents are of North African origin (Moroccans predominantly). In Greece, and also to some extent in Italy (in addition to the Moroccans), Muslims are mainly South-East Asians (Pakistanis, Bangladeshis, Afghanis and Somalis). In Sweden, Muslims are mainly asylum seekers from Somalia, Iran, Iraq and Bosnia.

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[5] Ibid., p. 13.

In Britain, France, the Netherlands and Germany Muslim immigrants began to arrive in the 1960s. After the 1970s and the 1973 oil crisis these countries put a stop to primary economic immigration; however, secondary (family reunification and family formation) migratory inflows have continued to this day. In Italy, Spain and Greece Muslim immigrants first arrived after 1989, when as these countries emerged as poles of attraction for economic migrants. Contrary to the cases of Britain, France, the Netherlands and Germany, where primary immigration took place largely legally and sometimes as part of bilateral agreements (for instance between Turkey and Germany), the newly arrived Muslims in southern Europe mostly came illegally. They managed, however, to regularise their status (like all other immigrants in these countries) and to settle down.

2.2 Tensions over Islam in different European countries

In France, where religion is seen as a private matter and where public space is thought of as secular, Muslims are constructed as "different" from other native French because of their religion and ethnicity, including even their physical features (darker skin). However, in a situation where religious belonging is seldom used as a basis for political mobilisation, it is more common to hear members of minorities who trace their ancestry to North Africa described as "*maghrebins*" rather than as "French Muslims." Islam in France is thus constructed as an ethnic marker that encompasses a religious dimension.[6] Muslims in France can be considered a "visible" minority and are discriminated against in employment, housing and social service, much as coloured people are. However, since ethnic statistics are a contentious issue in France,

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[6] Valérie Amiraux, "From Empire to Republic: the French Muslim Dilemma", in Anna Triandafyllidou (ed.), *Muslims in 21st Century Europe*, cit., p. 137-159, http://valerieamiraux.com/wp-content/uploads/2010/11/from-empire-to-republic-the-french-muslim-dilemma.pdf.

there are no official statistics that can appropriately document these phenomena.[7]

Muslims in France pose a specific challenge to the dominant concept of *laïcité*. Concretely, *laïcité* is the complete separation of church and state and represents an institutional arrangement that sets the conditions for the exercise of religion and the limits of religious forms of expression. This is a specific feature of the French case, although in most other European countries Muslims, and their claims, challenge the limits of the moderately secular democratic national and European institutions.

In Germany Muslims were previously generally referred to as Turks, that is, according to their nationality or ethnicity. It was only in the 1990s, and increasingly in the 2000s, that Turks became "Muslims" and that the public debate on immigrant integration centred on the notion of a common German "leading culture" (*Leitkultur*). Proposed by a conservative politician, Friedrich Merz, the idea of the German *Leitkultur* demanded that immigrants adapt to this leading culture if they want to stay in Germany for good. Thus, the socio-economic dimension of the problems of Turkish/Muslim migrant integration in German society was set aside, and integration challenges were increasingly seen as issues of culture and religion – especially after 9/11.

This culturalising of social problems (which attributed all contested issues such as arranged/forced marriages or homophobia to the religious beliefs and identity of the group) contributed to the stigmatisation of all Muslims in Germany, regardless of their personal beliefs, and to the politicisation of these issues.[8] Especially since the relaxation of the naturalisation provisions in Germany in 2000, there has been a simultaneous reactionary turn towards scrutinising whether Turkish citizens, even those established in Germany for decades, espouse the principal German values or constitute some kind of suspect and dangerous "oth-

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[7] Patrick Simon, "The Choice of Ignorance. The Debate on Ethnic and Racial Statistics in France", in *French Politics, Culture and Society*, Vol. 26, No. 1 (Spring 2008), p. 7-31.

[8] Ruth Mandel, *Cosmopolitan Anxieties. Turkish Challenges to Citizenship and Belonging in Germany*, Durham, Duke University Press, 2008; Gökçe Yurdakul, *From Guest Workers into Muslims. The Transformation of Turkish Immigrant Associations in Germany*, Newcastle upon Tyne, Cambridge Scholars Publishing, 2009.

er" in the midst of the German nation.[9] In this context, the term "tolerance" became particularly relevant, as Muslims were seen as asking for tolerance of their difference, while they were themselves supposedly intolerant of the German national majority and/or their own members who held dissenting views. In Germany there was a clear shift – from the 1990s when it was mainly right-wing extremists who were considered intolerant in society, to the post-2001 years when it is the Muslims who are the "intolerant" ones.

The public discourse in Germany, which also rages widely in Denmark and the Netherlands, ignores the fact that in Germany, for instance, Turks and people with a Turkish background are not the only Muslim groups – and many of them are not practising Muslims or not Muslims at all. The Muslim populations of European countries are ethnically diverse although the level of such ethnic diversity varies among countries. Thus in France, Britain, Germany, the Netherlands, Italy and Spain there are some ethnic groups that numerically predominate (Moroccans, Algerians and Tunisians in France, Pakistani and Bangladeshi in Britain, Turks in Germany, Turks and Moroccans in the Netherlands, Moroccans and Tunisians in Italy and Spain). Other European countries have Muslim communities that are highly diverse in terms of ethnic origin. For instance, Sweden has one of the most heterogeneous Muslim populations of all Western European countries. They have different ethnic, political, linguistic and/or educational backgrounds and come from over forty different countries in north and sub-Saharan Africa; from Arabic, Turkish or Persian parts of Asia, and from Europe. They come from secularised states such as Turkey, religious states such as Iran, and from former socialist states such as Bosnia-Herzegovina and several of the new states that formerly belonged to the Soviet Union. The same is true for Ireland, where Muslims come from Malaysia, Somalia, South Africa, Nigeria, Algeria, Libya, Bosnia and Pakistan. Greece has a moderately diverse Muslim population: while native Muslims are of Turkish, Roma

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[9] Werner Schiffauer, "Enemies Within the Gates: The Debate about the Citizenship of Muslims in Germany", in Tariq Modood, Anna Triandafyllidou, Ricard Zapata-Barrero (eds.), *Multiculturalism, Muslims and Citizenship. A European Approach*, London and New York, Routledge, 2005, p. 94-116.

and Pomak ethnicity, immigrant Muslims are of Pakistani, Bangladeshi, Afghan and Somali origin.

The definition of the "Muslim problem" as essentially one of a radical (fundamentalist) religion and a culture incompatible with Western values also obscures in Germany (but also in Denmark, Sweden, the Netherlands, the UK and France) the socio-economic dimension of Muslim marginalisation. The poor educational attainment of Turkish and Moroccan children in France, the Netherlands, Germany and Denmark, or of Bangladeshi and Pakistani children in Britain (documented in numerous studies) has a lot to do with their socio-economic background (profession and schooling of parents, socio-economic level, area of residence) but also with the discrimination that they face at schools and later in the labour market. Indeed, ambitious studies such as the well-known book by Anthony Heath and Sin Yi Cheung,[10] find it hard to explain why inequalities persist and which are the factors that matter most: socio-economic background, discrimination, unequal opportunities, religion, specific ethnic background, structure of the educational system, or indeed a variable combination of all these factors.

In Denmark, Germany, Britain, the Netherlands, Sweden and France, Muslims have been treated with increasing suspicion after the events of 9/11. Indeed, the rise of a fundamentalist international terrorism – in which only a handful of European Muslims were directly involved – has contributed to the stigmatisation of both Islam and Muslims. Social scientists have coined the terms "Islamophobia" and "Muslimophobia" to analyse these phenomena.[11] Islamophobia is the irrational fear of and prejudice against Islam as a faith and a culture without any discrimination between different Islamic religious currents. Muslimophobia is the irrational fear of and prejudice against Muslims as individuals, assuming that all people who are nominally Muslims experience their identity and faith in the same fanatical way that involves, among other things, the fu-

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[10] Anthony F. Heath and Sin Yi Cheung (eds.), *Unequal Chances*, cit.

[11] Burak Erdenir, "Islamophobia qua racial discrimination: Muslimophobia", in Anna Triandafyllidou (ed.), *Muslims in 21st Century Europe*, cit., p. 27-44, http://www.abgs. gov.tr/files/di%C4%9Fer%20faydal%C4%B1%20dok%C3%BCmanlar/islamophobia_qua _racial_discrimination.pdf.

sion of religious and political power, the subjugation of women to men, and certain other customs that are incompatible with dominant Western values such as forced and under-age marriages, homophobia and anti-semitism. This post-2001 discourse overlooks the fact that some of the issues seen as emblematic of Muslim incompatibility with European secular and liberal democracies, notably homophobia or anti-semitism, are persisting issues of tension among Christian and secular majorities in these countries.

Muslimophobia and Islamophobia were initially phenomena noted in countries with large Muslim immigrant populations, that is, former host countries. However, such prejudice and irrational fear also exists in the new host countries. The case of Greece's irregular migrant population that has arrived in the country since the late 2000s is an interesting case in point, which shows how a fundamentally socio-economic or humani-tarian problem can be framed as a question of culture and religion.[12] Greece has an increasing Muslim immigrant population, which was, however, largely invisible until 2009. The vast majority of Muslim immi-grants in Greece were in fact of Albanian origin and hence not practising Muslims, raising no claims for mosques, the wearing of headscarves or religious education. For Albanian Muslims, faith is largely a personal and private manner and has had little to do with their integration into Greek, predominantly Christian Orthodox, society.[13] The South-East Asian im-migrants who arrived in Greece from the mid-1990s were also mainly male workers who had left their families back home in Pakistan or Bangladesh. Hence there were no challenges of integration of Muslim children in schools, nor any women wearing the veil in public places.[14]

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[12] Anna Triandafyllidou and Hara Kouki, "Muslim Immigrants and the Greek Nation: The Emergence of Nationalist Intolerance", in *Ethnicities*, Vol. 13, No. 6 (December 2013), p. 709-728.

[13] Ifigenia Kokkali, "Being Albanian in Greece or Elsewhere. Negotiating the (Nation-al) Self in a Migration Context", in Fotini Tsibiridou & Nikitas Poulantzas (eds.), *Myths of the Other in the Balkans. Representations, Social Practices and Performances*, Thessalo-niki, Via Egnatia Foundation, 2013, p. 197-209, http://www.viaegnatiafoundation.eu/index.php/publications/myths-of-the-other.

[14] Daria Lazarescu and Francesca Broersma, "Νέες μεταναστευτικές διαδρομές: Πακιστανοί και Μπαγκλαντεσιανοί στην Ελλάδα" (New Migration Pathways: Pakistanis

Islam has, however, been instrumentalised, and with detrimental consequences, particularly by the far Right but also by conservative parties, as part of the irregular migration crisis.[15]

2.3 DISTINGUISHING BETWEEN PROBLEMS OF INTEGRATION AND JIHADIST TERRORISM

As argued above, Muslim populations in Europe face important socio-economic and cultural integration challenges. However, these should not be conceived as a generalised malaise that translates into widespread radicalisation. First, radicalisation has specific features that do not concern all migrant youths who faces identity or employment challenges. Second, linking global geopolitical and largely symbolic issues with real-life problems of social acceptance, respect and discrimination in the labour market, is counterproductive for understanding and addressing these issues.

The problem with the fight against radicalisation and jihadist terrorism is twofold. On the one hand, we risk throwing out the baby with the bathwater: by concentrating on the handful of those who find an existential escape through espousing a particular understanding of Islam proposed by ISIS and its followers we risk suspecting, excluding, securitising the integration challenges that a vast number of Muslim youth faces in different European countries, challenges that have little to do with the religion itself and certainly even less to do with these youngsters' and their parents' countries of origin. On the other hand, of course we need to better understand the process of radicalisation that leads to extremist violence.

Emerson has distinguished between three forms of radicalisation

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and Bangladeshis in Greece", in Anna Triandafyllidou and Thanos Maroukis (eds.), *Η μετανάστευση στη Ελλάδα του 21ου αιώνα* (Migration in 21st Century Greece), Athens, Kritiki, 2010, p. 381-440.

[15] Anna Triandafyllidou and Hara Kouki, "Naturalizing Racism in the Center of Athens in May 2011: Lessons from Greece", in *Journal of Immigrant and Refugee Studies*, Vol. 12, No. 4 (2014), p. 418-436.

emerging in Europe in the post 9/11 context:[16] the first is of political-religious inspiration; its jihadist views are based on varied interpretations of Islamic texts that are presumed to call for a global violent jihad aiming to overthrow secular or at least non-Islamic regimes. A second type of radicalisation is predominantly religious but not political, inspired by theology and often acting as the breeding ground for the more radicalised violent trends outlined in the first type. This form of religious radicalisation may also involve more intimate forms of violence that relate to the family sphere, such as honour killings or the practice of female genital mutilation. A third type of radicalisation of both attitudes and behaviour is more closely linked to urban problems and socio-economic grievances faced by second-generation youth. Islam provides for a uniting umbrella for different ethnic groups. While grievances may concern poor housing, widespread unemployment and school failure, they may break out to take the form of violent unrest and political radicalisation verging towards the first or second types outlined above.

An important challenge in the fight against radicalisation is that we risk confusing global geopolitical challenges with local integration tensions. One of the lessons that have been learnt after 9/11 is that sometimes political discourses and policy measures overlap with one another, even if there is hardly any relationship between the two. Thus in the early 2000s the post 9/11 shock led to harsher controls over irregular migration and an overall securitisation of labour migration management while the perpetrators of international terrorist acts were not to be found among the poor and relatively low-skilled irregular migrant workers trying to enter Europe or North America. Indeed, the terrorists involved in the 9/11 events and in the Al Qaeda networks in Germany, Britain, Italy and other European countries were to be found among the well-educated and highly skilled migrants (and second-generation populations) that in both Europe and North America were competing to attract recruits at the time.[17]

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[16] Michael Emerson (ed.), *Ethno-religious Conflict in Europe. Typologies of Radicalisation in Europe's Muslim Communities*, Brussels, Centre for European Policy Studies (CEPS), 2009, p. 3-4, http://www.ceps.eu/node/1622.

[17] See also Bill Jordan, Bo Stråth and Anna Triandafyllidou, "Contextualising Immi-

Just like the 9/11 the terrorists were not to be found among the irregular migrants fleeing their countries in search of a better future, today's foreign fighters and extremists are not to be found among the vast majority of practising young Muslims who face school failure or unemployment or overall discrimination and prejudice in their European homelands. The motivations and social mechanisms through which these young people become foreign fighters in Syria or get involved in international terrorism conspiracies have more to do with a post-modern youth malaise that finds its expression through religious terrorism.

Olivier Roy has been theorising on the potential of Islamic terrorism for over a decade[18] but he has also written extensively in response to the *Charlie Hebdo* events:

> the radicalized young people are in no way the vanguard or the spokesmen of the Muslim population, and in particular, that there is no "Muslim community" in France. Radicalized young people, who rely heavily on an imagined Muslim politics (the *Ummah* of earlier times) are deliberately at odds with the Islam of their parents, as well as Muslim culture overall. They invent an Islam which opposes itself to the West. They come from the periphery of the Muslim word. They are moved to action by the displays of violence in the media of Western culture. They embody a generational rupture (parents now call the police when their children leave for Syria), and they are not involved with the local religious community and the neighbourhood mosques. These young people practice self-radicalization on the Internet, searching for a global jihad. They are not interested in the tangible concerns of the Muslim world, such as Palestine. In short, they are not seeking the Islamization of the society in which they live but the realization of their sick fantasy of heroism ("We have avenged the Prophet Muhammad," claimed some of the killers at *Charlie Hebdo*).[19]

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gration Policy Implementation in Europe", in *Journal of Ethnic and Migration Studies*, Vol. 29, No. 2 (March 2003), p. 195-224.

[18] Olivier Roy, "EuroIslam. The Jihad within?", in *The National Interest*, No. 71 (Spring 2003), p. 63-73.

[19] Olivier Roy, "There Are More French Muslims Working for French Security Than

Roy points to a very interesting and relatively new phenomenon: the intertwining of local challenges of socio-economic integration with global geopolitical issues, which actually appears to be an offspring of the urban violent radicalisation that Emerson and co-authors observed in 2009.[20] This new tendency, however, is now exacerbated and taken to new heights. There seems to be a tension between an increasingly interconnected world (through information technologies and cheap transport) and locally/nationally rooted integration processes. Local socio-economic grievances and the marginalisation of second-generation migrant youth thus are projected as localised expressions of global discourses of the "clash of civilisations" type. Marginalised youth is drawn into jihadist terrorism or far right-wing extremism and racism as local tensions or inequalities are interpreted with a global inequality lens. The role of information and communication technology is also important here, as it allows for a global "performance" of young people's unease, disillusionment and radical, indeed terrorist, choices.[21] Facebook announcements of becoming a jihadist fighter (or fighter's wife), a level of public performativity and a new type of "the whole world is watching" (to paraphrase Todd Gitlin[22]) is at play here and becomes a catalyst for our way of thinking of local tensions and national policies.

Historical analysis would be of great use here too: to what extent are such lone idealist fighters similar to the Philhellenes of the Lord Byron and Garibaldi type national independence fighters of the 19th century? Is their readiness to die for an ideal, spiritual cause radically different from the Western left-wing terrorists of the 1970s such as the *Baader Meinhof* in Germany or the *Brigate Rosse* in Italy? We are in dire need of more detailed analysis of their recruitment processes and pathways for

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for Al Qaeda", in *The World Post*, 1 September 2015, http://huff.to/1xNyl7b.

[20] See Michael Emerson (ed.), *Ethno-religious Conflict in Europe*, cit.

[21] Olivier Roy, "Al-Qaeda in the West as a Youth Movement: The Power of a Narrative", in Michael Emerson (ed.), *Ethno-religious Conflict in Europe*, cit., p. 11-26; Olivier Roy, "There Are More French Muslims Working for French Security Than for Al Qaeda", cit.

[22] Todd Gitlin, *The Whole World is Watching. Mass Media in the Making and Unmaking of the New Left*, 2nd edn, Berkeley, University of California Press, 2003.

converting a disenchanted unemployed young person into a jihadist fighter. Donatella Della Porta's work on the Red Brigades[23] is illuminating with regard to left-wing terrorism: can it help us also to understand today's resurgence of this time international political terrorism?

Today, geopolitics have taken up stronger religious and cultural connotations (such as those of the "War on Terror" or the overall Islamophobia discourses erupting in different places in Europe) than ever before. Indeed, in the mid-1980s the Rushdie affair in Britain caused both internal and international upheaval and led to Ayatollah Khomeini issued a fatwa against the writer because of his blasphemous novel, *Satanic Verses*. However the connection at that time between global geopolitics and domestic politics around Muslim integration was much more tenuous, and therefore seen as exceptional, than the level it has achieved in the post 9/11 period where it has been seen as dominant in the overall debate about Muslim integration. Addressing these challenges today requires acknowledging this reciprocal projection of the local and the global which appear to feed on one another, usually with detrimental results for tolerance and respect.

CONCLUSIONS

European public opinion and political leaders, squeezed by a chain of problems – notably a fragile recovery from a six-year financial and economic crisis, an imploding Middle East and political unrest and instability across several Arab countries, important pressures of labour migration from Asia and Africa, and the persistent challenge of the socio-cultural integration of migrants and minorities – are tempted to put all eggs into one basket and fit the different challenges into a one-size-fits-all explanation based on a presumed "clash of civilisations" (to use Huntington's (in)famous term). Yet the threat takes on different forms: it is

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[23] Donatella Della Porta, "Recruitment Processes in Clandestine Political Organizations: Italian Left-Wing Terrorism", in *International Social Movement Research*, Vol. 1 (1988), p. 155-189, http://isites.harvard.edu/fs/docs/icb.topic1458086.files/Porta_recruitment.pdf.

a cultural invasion from within, a terrorist network creeping into society, a geopolitical invasion from outside as announced by ISIS with its terrorist attacks in Tunisia or Egypt. In short, the different types of migrant communities or population flows are conflated to create one common perception and profile of threat and danger.

A local and informed focus on local and national problems and tensions of integration would be far more beneficial for addressing the poor educational attainment or labour market insertion of Muslim or other immigrant youth in many European countries, while security and terrorism challenges should remain within the realm of international affairs, rather than being conflated and projected into some sort of "evil" Muslim or "enemy within." Already 15 years after 9/11 we should not conflate current issues with entirely different problems.

Several stakeholders can play a positive role in helping to disentangle jihadist terrorism and security issues from socio-economic integration and cultural acceptance challenges:

- The media have an important role to play in leading a debate that is informed by serious analysis of the jihadist terrorism phenomenon as one of recruitment of marginalised youth to terrorism rather than as one linked to Muslim communities' (failed) integration into European societies.

- Likewise the media need to discuss the root causes of Muslim socio-economic inclusion by giving voice to all parties involved – recent research (see the MEDIVA project[24]) has shown that migrants' and ethnic minorities' voices are often unheard, not even on issues of their direct concern.

- Policy makers, particularly at the local level, need to listen carefully to the challenges that marginalised youth face in local communities: research has shown that policy makers tend to underestimate the challenges faced by Muslim populations, particularly after 9/11, in terms of being treated as the "enemy within."[25]

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[24] For more information see http://www.eui.eu/Projects/MEDIVA.

[25] Jocelyne Cesari, "The Securitisation of Islam in Europe", in *CEPS Challenge Papers*, No. 15 (April 2009), http://aei.pitt.edu/10763.

- Educators, social workers and employment officers need to work more closely with migrant and minority youth to prevent radicalisation and terrorism becoming the only seemingly successful way out of a personal socio-economic and identity impasse.

3.

Turkey's Evolving Migration Policies: A Mediterranean Transit Stop at the Doors of the EU

Ahmet İçduygu

As a well-documented fact, every year thousands of men, women and children take their chances travelling irregularly on fishing boats, dinghies and canoes across the Mediterranean in a desperate attempt to reach Europe. They cross from West Africa to the Spanish Canary Islands, from Morocco to southern Spain, from Libya to Malta and the Italian islands of Sicily and Lampedusa, and from Turkey to Greece and Bulgaria.[1] People entering the EU irregularly, without passports or visas, do so for a variety of reasons. In some cases, they are fleeing persecution, human rights violations and armed conflict and can, therefore, be considered as refugees who need special protection. More often, they are migrants trying to escape poverty and unemployment. Turkey over the past three decades has played a crucial role as a stepping-stone, emerging as a transit country (or transit zone) for irregular migrants seeking to reach Europe, their final destination. 2015 started off no differently. On 19 January, the Turkish Coast Guard intercepted a merchant ship carrying 333 migrants – the majority of whom were later identified as Syrian refugees – travelling from the Turkish seaport of Mersin en route to Greece.[2] In fact, in 2014 alone, the Turkish Cost Guards intercepted

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[1] Michael Collyer, Franck Düvell and Hein de Haas, "Critical Approaches to Transit Migration", in *Population, Space and Place*, Vol. 18, No. 4 (July/August 2012), p. 407-415.

[2] "333 immigrants captured en route from Turkey to Italy", in *Hurriyet Daily News*, 19 January 2015, http://www.hurriyetdailynews.com/Default.aspx?pageID=238&nID=77134&NewsCatID=341.

some 12,872 migrants in the Aegean Sea.[3] A more disturbing figure is the recent capsizing in late 2014 of a smuggler's boat carrying Afghan migrants off the northern coast of Istanbul, which was attempting to sail to the Romanian coast only to sink minutes after departure, leaving 25 dead.[4]

The Mediterranean as a geopolitical region can, in many essential respects, be defined by successive migrations.[5] With Turkey's geographical proximity to conflict-ridden states on one side (mainly Syria, Iraq and Afghanistan) and the gates of Europe to the other (through Greece and Bulgaria), Turkish migration policy in this "Mediterranean geopolitical region" deserves special attention. Although the country's migration landscape can be characterised by flows of regular migrants, irregular labour migrants, and asylum seekers and refugees patterns, it is the objective of this chapter to highlight the emergence of Turkey as a "transit country" over the last two decades and the corresponding evolution of its migration policy with a special focus on EU-Turkish relations. Existing statistics on irregular migrants confirms Turkey's transition from a country of emigration to immigration, and increasingly, as a transit country. What is also noteworthy is that over the past two decades Turkey's migration policies and practices have undergone a fascinating process of Europeanisation, an evolution that that goes hand in hand with not only the prominence of Turkey's transit role but also with the rising attention it garners in the context of Turkey-EU migratory system. It is within this dual context of EU-Turkish accession talks and existing realities of mixed migration movements across the Mediterranean that Turkey has taken steps to completely overhaul its migration and asylum policy, most notably by passing the Law on Foreigners and International Protection through parliament in 2013.

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[3] "Turkey captures over 12,000 migrants on Aegean Sea in 2014", in *Hurriyet Daily News*, 1 January 2015, http://www.hurriyetdailynews.com/Default.aspx?pageID=238&nID=76371&NewsCatID=341.

[4] Thomas Seibert, "Turkish boat disaster reveals new route for migrants", in *Al-Monitor*, 6 November 2014, http://almon.co/29kc.

[5] Michael Collyer, "Migrants, Migration and the Security Paradigm: Constraints and Opportunities", in *Mediterranean Politics*, Vol. 11, No. 2 (July 2006), p. 255-270.

3.1 The evolution of Turkey as a transit country

Although a common misconception still persists, particularly in Europe, that Turkey is primarily a country of emigration (or migrant-sending country) and a source country for asylum seekers, the reality is that it has morphed into a country of immigration, and more prominently as a transit country, as a result of intense migratory movements over the last two decades.[6] The fallacy that Turkey is solely a country of emigration has been perpetuated by memories of mass labour emigration of Turkish nationals to Western Europe in the 1960s and 1970s in the context of bilateral labour recruitment agreements in the post-Second World War era. However, what is less well known is that from the 1980s Turkey has also witnessed flows of migrants into Turkey from diverse backgrounds. For instance, it is estimated that between 1980 and 2010 more than half a million transit *irregular migrants* were apprehended in the country – primarily from Middle Eastern, Asian and African countries – as they tried to make their way to Europe.[7] This was in part due to political issues and security concerns arising in neighbouring countries such as the Soviet invasion of Afghanistan, regime change in Iran in the late 1970s, the legal turmoil and wars in the Middle East caused by Saddam Hussein's regime in Iraq in the late 1980s and early 1990s, the fall of communist regimes in Eastern Europe and the Soviet Union in the late 1980s and early 1990s,[8] and most recently the Syrian crisis which

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[6] Ahmet İçduygu, "Irregular Migration in Turkey", in *IOM Migration Research Series*, No. 12 (February 2003), http://publications.iom.int/bookstore/index.php?main_page= product_info&products_id=1307; Ahmet İçduygu, "A Panorama of the International Migration Regime in Turkey", in *Revue européenne des migrations internationales*, Vol. 22, No. 3 (2006), p. 11-21, http://remi.revues.org/3221; Ahmet İçduygu and Kemal Kirişçi (eds.), *Land of Diverse Migrations. Challenges of Emigration and Immigration in Turkey*, Istanbul, Bilgi University Press, 2009.

[7] Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey: Reality and Re-presentation in the Creation of a Migratory Phenomenon", in *Population, Space and Place*, Vol. 18, No. 4 (July/August 2012), p. 441-456.

[8] Ahmet İçduygu, "The Irregular Migration Corridor between the EU and Turkey: Is it Possible to Block it with a Readmission Agreement?", in *EU-US Immigration Systems*, No.

has seen nearly 2 million refugees enter Turkey. In addition to the increasing intensity of the globalisation process that has led to mobility, the economic collapse in the country of origin (e.g. the poorer republics of the Commonwealth of Independent States) and the close cultural affinity with Turkey (as in the case of Turkish-speaking or Muslim groups) are also important factors behind the migrants' choice of Turkey.[9] Taking into consideration the different characteristics of migratory patterns into Turkey, it is clear that the notion of Turkey being primarily a country of emigration is not only outdated but also inaccurate. As a result, these mixed migratory flows have created a complex migration system involving irregular migrants, transit migrants, asylum seekers, refugees and regular migrants.

However, amidst these multi-faceted migratory flows, Turkey's role as a "transit country" for irregular migrants seeking to reach Europe is not only expanding in terms of volume but is also becoming a highly politicised issue.[10] These irregular transit migration flows predominantly occur in instances where migrants are not able to conform to prescribed, or "legal," orderly border-crossing channels in their attempt to reach their final destination; instead they choose a disorderly and step-by-step movement through various countries.[11] It should be noted that although a commonly used, the term "transit migration" is manifestly political in origin and fundamentally Eurocentric,[12] and whilst the exact

2011/14 (2011), http://hdl.handle.net/1814/17844.

[9] Ahmet İçduygu and Kemal Kirişçi (eds.), *Land of Diverse Migrations*, cit.; Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey", cit.

[10] Ahmet İçduygu, "Transit migrants and Turkey", in *Boğaziçi Journal*, Vol. 10, No. 1-2 (1995), p. 127-142, http://home.ku.edu.tr/~aicduygu/article%2025.pdf; Ahmet İçduygu, "Irregular Migration in Turkey", cit.; Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey", cit.

[11] Ahmet İçduygu, "The Politics of International Migratory Regimes: Transit Migration Flows in Turkey", in *International Social Science Journal*, Vol. 52, No. 165, (September 2000), p. 357-367.

[12] Franck Düvell, "Crossing the fringes of Europe: Transit migration in the EU's neighbourhood", in *COMPAS Working Papers*, No. 33 (2006), https://www.compas.ox.ac.uk/publications/working-papers/wp-06-33; Franck Düvell, "Studying migration from, to and through Turkey: The context", in Franck Düvell (ed.), *First TurkMiS Report*, 2011, p. 2-9, https://www.compas.ox.ac.uk/fileadmin/files/People/staff_publications/Duvell/

definition is contested, scholars point to the unjust association with illegality and criminal networks. This is in part due to the common classification of countries as "transit zones" simply because they are situated at the periphery of the EU, the importance placed on migration policies in the context of EU accession talks, and the perpetuation of this perception by evocative images of transit migrants crammed in a boat or scaling a fence in an attempt to circumvent heavily patrolled borders.[13] This observation by no means entails discarding empirical and analytical frameworks such as the category of "transit migrants." It only means that we should be mindful of the socially constructed reality of transit countries and the politically charged nature of the issue.

In order to identify the trends and volume of transit migrants crossing through Turkey it is essential to analyse irregular migration statistics in their totality. Of course, it is a formidable task to obtain reliable and adequate data on irregular migration as the absence of reliable data is inextricably related to the challenges and difficulties of conducting research on irregular migration, not only in Turkey but also across the world. In reality therefore, all irregular migration research begins with a handicap of trying to shed light on a group of people who operate – at times quite literally – in the dark. Nevertheless, there are some indicative estimates available by evaluating figures on persons apprehended by Turkish security authorities on charges of irregular migration. Whilst these figures do not in any way represent the full picture, they do highlight the potential for irregular flows and present a useful tool as a proxy measure of irregular migration, and one that is widely used as a recognised method for academics and practitioners in the field of irregular migration research.[14]

Using the apprehension figures, we see that irregular migration has substantially accelerated from the mid-1990s to the early 2000s. Of course, it is likely that this increase is partly due to the increase in number of migrants but also as a result of improvements in law enforcement.

TurkMiS_1_report_1_2011%20EDITED%202.pdf.

[13] Michael Collyer and Hein de Haas, "Developing Dynamic Categorisations of Transit Migration", in *Population, Space and Place*, Vol. 18, No. 4 (July/August 2012), p. 468-481.

[14] Ahmet İçduygu, "The Irregular Migration Corridor between the EU and Turkey", cit.

Whereas in 1995, just over 11,000 irregular migrants were apprehended, this figure reached 47,000 in 1999 and over 94,000 in 2001.[15] From 2001 onwards a declining trend was observed, dropping to 50,000 in 2006 before rising to 66,000 in 2008 and once again declining between 2009 and 2010 to 33,000 before a slight increase to 40,000 in 2013. On average over 56,232 irregular migrants were annually apprehended between 2001 and 2013, totalling approximately 731,024 apprehended irregular migrants during these years.[16] However, if we consider that these figures represent only apprehended migrants, it is likely that the scale of irregular migration into and through Turkey is in fact much higher.

It is widely known that there are three main groups of people among the migrants who have been apprehended: irregulars who intend to use Turkey as a transit country to migrate to the West, particularly Europe; those who opt to live and work in the country without any valid documentation; and rejected asylum seekers who are formally required to the leave the country but who do not do so. Whilst the apprehension statistics do not differentiate between the three types of irregular migrant, it is possible to create an informed assumption on the volume of transit migration by analysing the country of origin. Considering the countries of origin of irregular migrants (mainly Iraq, Pakistan, Afghanistan, Iran and Bangladesh), it has been argued that migrants apprehended on the eastern and southern borders of Turkey intended to use Turkey as a bridge to reach their destination countries in the West and North, and therefore, are probably transit migrants. Of course, not all these migrants have the intention of using Turkey as a transit zone; however, it would not be overtly misleading to assume they are – as scholars and previous published articles have done – potential transit migrants. Following the same time-frame provided above, with the exception of 2013 because no reliable data is available which differentiates transit migrants from the rest, it is estimated that from 2001 to 2012, of the 691,136 apprehended irregular migrants approximately 56 percent, or

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[15] Ibid.

[16] Ahmet İçduygu, *International Migration and Turkey, 2013-2014*, OECD SOPEMI Country Report for Turkey, Istanbul, MiReKoc, Koç University, 2014.

384,138 were considered to be potential transit migrants, implying that, annually, Turkey has apprehended 32,011 transit-assumed migrants.[17]

In another attempt to highlight the transit nature of Turkey's migratory patterns, it is useful to analyse the location of apprehension. Apprehension statistics indicate that nearly four-fifths of irregular migrants were caught on the borders of Greece and Bulgaria, while the remaining one-fifth were apprehended on the eastern borders of Turkey while they were entering. The fact that the majority of irregular migrants were apprehended at the borders of Greece and Bulgaria confirm the notion that these irregular migrants were on their way out of thus were using Turkey as a transit stop.[18]

Another important question that has been alluded to in this chapter and which further complicates the identification of transit migrants is the issue of asylum seekers and refugees. Although Turkey is party to the 1951 Geneva Convention Relating to the Status of Refugees and its associated 1967 Protocol, it still maintains the geographical limitation clause which only allows it to consider asylum applications of persons from European countries. Therefore, Turkey's insistence on maintaining the limitation clause not only makes the asylum regime inconvenient for asylum seekers, but also continues to draw serious criticism from the international community. Nevertheless, in practice this limitation is only partially implemented as Turkey allows the United Nations High Commissioner for Refugees (UNHCR) to operate and conduct refugee status determination procedures whereby refugee status is jointly granted by the UNHCR and the Ministry of Interior with the underlying condition that accepted refugees do not locally integrate but instead resettle in a third country. Considering its geographical proximity to conflict-ridden states, Turkey's geographical limitation disqualifies a vast number of asylum seekers and refugees seeking permanent protection from the Turkish state. Although not a substantial number, according to the UNHCR, more than 100,000 asylum applications – the majority originating from Iran (45 percent) and Iraq (41 percent) – were received, of which over 46,000 were granted

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17 Ibid.

18 Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey", cit.

refugee status and resettled to a third country, mainly the US and Canada. In a sense, people who have been granted refugee status and have resettled in a third country essentially entered Turkey illegally but eventually left legally, constituting a sort of "legalised" transit. This asylum procedure essentially makes Turkey a *de facto* transit country for all non-European asylum seekers who have been granted refugee status and have been resettled, or are currently waiting to be resettled.[19]

Although asylum seekers claim to have a legitimate fear of persecution back in their country of origin, it is also accurate to say, based on empirical evidence, that the movements of asylum seekers and transit migrants are often intermingled and blurred. For example, asylum seekers who have been rejected refugee status remain in Turkey until they can attempt to illegally cross into the EU, primarily through Greek borders. In essence, when a rejection notification is received, an asylum seeker turns into a transit migrant. Moreover, the blurred boundaries between the asylum system and transit migration is partly related to the increasing securitisation of migration regimes in Europe.[20] As highlighted in an earlier survey for example, Somali and Mauritanian migrants claimed that they had paid human smugglers to illegally enter Europe from North Africa by boat but were unintentionally left on the Turkish coast. They had not therefore intended to come to Turkey nor apply for asylum; in reality, they became involuntary transit migrants.[21] In contrast, some transit migrants who intended to use Turkey as a stepping stone to enter Europe, applied for asylum and decided to stay on in Turkey.[22]

[19] Ahmet İçduygu, *Europe, Turkey, and International Migration: An Uneasy Negotiation*, Paper presented at the EUI Migration Working Group, 26 January 2011, http://www.eui.eu/Documents/RSCAS/Research/MWG/201011/01-26-Icduygu.pdf.

[20] Martin Baldwin-Edwards, "Between a Rock & a Hard Place: North Africa as a Region of Emigration, Immigration and Transit Migration", in *Review of African Political Economy*, Vol. 33, No. 108 (2006), p. 311-324.

[21] Kelly T. Brewer and Deniz Yükseker, "A Survey of African Migrants and Asylum Seekers in Istanbul", in Ahmet İçduygu and Kemal Kirişçi, (eds.), *Land of Diverse Migrations. Challenges of Emigration and Immigration in Turkey*, Istanbul, Bilgi University Press, 2009, p. 637-724.

[22] A. Didem Danış, Cherie Taraghi and Jean-François Pérouse, "Integration in Limbo. Iraqi, Afghan, Maghrebi and Iranian Migrants in Istanbul", in Ahmet İçduygu and Kemal Kirişçi, (eds.), *Land of Diverse Migrations. Challenges of Emigration and Immigration in*

Due to Turkey's geographical limitation clause, the Syrian refugees in Turkey – who now total almost 1.7 million people – are not able to register as refugees with the Turkish government, and due to the enormity of the caseload they are not being registered and granted the option to go through a Refugee Status Determination (RSD) process with the UNHCR. Instead, Turkey has granted all Syrian refugees "temporary protection," which was formalised with the introduction of the newly accepted Law on Foreigners and International Protection. Whilst the Turkish state offers Syrians full basic services in the camps, there are limited services for those who choose to stay in urban areas. On the other hand, all Syrians are able to access healthcare across the country and new regulations, which are still not in effect, will allow Syrians the right to work in specified market sectors identified by government according to market demands. There is therefore a rising trend of Syrians who are braving the difficult journey over land and sea (through the Marmara and Black Sea region) in the hope of reaching Europe to claim asylum and a permanent solution. As of 2014, 150,000 Syrians have claimed asylum in the EU, the overwhelming majority in Germany (66,845) and Sweden (57,390), with Sweden also guaranteeing permanent residency for all Syrian asylum seekers.[23] With Syrian refugees finding it difficult to sustain a living in a "temporary" situation in Turkey – which is already stretched to its limits – more Syrians might be enticed to brave the journey to the EU by any means necessary in search of security and relatively generous refugee support services.

Within this backdrop of myriad migration movements and ongoing conflicts in Turkey's neighbouring countries, Turkey as a transit country in the Mediterranean region and on the periphery of EU has revealed that the issue of migration control and management is a highly politicised issue, especially with regard to EU-Turkish relations. Whilst it has played a prominent role in accession talks with the EU, the politicisation of migration management has also led Turkey to take substantial steps in reforming its own migration policies as will be discussed in the next section.

Turkey, Istanbul, Bilgi University Press, 2009, p. 443-636.

[23] For the latest statistics of Syrian refugees in the EU, see http://syrianrefugees.eu.

3.2 Turkey-EU relations: the evolution of Turkey's migration policies

Turkey's relationship with the EU is not by any means a new phenomenon but can be traced back to 1963 when Turkey became an associate member of the European Economic Community with the signing of the Ankara Agreement. It is precisely this inter-linked process of EU-Turkey relations since the early 1960s and the dynamics and changing mechanisms of the international migration system between Turkey and EU states since the 1990s that represents a turning point in the transformation and evolution of Turkey's migration policies. In stark contrast to the 1963 agreement where the gradual realisation of the free movement of workers among the parties was foreseen and regarded as extremely positive,[24] when accession negotiations between Turkey and the EU were finally launched on October 2005, the negotiating framework approached the free movement of people in a negative light, partly due to grave concerns about migration.[25]

Against the backdrop of the dual migration reality – Turkey's role in the international migration system as a country of emigration and more recently as a country of immigration and transit – it is not surprising that migration has shot to the forefront of issues regarding EU-Turkey relations in the context of accession talks. In fact, Turkey's role in the European migration system is repeatedly highlighted, most notably for the first time in what scholars refer to as the cornerstone official document governing EU-Turkey relations dated 6 October 2004 and entitled *Recommendation on Turkey's Progress towards Accession*:

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[24] Article 12 of the *Agreement establishing an Association between the European Economic Community and Turkey*, signed at Ankara, 12 September 1963, http://ec.europa.eu/enlargement/pdf/turkey/association_agreement_1964_en.pdf.

[25] Ahmet İçduygu and Ayşen Üstübici, "Negotiating Mobility, Debating Borders: Migration Diplomacy in Turkey-EU Relations", in Helen Schwenken and Sabine Russ-Sattar (eds.), *New Border and Citizenship Politics*, Basingstoke, Palgrave Macmillan, 2014, p. 44-59.

(1) With over three million, Turks constitute by far the largest group of third-country nationals legally residing in today's EU. Available studies give varying estimates of expected additional migration following Turkey's accession. Long transition periods and a permanent safeguard clause can be considered to avoid serious disturbances on the EU labour market. However, the population dynamics of Turkey could make a contribution to offsetting the ageing of EU societies. In this context, the EU also has a strong interest in that reforms and investments should be made in education and training in Turkey over the next decade. (2) The management of the EU's long new external borders would constitute an important policy challenge and require significant investment. Managing migration and asylum as well as fighting organised crime, terrorism, trafficking of human beings, drugs and arms smuggling would all be facilitated through closer cooperation both before and after accession.[26]

However as previously mentioned, Turkey's current status as a "migration transition country," that is, the transformation from a country of emigration to immigration, along with Turkey's efforts to become a member of the European Union are creating pressures for an overhaul of immigration and asylum policies and practices domestically.[27] Although the issue of Turkish emigration to Europe may implicitly become part of EU-Turkey relations, such as during negotiations on the management of visa regimes, Turkey's role as transit country feature much more prominently in the current backdrop of official talks, even though as we have seen, Turkey's position as a transit route is partly politically constructed in the wake of EU expansion.[28] Nonetheless, the difficulty of patrolling its rugged land borders with Iran, Iraq and Syria, its relatively lax migration regime coupled with the history of illegal border crossings both in the east and southeast of the country, all make Turkey a prime

[26] European Commission, *Recommendation on Turkey's progress towards accession* (COM/2004/656), 6 October 2004, p. 5, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52004DC0656.

[27] Ahmet İçduygu and Ayşen Üstübici, "Negotiating Mobility, Debating Borders", cit.

[28] Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey", cit.

location for transit *en route* to the well-protected borders of the EU[29] and all the more subject to the EU's pessimistic view of its capacity to manage migratory flows.[30]

Thus, Turkey, in an attempt to meet pre-accession requirements, has begun to significantly harmonise its migration and asylum related legislation in areas identified in the EU accession partnership document.[31] In fact, even before the 2004 document was issued, in late 2002 Turkey adopted new legislation that criminalised the act of trafficking, followed by the 2003 law entitled *Work Permits for Foreigners*,[32] and during the same year a new legislative arrangement in the citizenship law, which have implications for combating irregular migration and protecting immigrant rights. However, the first significant step after the EU-Turkish accession talks began came in the form of the *Action Plan on Asylum and Migration* adopted by Turkey in March 2005 which laid out all the necessary tasks and timetable for the development of a fully-fledged migration and asylum management system.[33]

After the 2005 Action Plan was drafted, necessary steps to implement the indicated tasks came at a snail's pace. This was partly due to the uncertainty of Turkey's membership that discouraged officials from making concrete changes. This stemmed from a deep-seated fear that if Turkey is rejected from the EU but nevertheless has harmonised its legislations and policies with the EU, Turkey will be become a "buffer zone," or to put it more bluntly, a "dumping ground" for illegal migrants apprehended on EU territories.[34] Despite the mistrust, Turkey, however

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[29] Ahmet İçduygu, "Irregular Migration in Turkey", cit.

[30] Ahmet İçduygu, *Europe, Turkey, and International Migration*, cit.

[31] Kemal Kirişçi, "Border Management and EU-Turkish Relations: Convergence or Deadlock", in *CARIM Research Reports*, No. 2007/03 (2007), http://hdl.handle.net/1814/7988.

[32] Law No. 4817 of 27 February 2003 (Official Gazette No. 25040 of 6 March 2003), http://www.csgb.gov.tr/csgbPortal/ShowDoc/WLP+Repository/yabancilar/dokumanlar/ing_4817.

[33] Turkish National Action Plan for the Adoption of the 'EU acquis' in the Field of Asylum and Migration, available in the CARIM website: http://www.carim.org/index.php?callContent=401&callText=537.

[34] Ahmet İçduygu, *Europe, Turkey, and International Migration*, cit., p. 5.

slowly, has taken on board the policy recommendations in the area of immigration by firstly drafting a *Law on Aliens* and a *Law on Asylum* that led to the recent *Law on Foreigners and International Protection*, enacted in April 2013.[35] The new law has introduced a new legal and institutional framework for a migration and asylum management system with enhanced police and judicial cooperation in line with EU standards.[36] This law indicates that with or without EU membership prospects, Turkish officials have acknowledged the need for a new migration and asylum law.[37]

Despite these developments, a number of other inter-related fields tackled by the EU and Turkey are proving harder to overcome. These challenges can be summed up by four points, the first of which relates to Turkey's role as a transit country and the challenges of stemming irregular migrant flows into the EU, mainly from Turkey to Greece. A notable example where EU-Turkish relations were at odds with each other was with the construction of a fence along the River Evros to curb irregular crossings at the Turkish-Greek border. Albeit a highly questionable and unethical measure to curb irregular migration, the fence did little to deter migrants and instead acted as a source of dispute between the EU and Turkey, with both sides blaming each other. The EU accuses Turkey of having lax border controls and being unwilling to curb irregular migrants whilst Turkey highlights the insufficient resources and lack of cooperation from the EU.[38] Meanwhile, triggered by the Syrian refugee crisis, in recent years a new smuggling route has emerged by land to Bul-

[35] Law No. 6458 of 4 April 2013. For a detailed elaboration of this legal arrangement, see Esra Dardağan Kibar, "An Overview and Discussion of the New Turkish Law on Foreigners and International Protection", in *Perceptions*, Vol. 18, No. 3 (Autumn 2013), p. 109-128, http://sam.gov.tr/?p=4239.

[36] Ahmet İçduygu and Ayşen Üstübici, "Negotiating Mobility, Debating Borders", cit.; Seçil Paçacı Elitok, "Turkish Migration Policy over the Last Decade: A Gradual Shift towards Better Management and Good Governance", in *Turkish Policy Quarterly*, Vol. 12, No. 1 (Spring 2013), p. 161-172, http://turkishpolicy.com/article/-Spring-2013-898.

[37] Kemal Kirişçi, "Turkey's New Draft Law on Asylum: What to Make of it?", in Seçil Paçacı Elitok and Thomas Straubhaar (eds.), *Turkey, Migration and the EU: Potentials, Challenges and Opportunies*, Hamburg, Hamburg University Press, 2012, p. 63-83, http://hup.sub.uni-hamburg.de/HamburgUP/HWWI5_Elitok_Migration.

[38] Ahmet İçduygu, "The Irregular Migration Corridor between the EU and Turkey", cit.

garia and by the Black Sea coast of Bulgaria and Romania. This has created yet another area of debate, and disagreement, for implementing policies and practices regarding the transit migration between Turkey and the EU.

The three other quagmire issues are more specific but proving equally difficult to overcome. These include the establishment of a civilian "border agency" to replace the current military-based institutional setup; the lifting of the geographical limitation to the 1951 Convention relating to the Status of Refugees; and the finalisation of the readmission and visa facilitation agreements.[39] Turkey is reluctant to de-militarise its border control, citing the rugged borders with Iraq and Iran, coupled with the Kurdish separatist movement and political violence – which often spills over these boundaries – and the ongoing Syrian crisis. However, despite this reluctance, in 2010 Turkey began the transformation while stressing that this would be a gradual process requiring ample time to set up a fully functioning system operated by civilians. The lifting of the geographical limitation to the 1951 Convention is also a sticking point because Turkey fears that this will open the floodgates to asylum seekers fleeing an ever more turbulent political landscape from its periphery. Despite making a pledge to the EU to lift the geographical limitation (in the 2005 Action Plan, Turkey scheduled this legal change for 2012) Turkish authorities have tended to oppose the lifting of the limitation clause until concrete steps are taken towards full EU membership.[40] Previously, a similar air of anxiety and mistrust surrounded the signing of the readmission and visa facilitation agreements with the Commission. After lengthy diplomatic negotiations, Turkey and the EU signed a readmission agreement in 2013, which necessitates the returning of illegal immigrants who enter the EU through Turkey, in exchange for launching talks – to be finalised by end of 2017 at the latest – on liberalising visa requirements for Turkish nationals wishing to travel to Europe.

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[39] Ahmet İçduygu and Ayşen Üstübici, "Negotiating Mobility, Debating Borders", cit.

[40] Ahmet İçduygu and Deniz Yükseker, "Rethinking Transit Migration in Turkey", cit.

CONCLUSIONS

Despite the securitisation of EU borders, migrants and asylum seekers brave the arduous journey in an attempt to reach the shores of European countries on a daily basis. Although once a country of emigration, Turkey is increasingly taking centre stage as country of immigration, and in the context of EU-Turkish relations, as a country of transit for those seeking to enter the EU. In fact, Turkey's role as a transit country in the context of the European migration system has become inextricably linked with its aspirations of gaining EU membership, as negotiations between Turkey and the EU, more often than not, revolve around the nature and characteristics of borders, border crossings and people on the move. It is these Europeanisation processes – which refer to the impact of the EU on individual member or non-member states – coupled with the reality of mixed migration movements across the Mediterranean and the never ending political turmoil in the Middle East, that has led Turkey to take substantial strides in setting up a fully functioning migration and asylum management system, most notably by enacting the 2013 *Law on Foreigners and International Protection*.

Whilst the EU continues to criticise the snail's pace with which Turkey is tackling its myriad migration management issues, Turkey can hardly be expected to take concrete and costly steps in aligning its migration and asylum policy when deep-seated mistrust about the accession process is clearly evident and further exacerbated when European leaders deliver outspoken statements opposing Turkey's full membership to the EU. Although in the meantime Turkey's accession talks have come to a standstill, and despite the complex and diverse nature of migration management, the area of bargaining between Turkey and EU has the potential to reward both sides. Turkey and the EU both realise that any negotiations dealing with borders, migration or asylum – with or without the accession process – will not only have an impact on the specific issue at hand, but also on the course of the process as a whole.

Finally, it is evident that whilst economic conditions, or rather the lack of economic opportunities, will force migrants to migrate in a clandestine nature across borders in search of employment and improved living standards, conflict-induced migration, although not as consistent,

is having a much greater effect on the motivations for people to migrate. With the Syrian crisis showing no signs of abating there are few if any tangible prospects for an end to the conflict. Much like the Afghanistan case that has resulted in steady flows of Afghan refugees to Pakistan, Turkey and beyond, the Syrian crisis has the potential to force more people to flee. Considering that 6.5 million Syrians have been displaced from their homes, with over 3 million fleeing to neighbouring countries, this refugee crisis will considerably affect Turkey, and, in turn, the EU, for decades to come.

4.

Migrations Through and From Libya: A Mediterranean Challenge

Mattia Toaldo

Libya's association with migration is not recent. The country has always been both a final destination for migrants and an intermediate stop for those who wanted to reach Europe. In 2009, two years before the overthrow of the dictator Mu'ammar Gaddafi, Libya hosted on its territory 2.5 million migrants, coming mostly from Africa but also from countries as far as Bangladesh and the Philippines. Still, in 2013, Altai Consulting estimated a presence of 1.7 to 1.9 million immigrants in the country. While traditionally being a destination country, Libya is increasingly only a transit country to Europe. Between 2003 and 2012, 190,425 migrants and asylum seekers arrived in Lampedusa (Italy) from Libya, while another 16,445 arrived in Malta.[1]

Migration also conditioned relations between Libya and Europe, particularly Italy. A long string of agreements, culminating with the 2008 Friendship Treaty between Italy and Libya, outsourced to Libya the containment and push-back of migrants and asylum-seekers alike. As for other dictatorships in Northern Africa, migration was used along with the terrorist threat as a way to manipulate Europeans into supporting the authoritarian apparatus, regardless of gross violations of human rights and of international conventions.

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[1] Arezo Malakooti, *Mixed Migration: Libya at the Crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya*, UN High Commissioner for Refugees (UNHCR), November 2013, http://www.refworld.org/docid/52b43f594.html.

The connection between politics and migration in Libya has not abated after the 2011 revolution that led to the overthrow of the dictatorship. The new kingmakers of post-revolutionary Libya, a mix of politically-driven militias and "violent entrepreneurs," managed the smuggling of human beings along with other criminal activities. Migration flows from Libya through the Mediterranean intensified as the transition to democracy evolved into a new civil war during 2014. Projections for 2015 are as high as 500,000 migrants and asylum-seekers attempting to escape by sea.[2]

For western policymakers, the difference between pre- and post-2011 is the existence of a clear, albeit unpalatable, interlocutor in the implementation of mostly repressive policies aimed at containing migration, a phenomenon that is seen through a security lens as a threat in itself. With Gaddafi, so goes this line of thinking, there was at least an address and someone who could effectively push back migrants on Europe's behalf. After his collapse, no effective state institutions could take over, and the gradual disintegration of the Libyan government led to the collapse of this policy, particularly from 2014 forward.

The externalisation of migration control in Libya has thus failed, and not only because of the demise of the regime tasked with its implementation. In fact, the smuggling of human beings through Libya should be perceived as a criminal activity conducted by specific organisations in connection with the formal state institutions.

The peaks in migration flows from Libya through the Mediterranean are the result of several factors, among them being that policies implemented in Europe (and particularly in Italy) have limited impact. More important, however, are the strength of criminal networks managing human smuggling; the policy of open or closed doors with sub-Saharan Africa implemented by Libya; the attractiveness of Libya's economy in terms of job opportunities; the security situation in the country; and the emergence of conflicts and humanitarian crises in the countries of origin of migrants and asylum-seekers.

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[2] "Immigrazione: Frontex, tra 500mila e 1 milione di migranti pronti a partire da Libia", in *Ansa.it*, 6 March 2015, http://bit.ly/1A3DgP6.

The interplay between these factors is combined with the traditional weakness of the Libyan state institutions, even under Gaddafi. This weakness has become particularly severe after the outbreak of a new civil war in 2014, which led to the collapse of the central government and the establishment of two largely ineffective governments in Tobruk and Tripoli, none of which seems to control what little was left of the government infrastructure. This poses another challenge to Europeans, since a policy of externalisation of migration control is now not only largely ineffective but practically unworkable for lack of a political actor to whom to outsource implementation.

It is time for a rethinking that acknowledges that Libya will lack strong institutions for some time while taking into account that it is the political, economic and security situation in the country (and in its neighbourhood) that constitutes the largest "push" factor in trans-Mediterranean migration flows. This "push" factor is largely responsible for the rise in numbers observed throughout 2014 and in the first months of 2015, and ultimately proves the flaws of those arguing that a strong search and rescue (SAR) operation for migrants in the Mediter-ranean constituted a "pull" factor that would lead to higher numbers. The recent increase in the number of migrants did not stop when the more comprehensive SAR operation Mare Nostrum gave way to the very limited Triton operation; rather, the peak in numbers coincided with the escalation of the Libyan civil war.

The rising number of migrants and the fledgling SAR operations have resulted in extremely high casualties at sea, while ultimately increasing the political and economic pressure on the communities in Europe where these migrants try to settle. This then constitutes a "push" factor for xenophobic and anti-immigration parties from Rome to Stockholm. But this vicious circle between the crisis in Libya, the rise of migration flows, and xenophobia in Europe is not inevitable. Reform of largely in-effective policies is both feasible and necessary. This chapter will try to chart a new agenda in this sense, without the ambition to provide ready-made solutions.[3]

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[3] When not otherwise referenced, information and analysis in this work is based on

First, the patterns of migration will be examined, describing the changes that have occurred since the overthrow of Gaddafi and the further changes that took place since the beginning of the new Libyan civil war. Second, the illegal economics of migration flows through and from Libya will be examined, in particular looking at which dynamics underpin the rise of human smuggling in the country in recent years. It is precisely what has happened since 2011 and even more so after the collapse of the Libyan government in the summer of 2014 that makes the outsourcing of migrations control untenable. The events that led to the creation of vast ungoverned spaces in Libya, ripe for human smuggling, will be examined in the third section. The fourth section will try to point out at a new problem: the transformation of Libya from a country of destination or transit for migrants into a country of emigration because of the deepening of the civil war. Finally, nine different policy recommendations will be discussed to expand on the idea of de-securitisation of migration from Libya.

4.1 CHANGING PATTERNS OF MIGRATION AND MIGRATION CONTROL THROUGH LIBYA

Migration through Libya has undergone some changes recently, mostly in terms of numbers and routes. The most spectacular and visible change is obviously in the numbers: whereas the number of migrants taking to the Mediterranean from Libya was mostly below 40,000 per year since the early 2000s, this figure skyrocketed in 2014 when 120,000 arrived in Sicily mostly from Libya (as compared to 37,000 the year before).[4]

[4] Data from the Italian Ministry of the Interior, Department for Public Security, Central Directorate for Migration and Border Police. See the ISMU website: *Sbarchi anno*

This steep increase has been wrongly attributed to the implementation of a large Search and Rescue (SAR) mission by the Italian navy: Operation Mare Nostrum (OMN), which rescued several thousand migrants and asylum-seekers that would have otherwise drowned – and yet did not save 3,419 lives, making 2014 the deadliest year in the Mediterranean on record.[5] This narrative sees in OMN a large "pull" factor for migration: knowing that they would be saved by the Italian navy, more migrants and more smugglers used the Mediterranean. Yet, there is a strong argument against this narrative: numbers were already high before Mare Nostrum (hence the start of the operation to save lives but also to increase patrol of the sea) and became even higher after OMN was disbanded to implement Operation Triton, coordinated by the EU border agency Frontex. Triton is a considerably smaller mission with a much more limited scope than Mare Nostrum: while the former was carried out within a few miles off the EU coasts, the latter went very close to Libyan coasts.

Rising numbers are perhaps more related to two "push" factors. First, as the situation in Libya quickly deteriorated and insecurity spread, migrants and asylum-seekers who once would have stayed in Libya decided to leave through what seemed to them the safest route: the sea. This is what is relayed by those who eventually make it to the Italian island of Lampedusa: they were frightened by events in Libya and sought to escape as quickly as possible. Despite the departure of most of the 2.5 million immigrants who lived in Libya in 2009 because of the revolution and the ensuing insecurity, there is still a large pool of individuals who are not Libyans but would have once stayed there, and who are now desperate to leave.

The second "push" factor goes back to the origins of the migratory flows that affect Libya. Individuals who migrate through Libya come from mainly three areas: West Africa, the Horn of Africa and Syria. The last is the most recent flow due to the outbreak of the civil war in 2011-2012. Consequently, migrants from West Africa tend to enter Libya

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2014, http://www.ismu.org/?p=6183.

    [5] UNHCR, *UNHCR urges focus on saving lives as 2014 boat people numbers near 350,000*, 10 December 2014, http://www.unhcr.org/5486e6b56.html.

through the southwest and west of the country, while those coming from Eritrea, Somalia and Ethiopia enter through the southeast. Syrians and, to a minor extent, Palestinians make a less linear journey, either by land to Egypt and then by sea from Egypt to eastern Libya (the land border has a 380km-long minefield and is currently closed), or an even more complex path through Algeria – but this journey, too, has been affected by the closure of borders with Algeria due to the escalation in fighting in Libya since the summer of 2014. Looking at the nationality of those who arrive in Italy by sea, it is very likely that this third group of migrants (those fleeing Syria and to a lesser extent Palestine) could have contributed to the higher numbers. Out of the 170,000 people who arrived on Italian coasts in 2014, more than 42,000 were Syrians and six thousand were Palestinians – together accounting for more than 28 percent of the migrants. Only 206 were identified as Libyans.[6]

Not only have numbers grown, but the journeys that migrants make are becoming more complex. Migration pathways have changed recently due to the closure of most of Libya's land borders, although in most cases this is only theoretical given that they are geographically quite porous anyway. In addition, the fighting within Libya and the deployment of foreign armies on Libya's borders (particularly by Algeria and Egypt) have forced smugglers to deviate from the traditional paths, as in the case of the southeastern access around the city of Kufra, which has shifted further to the east.

Ultimately, the most significant and measurable change is the number of those crossing the Mediterranean. In fact, even at the heyday of the outsourcing of migration control to Gaddafi's regime, this worked mainly for the last leg of the journey through the Mediterranean while Libya's terrestrial borders, particularly those in the south, remained porous. This met several needs of the regime: it allowed for the flow of low-pay, illegal immigrants from Africa, which was one of the cornerstones of the national economy; it was a crucial component of Gaddafi's alliance with the periphery and with those groups in the periphery that controlled human smuggling; and it legitimised the existence of a net-

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[6] Italian Ministry of the Interior, Department for Public Security, cit.

work of detention facilities within Libya, managed by the regime security apparatus that derived from them international legitimacy (as implementers of the outsourcing of migrations control) and more direct profits through extortion.

Relatively high numbers of migrants (for the time) served well Gaddafi's idea that, even though he was still considered a pariah in the early 2000s, Europe would eventually have to strike a deal with him in order to contain this phenomenon. Indeed, migration control was one of the crucial dossiers in the rapprochement between his regime and Italy.

A first agreement was signed between Italy and Libya on 13 December 2000, with the aim of establishing cooperation in the fight against terrorism, organised crime, illicit traffic of narcotics and illegal immigration.[7] This was the first of a string of agreements that would eventually lead to the signing of the Libyan-Italian Friendship treaty in 2008.[8] This "cooperation" on the containment of "illegal immigration" was based on three pillars: joint patrols in the Mediterranean; the assignment to Italian companies (particularly Selex) of the implementation of electronic controls on Libya's southern borders; and the "political mediation" that Italy would do between Libya and the EU on these issues.[9]

This system was significantly boosted when the implementation of the 2008 Friendship Treaty was carried out by Italy's second Berlusconi cabinet which, particularly under the impulse of the anti-immigration Northern League, inaugurated a policy of push-backs for migrants' boats coming from Libya, eventually reducing their number to close to zero. This was made possible because Libya, starting from 6 May 2009, accepted to receive the migrants who were pushed back.

This policy was severely criticised as a violation of the principle of

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[7] The text of the Treaty in Italian only is available at: http://www.asgi.it/wp-content/uploads/public/accordo.italia.libia.2000.pdf.

[8] The text of the Treaty in Italian only is annexed to the law authorising the ratification and implementation (Law No. 7 of 6 February 2009, http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2009;7).

[9] Gianluca Battista, "La collaborazione italo-libica nel contrasto all'immigrazione irregolare e la politica italiana dei respingimenti in mare", in *Rivista dell'Associazione italiana dei costituzionalisti*, No. 3 (2011), http://www.rivistaaic.it/download/Ck6DRJ1l eb1_YbOZu69UfvwK7oi2Sp414FT8tKeF8N4/battista.pdf.

non-refoulement enshrined in the 28 July 1951 Geneva Convention by which individuals may not be pushed back to countries where their freedom is at risk or where they cannot apply for refugee status. Push-backs were carried out by the Italian navy on the high seas, without first establishing whether those in the boats were economic migrants or asylum-seekers. Furthermore, the push-back policy was possible only inasmuch as the regime in Libya was willing to take back the boats. This policy of outsourcing thus collapsed with the collapse of government authority in Libya, while the new dynamics of the illegal economy after the revolution boosted illicit trafficking of all kinds, including human smuggling.

4.2 THE (ILLEGAL) ECONOMICS OF MIGRATION IN LIBYA

Libya has traditionally been an important spot for migration from Africa and the Middle East to Europe through the Mediterranean. This is due to geographical reasons: Libya's west coast is extremely close (just 350 km) to Europe's southernmost outposts of Malta and the Italian island of Lampedusa. Also, Libya sits in the middle of North Africa and has historically been a gateway from the Mediterranean to sub-Saharan Africa.

Nonetheless, other factors have contributed to making Libya a thoroughfare in the smuggling of human beings. Starting in the 1990s and as part of Gaddafi's pan-African ideology, a policy of open doors and visa waivers was implemented for most of Libya's African neighbours. This, combined with Libya's relative wealth as compared to the rest of the continent, made it not just a passing point but also the final destination for a large number of migrants who found jobs in Libya's economy that Libyans, much like Europeans, were not interested in doing. In this respect, under Gaddafi and also for some time after him, the country did not radically differ from other Middle Eastern rentier states in which a large portion of manual jobs and positions in the tourist sector were carried out by foreigners. Until the outbreak of heavy fighting in Libya's major cities in the summer of 2014, the country's relative wealth was a strong "pull" factor for migrants from the rest of the region, from Africa as a whole and even from far away countries such as the Philippines.

Finally, even with the end of the "open door policy," the smuggling of

human beings into Libya became a profitable economic activity for the communities living along Libya's extensive borders, often in collusion with regime officials that saw in this business a way to appease these marginalised groups and reap some windfall profits from bribes. In fact, one of the pillars of Gaddafi's economic policy, namely a wide range of subsidies for consumer goods, laid the ground for the proliferation of human smuggling. The illicit trade of subsidised goods with Libya's neighbours became one of the cornerstones of a wider illicit economy based also on the management of illegal migration flows, drugs and weapons trafficking. Ultimately, for many communities both on the southern border and in the "migrations triangle" in Tripolitania between Sabratha, Zliten and Zuwara (an area often stretching as far east as Homs), the smuggling of human beings became one of the most, when not the sole, profitable business.[10]

Migrants and asylum-seekers contributed in several ways to the Libyan illicit economy. First, they paid for their travels to Libya, through Libya and from Libya to Europe. Each section of their trip would have a different cost: 800 to 1,000 dollars for passage into Libya and double that amount for the last leg through the Mediterranean. Second, migrants often had to pay with forced or illegal labour either in the border communities or in the main coastal cities, providing a pool of unpaid or low-wage jobs that was important for both the illegal and the legal economy. Third, official and unofficial detention facilities throughout Libya effectively worked as part of a system of kidnapping of migrants and asylum-seekers, from which they could be freed only upon payment of ransoms by their families. The beneficiaries of these payments were smugglers as well as government officials nominally in charge of the detention facilities.

The smuggling of human beings is usually a business where Libyan members of organised gangs co-operate with middlemen, who have the same nationality of the migrants in order to provide for cultural and linguistic mediation. Moreover, the presence of fellow nationals is used to

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[10] The most comprehensive study of Libya's illicit economy is Mark Shaw and Fiona Mangan, "Illicit Trafficking and Libya's Transition: Profits and Losses", in *Peaceworks*, No. 96 (February 2014), http://www.usip.org/node/17466.

buy the trust of migrants especially in the last leg through the Mediterranean, when they are the subject of all forms of deception. In many cases, smugglers set up Facebook pages in which their activities are presented as travel agents with the possibility of paying a different price in order to have more comfort, ostensibly on a cruise ship – just a front for the dinghies on which migrants actually travel through the Mediterranean. In some cases, UNHCR even spotted Facebook pages in which smugglers pretended to work for NGOs or even fake EU agencies tasked with organising the safe movement through the sea.

While the attention of European policymakers and the media often focuses on the migrants' boats, a crucial element of this illicit business is the safe-houses in which migrants and asylum-seekers are kept, often for weeks, before they are finally boarded on the dinghies. Both in these safe-houses and on the boats, the victims of human smuggling are deprived of most essential comforts such as water, food or a life-jacket. In most cases, they are provided with very little information on their intermediate and final destinations and on the means of transportation.

In the whole business of human smuggling, a racial hierarchy exists. It is exemplified by the positions that migrants and asylum-seekers occupy in the larger boats: the Arabs often sit in the upper deck where they can at least breathe fresh air while the sub-Saharan Africans occupy the lower deck close to the engine – often resulting in a higher death rate. The "captain" of the boat is not a smuggler but usually just one of the Arab passengers who is provided with some instructions, a compass and a satellite phone to call the coast guard of either Italy or Malta.

The racial hierarchy of the smuggling business is affected by the changing politics of Libya. Black African migrants traditionally performed the least-paid jobs as compared to those who spoke Arabic or had the opportunity to migrate legally to Libya. During the 2011 civil war, Gaddafi was accused of using black African mercenaries to defend his regime. This increased the existing racism, and black Africans were subject to aggressions and intimidations that today constitute one of the leading "push" factors for them to leave Libya through the Mediterranean.[11]

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[11] Amnesty International, *Lives Adrift. Refugees and migrants in peril in the central*

Racism is not the only link between the illicit economy of human smuggling and Libya's politics. Under Gaddafi, the economics of human smuggling were a crucial component of the social contract between the regime and the country's peripheries: the security apparatus turned a blind eye (when it did not show outright complicity) to illicit trafficking in exchange for political appeasement or support.

In post-revolutionary Libya this social contract was somehow liberalised, with a more open market for illicit activities and a more direct relationship between those running the illegal business and political kingmakers. More often than not, the same "revolutionary" militias that held political power in Tripoli also managed large portions of the illegal business, as was the case with the Zintan militias for the western border. The entry of new actors into the illegal sector was allowed only for the early years after the collapse of the regime and is now mostly closed to new actors.

The smuggling of human beings is usually managed by organised criminal groups that share many of the same features as the Italian mafia: a combination of the use of force in managing their business and preoccupation with building support and legitimacy from their surrounding communities; a definite territorial dimension in which military control of an area is conducive to the conduction of criminal activities; a strong relationship with political authorities when not the direct control of political office by the criminal group; a diversification of business involving different criminal activities. Similarly to mafias, Libyan organised crime has strong regional ties to carry out human smuggling: "Almost all criminal groups from across the Sahel and the Maghreb are engaged in trafficking in persons and smuggling of migrants."[12]

This illegal business is not exclusively the domain of organised crime, which needs to interact with individuals that are not part of its structure such as owners of boats and dinghies or African middlemen. Under Gaddafi, a strong relationship also had to be built with government officials, particularly those running the detention centres. After the revolution,

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Mediterranean, 30 September 2014, https://www.amnesty.org/en/documents/EUR05/006/2014/en.

[12] Mark Shaw and Fiona Mangan, "Illicit Trafficking and Libya's Transition", cit., p. 28.

many of these facilities have gradually slipped from the exclusive control of the Ministry of Interior to the control of "revolutionary" militias, thus putting the civil servants in a more subordinate position.

Recent media reports have often emphasised the connection between human smuggling and jihadi groups.[13] Particularly in recent years and with the evolution of Al Qaeda in the Islamic Maghreb as the clearest example, the line between jihadism, organised crime and smuggling has increasingly become blurred. Ansar Al Sharia, a jihadi organisation recently blacklisted by the UN and accused of murdering US ambassador Christopher Stevens, had some degree of control over the smuggling route between Sebha in Libya's south and Sirte, in the central coast of Libya and at the centre of the so-called "oil crescent."

Nevertheless, for the moment there is inconclusive evidence about a major role of jihadi organisations in the smuggling of human beings and even less evidence of a role played by the so-called Islamic State, which at the moment seems to be more interested in the control of the far more profitable oil fields and transportation hubs. Media reconstructions of presumed IS plans to use migrants' boats to attack Italy have been substantiated only by one document that the Quilliam Foundation, a UK-based anti-radicalisation organisation, has translated, adding an important caveat: it is unclear whether the author is a member of IS or just a sympathiser, nor is it clear whether he is part of the leadership of the organisations.[14]

This is not to deny that in the near future jihadi organisations might want to connect Europe's two fears with regards to Libya: that of an uncontrolled migration flow and that of terrorist attacks coming from the sea. At the moment, this connection plays into the securitisation of the approach towards migration, doing very little to either make migration safer or reducing sources of revenue for jihadi groups.

Ultimately, changes in the illicit business of human smuggling should

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[13] Ruth Sherlock and Colin Freeman, "Islamic state 'planning to use Libya as gateway to Europe'", in *The Telegraph*, 17 February 2015, http://t.co/sJ6ZbzaR3X.

[14] Charlie Winter, *Libya: The Strategic Gateway for the Islamic State*, London, Quilliam Foundation, February 2015, http://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/libya-the-strategic-gateway-for-the-is.pdf.

not be ruled out even in the short term. Since 2011, the lessening of government authority in Libya created ever-new spaces for criminal organisations, while the recent government collapse has created a void that the so-called Islamic State is trying to fill.

4.3 Libya's ungoverned spaces

Libya's post-Gaddafi transition proved problematic from the start. The regime's security apparatus vanished and was replaced by a "hybrid" system composed mostly of the "revolutionary" brigades (also called militias) that had fought against Gaddafi. They were formally integrated either into the Ministry of the Interior or the Ministry of Defence in an uneasy coexistence with the remnants of the old army that had defected from the regime in 2011.[15]

The hybrid security system is reflected also in the management of migration control. Formerly the detention centres are all under the Directorate for Combating Illegal Migration of the Ministry of Interior. In fact, only 6 out 20 are managed by this institution, with the rest being either fully under militia control or under mixed management. More often than not, they produce income for those who manage them through extortion and the payment of ransom in exchange for the liberation of prisoners.

The relationship between politics and the security sector has reversed after Gaddafi: whereas under him the security apparatus was an extension and a byproduct of the political regime, after him politics was the extension of the security sector, with politicians and government officials often just representing the interests of local militias in the absence of real national political actors.

Parliamentary elections in July 2012 were a relative success in terms of security and turn-out, but failed to produce a credible and speedy

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[15] Wolfram Lacher and Peter Cole, "Politics by Other Means: Conflicting Interests in Libya's Security Sector", in *Small Arms Survey Working Papers*, No. 20 (October 2014), http://www.smallarmssurvey.org/about-us/highlights/highlights-2014/highlight-sana-wp20.html.

constitutional process while entrenching the collusion of politicians with either militias or members of the old army. Amidst a deteriorating security and economic situation, renegade General Khalifa Heftar started an anti-Islamist insurgency in May 2014 in Benghazi. Elections held on 25 June in the absence of a national dialogue did little to stop the escalation in fighting. In the summer, this culminated in the displacement of the government to Tobruk and Baida and the establishment of an alternative, although unrecognised by the international community, government in Tripoli. Most foreign embassies were closed between July and August and the remaining embassies of Italy, Malta and Hungary resisted only until early 2015.

Government institutions, weak and ineffective to begin with, gradually collapsed. The theoretical steering wheel (the internationally recognised government in Beida) sits hundreds of kilometres from the ministries and government agencies in Tripoli. It does not have the "power of the purse" because government revenues accrue to the Central Bank in Tripoli, which remained neutral and only disburses salaries and subsidies. In fact, no one is really in charge, and the basic elements of sovereignty such as law enforcement, border control and relations with the outside world are dispersed among a myriad of actors. This creates enormous suffering for the Libyans and significant havoc for the strategy of outsourcing of migration control. Designing a strategy against human smuggling in the absence of functioning Libyan institutions has become more complex, while outsourcing is completely delusional for the lack of coherent interlocutors.

Large areas of the country now lack a governing authority, while others respond to local councils that were elected between the winter of 2013 and the spring of 2014. Tribal powers and the elders are often overstated, particularly as national actors, while their role in some areas of Cyrenaica or in the Fezzan cannot be underestimated. Libya is currently a patchwork of ungoverned areas and areas where different sources of authority coexist, often uneasily. This produces a lack of governance and a rising level of violence, both of which in turn breed the rise of jihadist groups among which the so-called Islamic State has attracted the widest international attention.

4.4 MIGRATIONS FROM LIBYA AND WITHIN LIBYA

Under Gaddafi, a combination of Libya's relative wealth and the isolation of the country as implemented by the regime greatly reduced the number of Libyans moving abroad to a few dozens of thousands of exiles. The situation changed dramatically after 2011, when hundreds of thousands of Libyans fled the fighting, mostly to Tunisia and Egypt. Among them were some members of the old regime and the collapsing security apparatus. Their exact numbers are unclear but local officials speak of hundreds of thousands, though any estimate is made more difficult by the fact that some of these individuals keep coming back and forth from Libya.

While numbers concerning Libyan migrants and refugees are still unclear, there are more precise estimates of internally displaced persons (IDPs): in an interagency assessment, the UN estimated that in November 2014 there were 393,420 internally displaced people.[16] Whether IDPs will turn into refugees and whether Libyans will start to flee their country through the Mediterranean is still to be seen, although in case of escalation this possibility should not be ruled out, adding to the suffering of those fleeing through Libya.

4.5 DE-SECURITISING MIGRATION POLICY

Libya is a good example of how existing policies that securitised migration and outsourced its containment to northern African dictatorships are ineffective and outdated. The outsourcing of migration control produced gross human rights violations in the past and, as far as Libya is concerned, it is no more an option because there is no one to implement that policy in Libya. Policies that aim to contain migration through the Mediterranean by building an "iron wall" in the sea are equally ineffective in the face of the current security crisis in Libya. Because of increas-

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[16] IOM, UNSMIL, UNHCR, UNICEF and WFP, *Libya: Interagency Rapid Assessment*, December 2014, p. 3, http://www.wfp.org/content/libya-interagency-rapid-assessment-december-2014.

ing insecurity in this war-torn country, migrants and asylum-seekers are willing to risk their lives crossing the Mediterranean regardless of the dangers this may hold or the chances of a push-back that may exist; for them a possible death in the Mediterranean is still preferable to a more likely death in Libya.

Given the lack of a credible national government in Libya, Europeans will have to be creative and bold in approaching migration by focusing their response on three principles:

1. Involve a wide array of local and international actors to supplement for the absence of a national interlocutor in Libya and build a shared approach with them rather than outsource European policy;
2. Reduce as much as possible the number of migrants and asylum-seekers crossing into Libya to get to Europe by creating safe and legal means of movement directly from their countries of origin;
3. Rethink border management and improve investigative capacities in order to fight the criminal networks that manage human smuggling.

To this end, Europeans should focus on a basket of policy proposals, knowing that none of them will be fully effective in such a complex situation. Nevertheless, these principles should be part of a common EU policy so that no single member state can spoil the new approach.

#1 *Engage with everyone*
On this issue, there should be no legitimate or illegitimate government for the international community. In Libya, there are institutions and communities to be brought in in order to save lives. Simultaneously, external actors should be aware that human smuggling is often considered a legitimate activity in some communities in Libya and that therefore everyone's support in the fight against this phenomenon should not be taken for granted. Support can be built only if the new approach is owned by local communities and if a realistic alternative to the illicit economy is offered.

#2 *Involve local councils in the fight against human trafficking networks*
In some communities, local councils are the only government body with a modicum of legitimacy and some degree of governance. This is true,

for instance, for some of the cities in the "migrations triangle" in Tripolitania. Local security compacts or strategic plans have been designed in the past but were seldom implemented, as they never became a priority of both the Libyan government and donor-countries.

Along with the establishment of an agreed framework for security and law enforcement, local councils could also be assisted in converting the economy from one based on illicit activities to one focused on Libya's existing untapped wealth: an educated young generation; a huge tourist potential; a service economy yet to be fully developed. To this end, some of the currently frozen Libyan assets could be unfrozen in order to fund development projects.

#3 Build an effective border management system focused on local communities
Past efforts to control Libya's southern borders electronically have failed because they were too expensive and too difficult to implement in Libya's periphery. No effective border control can be implemented without the involvement of the border communities, where there is a large share of the workforce that benefits from illicit business.

The illicit trade of government-subsidised goods is the base of the pyramid of illegal trade in Libya. Yet, subsidies cannot be cut or reformed overnight without creating another security crisis. Nonetheless, Libya's current budget crisis can be the opportunity for a gradual phase-out of this system to reduce incentives for human smuggling and other illegal activities. But this must go hand in hand with alternative economic development (as described above) and political empowerment.

Indeed, throwing money at this problem will not do the trick. This is also about political integration and empowerment. The Tebu and Tuareg minorities need to be given a buy-in into an integrated and decentralised border management system in which they will be allowed to police the border. Their exclusion from Libyan nationality, and thus from social services and citizenship, must end.

Last but not least, there is a difficult balance to strike between these groups and the Arab tribes. A coalition of Arab and minority tribes is necessary in order for this new border police and integrated border management system to work.

Multilateral organisations can help coordinate efforts with neighbouring countries. Osce and its web of partnership could help with border security and with arms control initiatives, including at the political level, as some of the main arms exporters to Libya are OSCE member states.

#4 Build legal corridors to Europe

At the moment, Libya can hardly take care of its own citizens, as the high number of IDPs testifies. Also, the violence in the country is so widespread that it should be a humanitarian priority to avoid migrants and asylum-seekers crossing into Libya to reach other destinations. Moreover, avoiding the use of dinghies to cross the Mediterranean, with the high human toll they often imply, should also be a priority.

The only credible option to achieve these goals is to create safe means of movement to Europe for economic migrants and asylum-seekers who would otherwise cross through Libya. To this end, the EU commissioner for migration Dimitris Avramopoulos made a sensible proposal: that EU delegations in third countries become centres where individuals could apply for asylum or legal migration into Europe.[17] To guarantee the safety of applicants, especially in case of asylum, individuals should be allowed to apply from a country other than theirs.

Successful applicants would have to be resettled and spread among the 28 EU countries, easing the burden on both Mediterranean countries (especially Malta and Italy) where migrants now arrive as well as northern and central European countries (Sweden and Germany for instance), where most asylum-seekers end up. Given the extent of the human pressure on the EU's borders (both from economically-deprived and conflict countries), quotas will never meet the demand, but this system should aim at considerably reducing the number of those crossing into Libya and from Libya into the Mediterranean. This quota system would effectively need either a new Dublin protocol on asylum-seekers in the EU or a different implementation of the existing protocol.

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[17] Nikolaj Nielsen, "EU embassies should take asylum requests, new commissioner says," in *EUobserver*, 30 September 2014, https://euobserver.com/justice/125826.

Off shore asylum processing, of course, would create other practical problems. The capacity of EU delegations should be boosted, and application centres would have to be instituted in large refugee camps or in areas of passage for migrants. Also, there would be a risk of having applications only from the "strong" individuals: educated, male, young. An outreach campaign should be developed directed at more marginal demographic categories who would more likely qualify for asylum such as women, the elderly or political activists who live underground.

Other challenges may have to be addressed. The EU delegation or the application centre would need a modicum of security to be up and running which will not always be possible. Secondly, the transit country will need to be assisted in dealing with all those who will be refused entry into the EU.

In order to address these challenges, Europeans have to resort to as much multilateralism as possible.

#5 Go multilateral
Current migration policy is piecemeal. When single countries are not left to fend for themselves, the EU is insufficient, as the discussion of the policy of "legal corridors" demonstrates. The EU and its member states will have to cooperate with a host of international organisations. Those currently managing migrations and refugees such as UNHCR or IOM are of course at the top of the list.

Secondly, a number of north-south diplomatic processes have been created with Libya's neighbouring countries: the Rabat process and the Khartoum process have brought together the EU, the African Union and member states to share information, best practices and training.[18] An EU-Horn of Africa Migration Route initiative has been set up to include also the establishment of "reception centres" and to boost investigative capacities.[19] It is important that these initiatives do not become just an-

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[18] European Council on Refugees and Exiles (ECRE), "Khartoum Process: EU and African Union launch initiative against smuggling of migrants", in *ECRE Weekly Bulletin*, 5 December 2014, http://bit.ly/1yvFTeW.

[19] *Declaration of the Ministerial Conference of the Khartoum Process (EU-Horn of Africa Migration Route Initiative)*, Rome, 28 November 2014, http://italia2014.eu/en/

other episode of outsourcing in which Europeans delegate to their southern neighbours the management of a shared problem.

Finally, international security organisations such as the OSCE could make an important contribution, particularly with regards to boosting investigative capacities. OSCE could help coordinate fact-finding missions, facilitating the exchange of sensitive information about operating criminal networks in coordination with UNODC, as well as multilateralise the response to human trafficking in a Eurasian (not just EU) context.

#6 Boost investigative capacities against criminal networks

Criminal networks that manage human smuggling often extend from the Libyan coast to the Horn of Africa. Despite the collapse of Libyan institutions, included the judiciary, something can still be done to boost investigative capacities through the smuggling route. In Libya and in the Mediterranean, joint investigative European-Libyan teams can be built, in coordination with the local security strategic plans mentioned above. The model should be that of anti-mafia pools, bringing together all those investigating the same issues and giving them adequate tools.

In the region, the investigative capacity building mentioned in the Khartoum process should be taken seriously, building also on the capacities of the OSCE anti-trafficking unit. OSCE could also provide useful expertise in the field of the fight against ransoms and extortions.

#7 Reform search and rescue

Migrants tend to select the information they receive (if any), and learning about risks does not deter them.[20] In addition to that, the current security situation in Libya further pushes a large share of them to try to cross the Mediterranean, regardless of what they may find on their way. Even with a function system of legal corridors, there will still be a significant flow of individuals through Libya and into the Mediterranean.

Hence, there is a need for a comprehensive Search and Rescue (SAR)

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news/post/novembre/khartoum.

[20] Arezo Malakooti, *Mixed Migration*, cit.

mission in the Mediterranean to save as many lives, intercept and identify the largest number of individuals as possible. The failure of Triton in this sense is now apparent: the number of migrants has not abated but casualties have continued to be high. Its scope, well away from the Libyan coasts, and its limited means are not up to the challenge. Below the radar, the Italian coast guard has continued to conduct SAR operations close to Libya's waters, while Operation Mare Aperto by the Italian Navy in the Mediterranean – ostensibly conducted for security purposes – has also contributed to saving many lives.

The extension of Triton to cover all of the areas in the Mediterranean where human smuggling takes places seems to run contrary to the Frontex mandate of border control.[21] Nevertheless, EU Regulation 656/2014, approved in April 2014, set out rules for SAR missions under Frontex, creating shared rules for maritime surveillance and instituting clear human rights and refoulement safeguards.[22]

#8 Guarantee human rights (and safety) of migrants and asylum seekers
Past policies of outsourcing of migration control often implied gross violation of human rights, particularly within detention centres in Libya. Today, those facilities are almost exclusively functioning as prisons used by smugglers or militias in order to extort ransom from migrants and their families. As part of the cooperation with different Libyan authorities (as discussed in #1), the international community should push more decisively for the closure of those centres and more generally for the implementation of basic human rights standards. Violations of international conventions do little or nothing to stop immigration while inflicting huge sufferings on the victims.

#9 Deal with migration from Libya as a foreign policy issue
Given that migrations are not just a problem of border security but rather a foreign policy issue, it is worth investigating whether, in order to implement many of the above-mentioned options, the EU should start

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[21] Frontex is the European border control agency running operation Triton, tasked with SAR in the Mediterranean.
[22] Amnesty International, *Lives Adrift*, cit., p. 55.

considering migration as a foreign policy issue to be dealt with with adequate resources. For instance, implementation of the Khartoum process as well as cooperation with multilateral institutions will very likely need a diplomatic effort by the EEAS.

Ultimately, the best way to address the human catastrophe of migration through Libya is to pacify and stabilise the country. While the above-mentioned measures can contribute to the reduction of casualties and inordinate flows of migrants and asylum-seekers, flows of human beings through Libya will not ground to a halt. If those individuals who do arrive in Libya find a war-torn and violence-ridden country, they will still try to save their lives by crossing the Mediterranean.

Nevertheless, tackling the illegal economy of which human smuggling is a component in Libya will ultimately stabilise the country by reducing the power of organised crime and militias and establishing a modicum of rule of law. To start with, Europeans would do best to consider migration as a foreign policy and criminal issue rather than as a security threat to be outsourced and contained.

5.

Morocco's Experience of Migration as a Sending, Transit and Receiving Country

Mehdi Lahlou

Since the beginning of the 1960s Morocco has been a country of emigration thanks to a convergence of needs between certain European countries (France and Belgium in particular) and its own economic and social policies. Since the beginning of the 1990s, it has further developed into a transit country for sub-Saharan migrants on their way to Europe, and today is becoming a receiving area for immigrants, not only from sub-Saharan regions but also from countries in economic crisis, such as Spain, or in civilian war, such as Syria or Libya.

Thus, while Morocco remains a significant emigration area, especially when considering the number of Moroccans living abroad (about 4 million people from a population of 34 million),[1] it also continues to be a transit area, but to a lesser extent than at the beginning of the twenty-first century, and has become – even if this is not yet clearly reflected in official figures – a default destination for Africans and host country for Europeans in search of job opportunities.

This progressive evolution between 1992 and 2014 induced a paral-

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[1] Exactly 33.8 million inhabitants according to the first result of the general census of September 2015. See Haut-Commissariat au Plan du Maroc, *Note sur les premiers résultats du Recensement Général de la Population et de l'Habitat 2014*, 16 March 2015, http://www.hcp.ma/Note-sur-les-premiers-resultats-du-Recensement-General-de-la-Population-et-de-l-Habitat-2014_a1516.html.

lel change in Moroccan migration policy, especially with regard to transit migration and the position of immigrants. Before it accepted the fact that irregular migration through its territory was a serious political issue, Morocco experienced a period of "non-migration-policy" between the beginning of the 1990s and 2002/2003. This period was marked by the rise of transit migration, mostly irregular or illegal migration, towards Spain and other European Union countries, to which the Moroccan government showed a relative indifference, partly because it considered that the new form of migration was of little concern to people and was unlikely to be long-lasting, and also because it considered that Spain found certain benefits from the migration flux it received.

With this in mind, one can nevertheless outline three periods with their respective and complementary political migration approaches. The first period ran from 2002/2003 to 2005. This short period saw progressive changes in EU migration policy, between 2002 (in Seville, Spain) and 2003 (in Thessaloniki, Greece). It includes, on Moroccan side, the adoption by Morocco of its first law on migration at the end of 2003 with the will to reduce irregular migration from the country and to reinforce the fight against human trafficking between north-west Africa and Spain. This period was especially marked by the dramatic events recorded at the borders of the cities of Ceuta and Melilla during the summer of 2005. Moroccan authorities also proposed at that time more significant security cooperation with Europe to carry out the same objectives.

The second period ran from mid-2006, after the Euro-African intergovernmental meeting on migration held in Rabat in July of that year,[2] to the end of 2010. During these years, the number of irregular migrants crossing through Morocco decreased to its lowest level since 1990.

The third period started at the end of 2010, with the beginning of the "Arab spring" and the great transformations in terms of regional security that it caused in the south and east Mediterranean, from Tunisia to Turkey. After having strongly decreased to the end of 2010, the migra-

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[2] The first Euro-African ministerial conference on Migration and Development was held in Rabat on 10-11 July 2006. For more information see the Rabat Process website: http://www.processusderabat.net.

tion flux started to increase again (mainly from Tunisia, Libya and Egypt), initially slowly between 2011 and 2012, then more markedly from 2013, with, in particular, a large influx of Syrian refugees.

Whereas flows of irregular migrants from Morocco have changed little since this date, from 2008 a significant number of Syrian refugees arrived in the country, along with many European migrants – in particular Spanish – seeking to flee the economic and social crisis in their home countries. In response to this situation, and also to change the image of the country concerning conditions for receiving irregular migrants, in September 2013 the authorities announced a new migration policy. This embraced a process of "exceptional regularisations" of almost 45,000 migrants by the end of 2014 and the adoption of a series of laws relating to the same topic. But by 31 December 2014, fewer than 18,000 irregular migrants had been regularised and the promised laws were still under discussion, as will be discussed below.

If Morocco appears to be Africa's gateway to Europe, it is a gateway that until today has been used primarily by Moroccans – more than 3 million Moroccans currently live in EU countries such as France, Spain, Italy, Belgium and Holland.[3] The number of other nationalities entering Europe through Morocco has seldom exceeded 20,000 annually and was no more than 7,300 in 2014.[4] Thus, while Morocco is a country migrant departure, it is only a minor host/transit country for migrants in search of better living conditions outside of their region of origin.[5] Such a configuration has been the basis of recent Moroccan migration policy, especially if one takes into account the particular economic financial and political relations which bind Morocco to the European Union.

This new migration policy was initially founded on the economic and political need for Morocco to maintain a significant stream of regular

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[3] See Mohamed Berriane (ed.), *Marocains de l'Extérieur 2013*, Rabat, Fondation Hassan II pour les marocains résidant à l'etranger, 2014, http://www.fh2mre.ma/telechar gement/PDF/marocains-de-l%27exterieur-2013.pdf.

[4] See Frontex, *Annual Risk Analysis 2015*, 27 April 2015, p. 16 and 19, http://fron tex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2015.pdf.

[5] In 2014, more than 86,000 foreigners lived regularly in Morocco. See See Haut-Commissariat au Plan du Maroc, *Note sur les premiers résultats du Recensement Général ...*, cit.

migration towards Europe. It was also based on the need for Morocco to meet European concerns – more or less important according to the years – relating to the flows of sub-Saharan migrants who transited through Morocco in the hope of reaching Spain and from there other EU countries.

However, this second objective should not be necessarily considered without looking at Moroccan interests in the countries of sub-Saharan Africa. Morocco is willing to have a migration policy for receiving migrants and respecting their rights so that the countries from which migrants leave will continue to support it in its conflict with Algeria over the Western Sahara.

In this article we briefly review the principal steps of the migration policy adopted by the Moroccan authorities since 2003, taking into account the evolution in the field data (from Moroccan sources as well as Europeans sources such as the Frontex agency) and the main decisions taken on the matter by the same authorities.

5.1 MOROCCAN MIGRATION POLICY: FIRST STEP, THE LAW OF 02/03

5.1.1 Overall framework

For political and financial/material reasons, in the last decades of the twentieth century Morocco did not see any need to change its approach towards irregular migration, which meant that the Kingdom became an easy transit space for sub-Saharan migrants bound for Europe (to which they started entering rather easily through the cities of Ceuta and Melilla). At that time, and until 2000, it probably considered that the number of irregular migrants transiting by its territory (fewer than 8,000 people) was not significant.[6] It may also have considered, given its bad rela-

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[6] Lucile Barros et al., "L'immigration irrégulière subsaharienne à travers et vers le Maroc", in *Cahier des migrations internationales*, No. 54F (2002), p. 88, http://www.ilo.org/global/topics/labour-migration/WCMS_201832.

tionships with Spain,[7] that it had no reason to help Spain protect itself from irregular migrants.

However, after that period the Moroccan government began gradually to adopt another approach, closer to European aims and options, in particular for the surveillance and control of its borders – especially in regard to Spain, for which it is the nearest African country.

A first phase signalling the change of the Moroccan migration policy came towards the end of 2002, the year when Morocco and Spain entered into conflict as a result of the territorial conflict around the small Perejil Island.[8]

This phase seems followed the decisions taken by the European Council during its meeting held in Seville, Spain, in June 2002. Most probably inspired by Spanish Prime Minister, the European Council make a link, for the first time, between the relations of the European Union with third countries and the migration policy pursued by these countries. Morocco – supposed then to facilitate the passage of irregular migrants through its territory – was clearly the focus in mind. At the conclusion of the Seville meeting, one particular issue was raised:

> The European Council urges that any future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration.[9]

Further:

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[7] Mainly because of issues of fisheries and agricultural exchanges with Europe. And also in keeping with the animosity of the Spanish government, headed at the beginning of the current century by Prime Minister Aznar (leader of the Popular Party) who was openly hostile to Morocco.

[8] The island is called Laïla by the Moroccans and is situated less than 1 km from Morocco's northern coast.

[9] See Council of the European Union, *Presidency Conclusions, Seville European Council 21-22 June 2002* (13463/02), para. 33, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/72638.pdf.

> The European Council considers it necessary to carry out a systematic assessment of relations with third countries which do not cooperate in combating illegal immigration. That assessment will be taken into account in relations between the European Union and its member states and the countries concerned, in all relevant areas. Insufficient cooperation by a country could hamper the establishment of closer relations between that country and the Union.[10]

A formal explanation for the change of Moroccan migration policy – from a *quasi*-absence of regulation to strong border control – was provided three years later in an interview with King Mohamed VI for the Spanish newspaper *El País*, on the eve of the visit by Spain's King and Queen to Morocco in January 2005. On this occasion, the new Moroccan King said:

> We are aware of the fact that this immigration represents a danger for Spain. The same also applies to Morocco, as half of the Sub-Saharan candidates of illegal emigration end up staying in Morocco, and Spanish public opinion should know that. The various Spanish governments have always asked Morocco to grant the necessary attention to this issue. We have always done so.[11]

5.1.2 The Law of 02/03

Morocco's change of political approach towards migration was immediately enshrined in new migration legislative procedures. In early January 2003, the Government of Rabat (constituted in November 2002) proposed a law on emigration and illegal immigrations in Morocco. This law was unanimously adopted by the Moroccan Parliament in the aftermath of the terrorist attacks in Casablanca on 16 May of the same year.[12]

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[10] Ibid., para. 35.

[11] Jesús Ceberio and Ignacio Cembrero, "Se ha restablecido el respeto mutuo entre España y Marruecos", in *El País*, 16 January 2005, http://elpais.com/diario/2005/01/16/internacional/1105830001_850215.html.

[12] The law which deals officially with the "Entry and stay of foreigners into the Kingdom of Morocco, irregular emigration and immigration" was adopted unanimously on 22 May 2003 by the Moroccan Parliament, a few days after the first terrorist attacks in Casablanca which occurred on 16 May, killing 45 people. See Law 02-03 (Morocco Offi-

Inside Morocco there were many vested interests with the most important African countries of emigration (Senegal, Mali, Democratic Republic of Congo-DRC, Nigeria, etc.), and so the Moroccan authorities never advanced the existence of a link between migration and terrorism. What was highlighted in their migration policy was the "fight against the networks of traffic of the human beings." However, the terrorist attacks in Casablanca created a shockwave in Morocco, and this shock was quickly used to push through the adoption of the first law on migration in modern Morocco. Yet, in spite of the government's commitment to an official anti-terrorism policy since May 2003, the Moroccan authorities did not announce the arrest of any irregular migrants within the framework of the dismantling of terrorist networks.

The text which has subsequently come to be known as the Law 02-03 and which came into force in November 2003 was initially described by certain Moroccan lawyers and defenders of human rights as "emergency legislation." However, as the law does not respond to any internal logic, it may be considered in particular as a Moroccan-European co-sovereignty law inasmuch as it falls primarily within the will of the EU to protect itself from illegal migration bound from one of its major passage points towards Europe.

This law marked a turning point in Morocco's management of migration, especially irregular migration, and particularly from sub-Saharan Africa. Another reason for its being initially termed "emergency legislation" was the regional and international geopolitical context in which it was tabled for discussion and the expeditiousness which marked its adoption, all occurring in the same month of January 2003, in the Government Council and then in the Ministers' Council.

It represents in particular an update of penal sanctions, most of which date back to the colonial era, and registers a marked repressive turn in regard to human trafficking networks. In that sense, article 50 of

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cial Bulletin No. 5162 of 20 November 2003), http://www.refworld.org/docid/3ae6b4 ed5c.html. See also Khadija Elmadmad, "La nouvelle loi marocaine du 11 novembre 2003 relative à l'entrée et au séjour des étrangers au maroc, et à l'émigration et l'immigration irrégulières", in *CARIM Analytic and Synthetic Notes*, No. 2004/01 (2004), http://hdl. handle.net/1814/11690.

the Law 02-03 applies to illegal emigration from Morocco and provides for fines of DH 3,000 to 10,000, imprisonment terms of one month to six months or one of these two sanctions against any person who illegally leaves Moroccan land, sea or air borders, notwithstanding the relevant provisions of the Penal Code.

The new law provides also for "waiting areas" at ports and airports where rejected aliens are kept pending their expulsion (Art. 38). It also deals with the expulsion clause in its Article 25 which stipulates that expulsion may be pronounced by the administration if the presence of a foreigner on the Moroccan territory constitutes a serious threat for public order. It is pronounced against the foreigner by Decision of the General Director of the National Police and notified to the foreigner by a police or gendarmerie officer, with a grace deadline to leave the territory. It may be executed ex-officio by the administration (Art. 28).

Article 26 of the same law, however, enumerates a long list of eight categories of foreign people who cannot be subject to expulsion measures, among which one can note female foreigners who are pregnant and minors.[13] But these provisions, based on a sort of human rights approach, may be cancelled by those of Article 27 which provides for expulsion in cases of "pressing necessity for public security."

5.1.3 Institutional framework

In between the discussion of what will become Law 02-03, its promulgation and the above interview of King Mohammed VI with *El País*, the Moroccan authorities have established an institutional and operational framework which they deemed able to strengthen their initiatives in the area of migration and to meet in a better way the interests of the coun-

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[13] According to a dispatch of the AFP French news agency released on 1 February 2005, the Moroccan police arrested (the same day) in Rabat 190 prospective illegal emigrants, including a group of 50 women comprising a Beninese national who was five months pregnant and two children below 3 years of age. All 190 emigrants were taken to Oujda and sent back beyond the Moroccan-Algerian border. See Mehdi Lalhou, "Les migrations irrégulières entre le Maghreb et l'Union européenne: évolutions récentes", in *CARIM Research Reports*, No. 2005/03 (2005), p. 26, http://hdl.handle.net/1814/6278.

try's new special partnership with the EU and its improved relations with Spain.

At the institutional level, the establishment in November 2003 of the Directorate of Migration and Border Surveillance (DMBS)[14] and the Migration Observatory was aimed, according to the Moroccan public authorities, at "rationalising the working methods, sharpening analysis tools and optimising the deployment of operational surveillance units at the infiltration points of illegal migrants,"[15] as well as federating the reflection of all the parties concerned with the migration problematic. In this sense, the fight against illegal migration in Morocco benefited from a genuine impulse on the part of the King for whom "fighting human trafficking networks must be considered a priority in government action."[16]

At government level, the operational application of the migration policy depends directly on the Ministry of the Interior. The Ministry for Foreign Affairs seems to have only a minor advisory role, and the Ministry of Justice is seldom involved.

The efforts undertaken by Moroccan authorities to meet European expectations in terms of reducing the number of migrants from Morocco to Europe seemed to have borne fruit by the end of 2005 (as shown in Table 1). This is probably also due to the entry into force of the SIVE – the control system that Spain established since 2002 in the southern Iberian peninsula and then off the Canary Islands, close to Morocco but also to Mauritania and Senegal – and the means implemented by the Frontex agency, established in October 2004, to help protect the external borders in the southern part of Europe.

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[14] Since 2003, the DMBS which depends closely on the Ministry of the Interior is the institution officially responsible for the fight against the irregular emigration and immigration. However, this institution does not have special forces of police. Those are mobilised, where necessary, within the lawful forces.

[15] "7.000 hommes pour lutter contre l'émigration clandestine", in *Le Matin*, 14 June 2005, http://www.casafree.com/modules/news/article.php?storyid=2489.

[16] On 10 November 2003 the king chaired a meeting devoted to migration and border surveillance. See "SM le Roi Mohammed VI préside une séance de travail consacrée à la question de la migration et de la surveillance des frontières", in *AtlasVista Maroc*, 11 November 2003, http://www.avmaroc.com/actualite/roi-mohammed-a6019.html.

Table 1 – Evolution of the irregular migration from Morocco, 2000-2011

Years	Moroccans	Foreigners	Total
2000	9,353	15,056	24,409
2001	13,327	13,100	26,427
2002	16,034	15,363	31,397
2003	12,493	23,851	36,344
2004	9,353	17,252	26,605
2005	7,914	21,894	29,808
2006	7,091	9,469	16,560
2007	6,619	7,830	14,449
2008	4,651	8,735	13,386
2009	2,672	7,531	10,203
2010	Nd	10,223	10,223
2011	Nd	12,929	12,929

Source: Moroccan Ministry of the Interior cited in APDHA 2010.[17]
Note: For Moroccans' irregular migration in 2009, see ETF 2009.[18] For foreigners' irregular migration in 2009-2011, see OHCHR 2012.[19]

Thus, Morocco settled into a position of relative comfort compared with previous years, with a decreasing number of migrants (as indicated above) since 2005, announcing a new migration period.

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[17] Asociación Pro Derechos Humanos de Andalucía (APDHA), *Human Rights on the Southern Frontier 2009*, Sevilla, APDHA, June 2010, p. 28, http://www.apdha.org/webanterior/media/InformeFS2009_eng.pdf.

[18] European Training Foundation, "Migration et compétences au Maroc. Résultats de l'enquête 2011-12 sur la migration et le lien entre compétences, migration et développement", in *ETF Working Papers*, August 2013, p. 16, http://www.etf.europa.eu/web.nsf/pages/Migration_and_skills_Morocco.

[19] UN Office of the High Commissioner for Human Rights (OHCHR) Committee on Migrant Workers (CMW), *Consideration of reports submitted by States parties under article 73 of the Convention. Initial reports of States parties due in 2004: Morocco* (CMW/C/MAR/1), 1 November 2012, p. 60, http://undocs.org/CMW/C/MAR/1.

5.2 MOROCCAN MIGRATION POLICY, SECOND PERIOD: LOWER MIGRATION PRESSURE

The year 2006 seems to have constituted a crucial moment between two periods and two countries, Morocco and Spain. Table 2 shows for that year a transfer of migration corridors towards the south, more close to Sahelian space, more particularly between Mauritania (until the month of June 2006) then Senegal (as from the summer of the same year), and the Canary Islands. Such a transfer constituted a continuation of the events that had taken place following violent attempts carried out by hundreds of migrants to access Spanish enclaves of Ceuta and Melilla, north of Morocco, during the autumn 2005 and which had then led to a quasi-total looping of the barriers bordering these same towns.[20]

Table 2 – Immigrants arrested on arrival in Spain (southern & maritime borders), 2001-2014

Years	Canary Islands	Balearic Islands	Ceuta & Melilla	Total
2001	4,105	14,412	4,969	23,486
2002	9,875	6,795	Nd	16,670
2003	9,388	9,788	Nd	19,176
2004	8,426	7,249	Nd	15,675
2005	4,715	7,066	5,566	17,347
2006	**31,678**	**7,502**	**2,000**	**41,180**
2007	12,478	5,578	1,553	19,609
2008	9,181	4,243	1,210	14,634
2009	2,246	5,039	1,108	8,393
2010	196	3,436	1,567	5,199
2011	340	5,101	3,343	8,784
2012	173	3,631	2,841	6,645
2013	196	3,041	4,235*	7,472
2014	296	4,256	7,485*	12,037

Source: Spanish Ministry of the Interiors.[21]
Note: *From Syria: 2013 = 273; 2014 = 3,305.

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[20] The two lines of barbed wire which skirted the two cities had in particular been raised by October 2005 of 3 meters to reach a total height of 9 meters. They had been separated then from Morocco by trenches, returning the whole of the insuperable border.

[21] Spanish Ministry of the Interiors, *Balance de la lucha contra la inmigración ilegal*, various years, http://www.interior.gob.es/prensa/balances-e-informes/balances-e-informes. For 2001-2008 data, see also APDHA, *Human Rights on the Southern Frontier 2009*, cit., p. 8.

The strong reduction in irregular migration from Morocco from 2005 and the shift in 2006 of migration routes further south of its borders – to Mauritania and Senegal more specifically – implies that Moroccan migration policy and the country's active partnership with Spain made transit through its territory extremely difficult, whether through the Mediterranean Sea or the South Atlantic Moroccan waters.

Based on these elements, it seems that Morocco – which was accused at the end of 2005 by civil society in Morocco and Europe and some part of the press in sub-Saharan Africa, to have opted for a migration policy totally and recklessly out of kilter with the European policy "of outsourcing the management of migration flows"[22] – gradually improved its political and diplomatic position on the issue through a series of approaches including, *inter alia*:

- The involvement during the autumn of 2005 of the ambassadors of some African countries with many of the migrants being returned to their areas of origin in decisions and procedures related to their citizens. This includes particularly Senegal and Mali. The ambassadors of these two countries have subsequently been constantly consulted in the case of new operations of repatriation of migrants "voluntarily returning to their homes" with the support of the International Organisation for Migration (IOM).
- The increasing visits of the King of Morocco to some African countries of origin of migrants, including Niger and Senegal.[23] One of the

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[22] Morocco had then been shown to be become the "gendarme of Europe in Africa", as it, 1) adopted a law (Law 02-03) on the foreigners regarded as being of European inspiration; 2) mobilised security forces made up of several thousands of people to protect its borders and those of Spain from flows of irregular migrants coming from Africa; 3) transferred to their countries of origin, during the autumn 2005, several thousands of irregular migrants, at the request of the Spanish authorities. See Mehdi Lahlou, "De la 'directive retour' au 'pacte sur l'immigration', la forteresse Europe se construit face au Sud", in *Recueil Alexandries, Collections Reflets*, octobre 2008, http://www.reseau-terra.eu/article834.html.

[23] According to statement given by Senegal's ambassador in Rabat, to *Aujourd'hui le Maroc* on 28 October 2005, "The repatriation of Senegalese took place in excellent conditions. With the support of Morocco, which chartered a plane especially for this purpose, we organised the voluntary return of a total of 1,021 Senegalese. About 60 Senega-

most important visits was the one made in February 2006 to Gambia, Congo and the DRC to convince those countries to take on board the idea already launched in Rabat and Madrid of a Euro-African governmental meeting on migration to be planned in 2006.[24]

- The political and diplomatic involvement of the Algerian authorities, which, after having argued for a long time that they were not concerned by migration transiting through Morocco, begun to strengthen as of the end of November/early December 2005 the checkpoints along their borders with Mali and Niger and send back several hundred sub-Saharan migrants to their countries of origin. An article published on 5 December 2005 stated that "the Algerian authorities launched a vast operation of deportation aiming several hundred of illegal African immigrants settled in a region nearby the Moroccan borders. This operation, which was launched on December 3 in the evening, applies to illegal immigrants who were living in inhumane conditions on the shores of Oued Jorgi in the Daïra of Maghnia. This *no man's land* hurriedly established at the end of the Nineties at the Algerian-Moroccan hosted some 2,500 illegal sub-Saharan migrants according to the authorities (Algerian)."[25]

- A slight improvement in the conditions of treatment and transportation of migrants returned to their countries of origin, especially after the huge mistake committed by the Moroccan authorities when trying to expel through the desert more than 700 migrants arrested in September/October 2005 on the borders of Ceuta and Melilla.

- At the same time, an attempt to better explain the new Moroccan of-

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lese remain grouped in Nador and we are currently organising their repatriation in relation with the Moroccan authorities." See "'Il faut un plan Marshall pour l'Afrique!', selon l'ambassadeur du Sénégal au Maroc", in *Aujourd'hui le Maroc*, 28 October 2005, http://www.avomm.com/_a101.html.

[24] Zakariya Tanjaoui, "Moroccan King tours Africa to give new impetus to South-South cooperation", in *Middle East Online*, 14 March 2013, http://www.middle-east-online.com/english/?id=57531.

[25] APS, "Algérie: des centaines d'immigrés clandestins en cours de reconduite à la frontière", in *AgenceNews*, 5 December 2005, http://fusion.editionsgenex.com/articles/20051205142403/algerie_des_centaines_dimmigres_clandestins_cours_reconduite_frontiere.html.

ficial policy on irregular migration, especially through authorities directly in charge of implementing this policy on the ground.

- Relations between the Moroccan Government and the local representative of the High Commissioner for Refugees seem to have improved and reached a non-explicitly stated agreement according to which UNHCR would act with all available means to ensure that migrants residing in Morocco – that is, those prevented from crossing over to Europe – would benefit from some formal warranties, and the Moroccan authorities would act so as to ensure the number of migrants accepted on its territory (in the framework of a tacit sharing of responsibilities for the migration "burden" between EU countries and all North-African countries) does not exceed a given "threshold." This implies tighter border control and the possibility to proceed sporadically to huge expulsion operations.
- A stronger rapprochement with Spain, France and the European Union in general, explaining in particular that Morocco was/is "victim of its geographical position" and that the migrants were only on its territory on their way to Europe. This resulted, in particular, in a significant convergence of views between Moroccan and Spanish officials, whose common interests *vis-à-vis* the EU, Algeria and sub-Saharan countries of departure were increasingly emphasised – at least more than before the attempts to force passage to the cities of Ceuta and Melilla in autumn 2005 and even more compared to the climate of animosity prevailing in the relationships between Morocco and Spain, especially between the summer of 2001 and the end of 2002.

5.3 MOROCCAN MIGRATION POLICY, THIRD STEP: MANAGING ECONOMIC CRISIS AND "ARAB SPRING" EFFECTS, UNDER HUMAN RIGHTS PRESSURE

As indicated in Figure 1, the number of irregular migrants using the western Mediterranean route, including Morocco with its two sea coasts, increased to 7,842 in 2014 from only 5,003 in 2010. But the 2014 figure is still well below the figures reached between 2001 and 2005,

even if the total number of irregular migrants which arrived to Europe in 2014 has almost tripled by comparison with 2013, increasing from 107,365 to 283,532.[26]

Figure 1 – Illegal border crossings on the western Mediterranean route (sea and land)
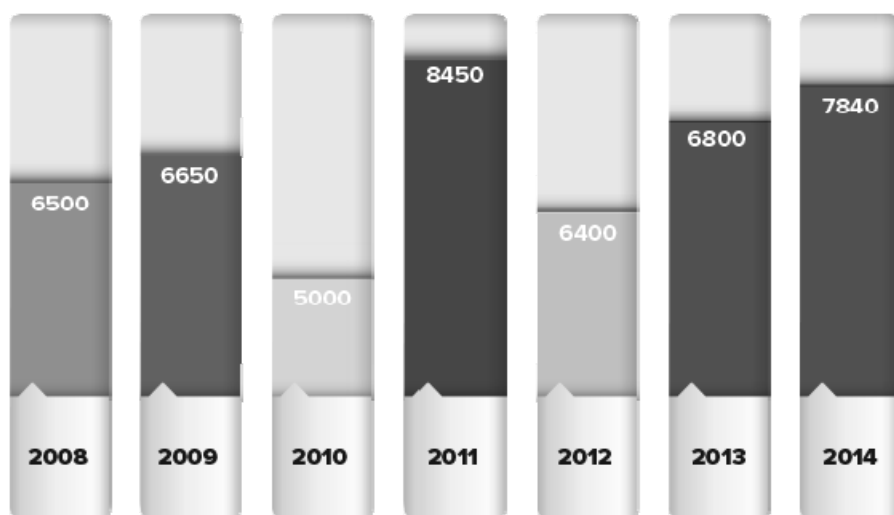
Source: Frontex webpage on *Western Mediterranean route*.
http://frontex.europa.eu/trends-and-routes/western-mediterranean-route.

That means that the controls all along the Moroccan borders are still rigorous, confirming the "will" of Morocco to continue to adapt its migration policy to that of Europe. This will has been reinforced by the "advanced status" granted by the EU to Morocco on October 2008 as by the "mobility partnership" linking Moroccans to Europeans since April 2013, even if the final targets of this partnership are not yet clear.[27]

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[26] In April 2015, Frontex published figures of illegal immigration in Europe for the year 2014. According to its data, the number of illegal immigrants in the EU almost tripled in 2014 compared with the previous year, an increase of 164 percent. The first migration route remains the sea. Over 170,000 irregular migrants arrived in Italy and more than 50,000 in Greece. See Frontex, *Annual Risk Analysis 2015*, cit., p. 12 and 19.

[27] On 13 October 2008, Morocco became the first country in the southern Mediterranean region to be granted advanced status, marking a new phase of privileged relations.

This agreement has four global objectives. One is "to manage the movement of persons for short periods and legal and labour migration more effectively, taking into account, with regard to the latter, the labour market of the signatories" and

> to combat illegal immigration, networks involved in the trafficking and smuggling of human beings, and to promote an effective return and readmission policy while respecting fundamental rights, the relevant legislation and ensuring the dignity of the people concerned.[28]

Neither Moroccans nor Europeans are yet completely satisfied with its application, however. The Moroccans because they estimate that the conditions for obtaining the visas for the Shengen space to which they are subjected are still too restrictive; the Europeans, because, after 16 rounds of negotiation, they have not yet obtained from Moroccans the "readmission agreement" they have been requesting for years.[29]

With this in mind, and probably as a reaction to a BBC documentary broadcast on 4 September 2013, where Morocco was accused of "human rights breaches over migrants,"[30] on 10 September 2013 King Mohamed

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"The Advanced Status is reflected in the willingness to strengthen political dialogue, cooperation in the economic, social, parliamentary, judicial and security fields and in different sectors, namely agriculture, transportation, energy and environment. It also aims at the progressive integration of Morocco into the EU single market as well as at increasing legislative and regulatory convergence. Financial cooperation plays an essential support role in the success of this special relationship". See the European Commission webpage on *International Cooperation and Development: Morocco*, http://ec.europa.eu/europeaid/countries/morocco_en.

[28] Council of the European Union, *Joint declaration establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States* (ST 6139 2013 ADD 1 REV 3), 3 June 2013, p. 4, http://data.consilium.europa.eu/doc/document/ST-6139-2013-ADD-1-REV-3/en/pdf.

[29] Moroccans no doubt consider that it is one of the last cards which remains in their hands in their global negotiations with Europe. Another consideration is that it is the sort of agreement which would be very expensive for them financially and politically to implement.

[30] Paul Mason, "Morocco accused of human rights breaches over migrants", in *BBC News*, 4 September 2013, http://www.bbc.com/news/business-23959892.

VI held a meeting with his Minister of Home Affairs and some human rights representatives (among the National Council of Human Rights – CNDH) to initiate a new "migration and asylum policy" for foreign residents in the Kingdom, especially illegal migrants.[31] This announcement was regarded as another turning point in Morocco's human rights approach to irregular immigrants, mainly sub-Saharans from countries like Mali, Senegal, Niger, Nigeria, Côte d'Ivoire and Guinea, but also refugees from Libya and Syria. The new migration policy was to comprise three main elements:

1. an exceptional regularisation activity for immigrants, carried out in 2014 (this operation was to benefit nearly 45,000 migrants);
2. larger powers to be given to the UNHCR to grant the right of asylum to a more significant number of asylum-seekers in Morocco;
3. new laws allowing a better integration of migrants and asylum-seekers into social life in Morocco, as well as a more marked fight against human trafficking.

By the end of 2014 – the final date of the exceptional regularisation operation – the number of the validated requests for regularisation reached 17,916 out of a total of 27,332[32] – that is to say a 65 percent rate of satisfaction and just over a third of the 45,000 regularisation announced as a target of the operation.

Concerning asylum, the UNHCR has recognised relatively few refugees in Morocco. There were 643 UNHCR-recognised refugees among 2,937 asylum-seekers with pending cases.[33]

Concerning the other objectives of the "new initiative," the Ministry

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[31] Even if official spokesmen and public media attached this initiative to a report on the issue of irregular migration published by the CNDH, some observers were to link this initiative to the BBC documentary.

[32] See the Rabat Process webpage *Towards a new Moroccan immigration policy*, http://www.processusderabat.net/web/index.php/news-and-events/towards-a-new-moroccan-immigration-policy.

[33] UNHCR, *Morocco Factsheet*, 1 April 2015, http://www.unhcr.org/4c907df39.pdf. See also Human Rights Watch, *Abused and Expelled. Ill-Treatment of Sub-Saharan African Migrants in Morocco*, 10 February 2014, p. 48, http://www.hrw.org/node/122527/section/10.

in Charge of the Moroccans Living Abroad and Migration Affairs worked out, only at the end of 2014, a "National Strategy on Immigration and Asylum." Such a strategy, adopted by a Government Council held in December 2014, has as its vision to ensure a better integration of the immigrants and a better management of the migration flux within the framework of a "coherent, overall, humanistic and responsible policy."[34] This strategic vision is founded on three main objectives:

- to facilitate the integration of the new regularised immigrants;
- to set up and to raise an adapted institutional and regulation framework;
- to manage the migration flux in respect of human rights.

The same Ministry announced three projects of law relative to asylum, immigration and the fight against human trafficking were elaborated under the coordination of the Interdepartmental Delegation to the Human rights.[35] But no one knows exactly (at the end of March 2015) what these projects of law contain or when they will be discussed by the government or when they could be presented to Parliament.

CONCLUSIONS

The year 2010 was remembered by a net decrease in irregular migration, in the east, the south and in the western Mediterranean. This decrease, attested to in particular by the data published by Frontex, is largely the result of reinforced border controls across the whole of the Mediterranean area, of greater involvement of the Maghreb countries in those controls and also of the opening to a significant degree of other migration corridors along the eastern coast of Africa.

The events related to the Arab spring, marked by numerous changes to policy and security plans, produced – *inter alia* – a certain movement along the borders of countries like Tunisia, Libya and Egypt, and caused

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[34] See *Conseil de gouvernement du jeudi 18 décembre 2014*, http://www.maroc.ma/fr/actualites/conseil-de-gouvernement-du-jeudi-18-decembre-2014.

[35] Ibid.

a strong exodus of sub-Saharan migrants from Libya as well as the departure of several hundreds of thousands people following the outbreak of civil war in Syria.

According to Frontex, the third quarter of 2013

> saw a massive upswing in irregular migrants arrivals in the Central Mediterranean. This, combined with sustained detections in the Ionian and Eastern Aegean Seas, meant there were more detections of illegal border-crossing at the EU maritime borders than during the height of the 2011 'Arab Spring'.[36]

This report is confirmed by the fact that the most serious migrant ship wrecks in the Mediterranean took place between the summer and the autumn 2013, whereas Morocco, affected only marginally by the Arab spring, recorded more migrant arrivals and departures of migrants between 2012 and 2013 (from sub-Saharan countries, particularly) than between 2008 and 2010.

This seems to confirm that as a long as are countries in deep economic and social crisis, or where national and international conflicts are rife, or where natural disasters have taken place which will oblige African or Arab populations to seek a better life outside (in Europe, for example), the problem of irregular migration will continue.

This also confirms that even if countries like Morocco, operating at the edges of the EU, do all they can, collaborating with European migration policy, that will not be enough to reduce irregular migration to the EU without the global adoption of a new approach to security, financial, economic and social conditions in departure and transit countries.

Thus, migration management to, in and from the Maghreb needs to be conducted as part of a coherent and multilateral approach. In this context, Moroccan migration policy must be conducted in partnership with sub-Saharan countries of departure, including when it is a question of signing readmission agreements with countries whose citizens

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[36] Frontex, *Irregular Arrivals Were at Record High in the Third Quarter of 2013*, 31 January 2014, http://frontex.europa.eu/news/irregular-arrivals-were-at-record-high-in-the-third-quarter-of-2013-qZCQJR.

can neither pass to Europe nor profit from conditions of legal stay in Morocco.

Moreover, without Moroccan-Algerian co-operation, Morocco's eastern border will remain a strain, even if the two countries complete the "walls of protection" which they decided to set up between their respective territories. One must also bear in mind the sensitive borders that Algeria shares with Niger and Mali, since it is likely that a migration node is tied there which relates to Sahelian and Euro-Mediterranean spaces.

Europe should not leave the Italians alone to deal with irregular migration from Libya and Tunisia, nor should it leave Spain and Morocco alone in dealing with irregular migration from Africa. Today it is more necessary than ever before – given the security situation in the Maghreb, in many areas in Africa and the state of poverty which is still very high in many sub-Saharan countries – that the European Union, along with the USA, Canada, China, Japan, the Gulf states and other countries should join forces to prevent Africa from becoming a continent that most young people want to flee from, whatever the conditions.

6.

Israel's Policies toward Asylum-Seekers: 2002-2014

Galia Sabar and Elizabeth Tsurkov

This chapter analyses Israel's policies towards asylum-seekers from 2002 to 2014, a period during which the number of asylum-seekers in Israel increased dramatically from a mere handful at the beginning of the century to over 60,000 in 2012. The vast majority of asylum-seekers are from Sudan and Eritrea, who have crossed one or more intermediate states *en route* to Israel. After briefly introducing Israel's unique immigration regime the chapter will first focus on its recently developed asylum system. We shall argue that, although it was created as a chaotic "patch work," "on the move" policy – at times hard to follow and comprehend – this asylum system follows the same central norms of Israel's citizenship and immigration processes that were created to safeguard the Jewish character of the State of Israel.

Following a presentation of Israel's low recognition rate of refugees, the chapter will highlight the country's reluctance to grant refugees protection and demonstrate how it has resorted to implementing protection mechanisms that complement the Refugee Convention, such as granting (formal or informal) temporary protection.

The second part will examine the ways in which Israel has made it difficult for asylum-seekers to live within its borders after entering, focusing on their limited access to social and other public services, and, since 2012, the adoption of a policy of prolonged detention without trial and active encouragement of those detained to leave Israel "willingly" without sufficient guarantees for their safety. This work argues that the-

se coercive measures are an intensification of Israel's overall policy that seeks to discourage non-Jewish migration to Israel. Moreover, these policies are in clear contravention of the Refugee Convention and EU policies, and yet Western governments have not applied measures to induce policy change in Israel.

The final section of the chapter is based on interviews with Sudanese and Eritrean asylum-seekers in Israel. We use interview data to analyse asylum-seekers' daily realities and explore their understanding of and struggle against Israel's immigration and asylum policies.

6.1 ISRAEL'S IMMIGRATION REGIME: A BRIEF INTRODUCTION

The asylum system developed in Israel over the past decade follows the ideology, norms, rules and regulations that constitute the foundation of Israel's citizenship and immigration policies. Hence, when asylum-seekers began entering Israel in growing numbers from 2005 they were confronted by an immigration policy whose primary purpose was to ensure unfettered Jewish migration and prevent all other migrations. This policy, while based on several legal rulings, is grounded, first and foremost, in the Law of Return (1950), which states that every Jew, so long as at least one grandparent is Jewish, has the right to immigrate to Israel, and to settle and acquire citizenship there.[1] The purpose of this law was to provide protection and shelter for Jews on the basis of a shared national and religious identity; thus, any Jew who comes to Israel may acquire Israeli citizenship by return, residence, birth or naturalisation under the Nationality Law (1952).[2]

Together with the Law of Return and the Nationality Law, the Entry

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[1] *Law 5710-1950: Law of Return*, 6 June 1950, in Book of Laws 51, p. 151; *Law 5730-1970: Law of Return (Amendment No. 2)*, 10 March 1970, in Book of Laws 586, p. 34, http://www.mfa.gov.il/mfa/mfa-archive/1950-1959/pages/law%20of%20return%205710-1950.aspx.

[2] *Law 5712-1952: Nationality Law*, 1 April 1952, in Book of Laws 95, p. 146, http://www.israellawresourcecenter.org/israellaws/fulltext/nationalitylaw.htm.

to Israel Law (1952) was issued to regulate the right of non-Jewish non-nationals to enter and reside in Israel. This law defines procedures for acquiring an entry visa and establishes the grounds upon which non-nationals may be deported. The third section of this law excludes Palestinians from acquiring nationality.[3]

Following an increase in attempts by Palestinian guerilla fighters (referred to as *fedayeen*) based in Jordan and Egypt to penetrate Israel via the eastern and southern borders in order to carry out violent attacks against Israeli targets, the government introduced the Prevention of Infiltration Law in 1954.[4] This law defined an "infiltrator" (Hebrew *mistanen*) as someone who "entered Israel knowingly and unlawfully" and who was "a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, or the Yemen," or who was a resident, visitor or citizen of Palestine who was armed and who sought "to cause death or serious injury to a person." Such infiltrators were subject to criminal law, trial by a military tribunal and could be imprisoned for up to five years.

These four basic laws – the Law of Return, the Nationality Law, the Entry to Israel Law and the Prevention of Infiltration Law – established the foundation for Israel's migration policy and, when taken as a whole, limited the number of legal avenues for non-Jewish migrants to gain citizenship. In many ways all these laws – especially the Prevention of Infiltration Law – also served as the foundation of the country's national frontier mentality.

With this in mind, it is important to mention that in addition to adopting these laws, Israel was one of the first countries to sign and ratify the 1951 Convention Relating to the Status of Refugees, being cogni-

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[3] Law 5712-1952: Entry to Israel Law, 26 August 1952, in Book of Laws 111, p. 354, http://www.israellawresourcecenter.org/israellaws/fulltext/entryintoisraellaw.htm.

[4] It should be noted that not all of those who entered via the eastern border came to carry out violent attacks. Some were innocent victims of the consequences of the 1948 war and had crossed the border in an attempt to collect possessions and pick up unharvested crops. All, however, were considered to be infiltrators in the eyes of Israeli law. See *Law 5714-1954: Prevention of Infiltration (Offences and Jurisdiction) Law*, 16 August 1954, in *Book of Laws* 161, p. 160, http://www.israellawresourcecenter.org/israellaws/fulltext/preventioninfiltrationlaw.htm.

zant of the terrible fate of Jewish refugees during the Second World War. The Convention, however, was never incorporated into Israeli law, a step that would require Israeli legislation.

6.2 CHALLENGING ISRAEL'S MIGRATION REGIME: THE ARRIVAL OF INTERNATIONAL MIGRANT LABOURERS

Until the early 1990s Israel had very few non-Jewish migrants, and only a handful of international labour migrants. Israel did, however, employ Palestinian workers either from the West Bank or from the Gaza Strip, mainly in agriculture and construction. Most of these workers came during the day and returned to their homes at night, and so they were not regarded as labour migrants. In the late 1980s their numbers reached about 100,000, however.[5] Following the increase in violence and defensive closures brought on by the Palestinian uprising (*intifada*) at this time, the Israeli government decided, for the first time in its history, to allow international labourers to enter the country in large numbers to replace the Palestinian workers, especially in the fields of agriculture and construction. Beyond determining the number of work visas issued per year, the state instituted rules and regulations pertaining to their daily lives, primarily ones that were concerned with labour rights as Israel regarded migrant labourers as mere temporary workers rather than potential migrants on a path to citizenship. Hence, one of core statutes enacted during this period limited the labourers time of sojourn in Israel to a maximum of 63 months.[6] However, due to inefficient enforcement of this and other regulations, tens of thousands of migrant labourers remained in the country, establishing families and developing

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[5] On the Palestinian workers as foreign workers and not labour migrants and on the relation between the Palestinian Israeli conflict and the import of international labour migrants see Rebeca Raijman and Adriana Kemp, "State and NonState Actors: A Multilayered Analysis of Labor Migration Policy", in Dani Korn (ed.), *Public Policy in Israel. Perspectives and Practices*, Lanham, Lexington Books, 2002, p. 155-174.

[6] The only exception is made for caregivers, whose departure would harm their Israeli employer.

communities.[7] Yet they had few, if any, legal avenues to gain residency or citizenship.[8]

In the early 2000s, when the number of international labourers made up 10 percent of the labour force and had reached 250,000, the Israeli government sought to implement large-scale deportations of these labourers due to growing unemployment among Israelis. Thus, in 2002, the government established an immigration directorate within the Ministry of Interior to achieve the policy objective of reducing the number of undocumented migrants residing in Israel.[9] Then Prime Minister Ariel Sharon set a goal of 50,000 deportations to be carried out within sixteen months of the Directorate's operation. However, the Directorate, lacking the necessary staff, was forced to rely on the Israeli Police to carry out the raids and arrests, some of which were extremely violent.[10]

It is within this context that asylum-seekers, who began entering Israel in growing numbers since 2005, found themselves. They were confronted by an immigration policy whose intention was, as demonstrated above, to ensure that Jews are able to immigrate to Israel freely while non-Jewish labour migrants are barred from gaining citizenship, except in rare cases.

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[7] On the lively African communities see Galia Sabar, "Israel and the 'Holy Land': The Religio-Political Discourse of Rights among African Migrant Labourers and African Asylum Seekers, 1990-2008", in *African Diaspora*, Vol. 3, No.1 (2010), p. 42-75.

[8] See the Israel Government Portal, *Coming to Work in Israel: Guide for Migrant Workers*, http://www.gov.il/firstgov/topnaveng/engsituations/esmigrantworkersguide/esmwgcoming.

[9] On 1 January 2009, became the Administration of Border Crossings, Population and Immigration (PIBA).

[10] Kav LaOved and Hotline for Refugees and Migrants, *Immigration Administration or Expulsion Unit?*, May 2003, http://hotline.org.il/?p=2014.

6.3 AFRICAN ASYLUM-SEEKERS ENTER ISRAEL: MAJOR MILESTONES

6.3.1 Numbers

In 2004, eleven asylum-seekers crossed into Israel from Egypt, all of them survivors of the genocide in Darfur, and, in 2005, an additional 453 asylum-seekers entered through the lax border with Egypt, most of them from south and west Sudan (Darfur). In 2006 the number of asylum-seekers who entered had doubled, reaching 1,204. Interviews with Sudanese asylum-seekers who entered Israel in 2006 revealed that they were deeply affected by the Mustapha Mahmoud Park Massacre in Cairo on 30 December 2005. After a peaceful sit-in of Sudanese and South Sudanese families outside the offices of the United Nations High Commissioner for Refugees (UNHCR) in Cairo had gone on for three months, Egyptian security forces opened fire on the crowd, killing fifty-six people and detaining hundreds.[11] Following the massacre, many refugees felt they were no longer safe in Egypt and decided to seek shelter in Israel.

In 2007, Eritreans seeking asylum began entering Israel and, as of January 2015, constitute 73 percent of all asylum-seekers in Israel. By February 2015, 47,000 asylum-seekers, mostly from Eritrea and Sudan, resided in Israel. As Table 1 demonstrates, a significant increase in the number of asylum-seekers residing in Israel took place between 2005 and 2014.[12] It was the first time in Israel's history that so many people sought asylum and the state's asylum system was clearly not equipped to deal with them.

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[11] Eva Dadrian, "Remembering the Massacre in Mustapha Mahmoud Park", in *Pambazuka News*, No. 236 (5 December 2006), http://www.pambazuka.net/en/category/features/31111.

[12] Population, Immigration and Border Authority (PIBA), *Data on Foreigners in Israel. Summary for 2014* (Hebrew), January 2015, http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/sum2014_final.pdf.

Table 1 – Number of irregular entries into Israel by year

Until 2006	2007	2008	2009	2010	2011	2012	2013	2014
2,731	5,065	8,769	5,217	14,680	17,300	10,438	43	21

6.3.2 Procedures and policies

Before we present and analyse the major milestones in the creation of the state's asylum system it should be clearly stated that, on the whole, the rules, regulations and procedures are inconsistent, defensive and issued "on the move." This inconsistency became the most conspicuous feature of Israel's asylum policy between 2005 until the present day. At the same time, the established asylum system does adhere to the same central norms that define Israel's citizenship and immigration processes.

Hence, once the first African asylum-seekers crossed the border between 2005 and 2006 Israeli authorities held them in prolonged detention without trial, with most spending almost a year in prison.[13] As all of them came from Sudan – an enemy state – it was argued that they could not be released from detention since they posed a danger to the Israeli public. Due to the increasing number of asylum-seekers entering Israel the government constructed a new detention facility called Saharonim on the border with Egypt. Nevertheless, the detention period of asylum-seekers decreased dramatically from over a year in 2006 to only a few weeks in 2008.[14] This change in policy may be attributed not only to the constant lack of space in the existing detention facilities but also to the protracted legal battles waged by Israeli NGOs.

The same inconsistency regarding detention was also commonplace in the regulations concerning the type of visas issued to asylum-seekers. On 17 September 2007, for example, Prime Minister Ehud Olmert de-

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[13] The Israeli government and UNHCR wished to return the asylum-seekers to Egypt and sought to secure a deal with the Egyptian regime that would allow Israel to do so; such a deal never materialised.

[14] Refugees' Rights Forum, *Asylum-Seekers and Refugees in Israel: May 2010 Update* (Hebrew), 16 June 2010, http://hotline.org.il/?p=2610. See location of the Saharonim facility, which is adjacent to Ktziot, the latest detention facility for asylum-seekers in Holot: https://www.google.co.il/maps/place/Saharonim+Penitentiary/@30.8831621,34.453817,14z.

clared that he would grant 498 Darfuris refugee status, arguing that the rest are "work infiltrators" who will be deported from Israel.[15] Hence, between 2008 and 2009, the Ministry of Interior issued A5 visas to 600 Darfuris according to the lists of Darfurians compiled by the UNHCR. This visa, which grants its holders temporary residency, the right to work, social services and medical insurances, was issued without an examination of their individual cases (the refugee status determination, RSD, process).

While the Prime Minister declared those beyond the 600 Darfurian refugees as "work infiltrators" to be deported, in January 2008 the Immigration Directorate granted the 2,000 Eritreans already residing in Israel a B1 visa. This visa, which until then was issued only to migrant workers, grants its holder only the right to work.[16] In February 2008, Israel began handing out the 2A5 "conditional release" visa to all other asylum-seekers. All Sudanese nationals who were not from Darfur, such as people from South Kordofan and South Sudan, as well as Eritreans who arrived after December 2007, received this visa. *De jure*, this visa grants its Sudanese and Eritrean holders only temporary protection from deportation though, *de facto*, most do work.[17] The constant rise in

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[15] Barak Ravid and Ruth Sinai, "Fewer Sudanese refugees entering Israel", in *Haaretz*, 24 September 2007, http://www.haaretz.com/print-edition/news/1.229901.

[16] In April 2008, the Ministry of Interior began withdrawing the B1 visas of about 50 percent of Eritreans, who were (falsely) found to be Ethiopians. In 2014, the Ministry of Interior revoked the B1 visas of most remaining Eritreans who still held that status. See Refugees' Rights Forum, *Asylum-Seekers and Refugees in Israel: May 2010 Update* (Hebrew), cit.

[17] At the time of this writing, approximately 40,000 asylum-seekers in Israel live with the 2A5 visa. This visa, which must be renewed every one or two months at the Immigration Authority, grants its Sudanese and Eritrean holders temporary protection from deportation. Beyond enabling its holder to reside in Israel, this visa does not grant its holder the right to work, housing, government assistance, welfare services, or medical insurance. Despite the fact that their visa clearly states "this permit is not a work permit" and their employment is *de jure* illegal, most asylum-seekers in Israel do work. They are usually employed in low-level, minimum wage service industry positions. Asylum-seekers manage to find work because the state committed before the High Court to refrain from fining employers of asylum-seekers following a petition filed by Israeli human rights NGOs. From time to time, Israeli government officials and PIBA inspectors threaten to begin fining employers of asylum-seekers. These steps are taken to ensure

the number of new asylum-seekers entering the country brought about this change in visa policies.

In accordance with UN recommendations and Israeli law, Eritrean and Sudanese nationals who entered Israel were protected from being deported back home. At the same time, Israel barred them from filing individual asylum claims, thus preventing them from acquiring refugee status. This basic right, reserved for asylum-seekers throughout the Western world and elsewhere, was seen as a threat by the State of Israel. The reason for this reluctance is explored below.

6.4 BETWEEN ISRAEL AND THE UNHCR, BETWEEN CONDITIONAL RELEASE, TEMPORARY PROTECTION AND RSD

From the early 1950s until 2001 the entire refugee status determination (RSD) process was in the hands of the UNHCR – the local UNHCR office would examine the asylum request and the final decision would be made at its Geneva headquarters. Since the establishment of the State of Israel in 1948 until the present day, only around 200 people have been granted refugee status, according to the Refugee Convention.[18]

In 2001, Israel's Ministry of Justice drafted a new regulation assigning the authority to determine whether to grant refugee status to asy-

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that asylum-seekers will struggle to find employment in Israel. Asylum-seekers who are desperate for work sometimes agree to work for less than minimum wage to survive. Roni Livneh, "Is It Permissible to Employ Asylum Seekers or Not?" (Hebrew), in *Kav LaOved*, 17 June 2014, http://www.kavlaoved.org.il/?p=3935.

[18] Neta Moshe, *Procedures for Receiving Refugee Status in Israel* (Hebrew), Jerusalem, The Knesset Research and Information Center, 18 June 2013, https://www.knesset.gov.il/mmm/data/pdf/m03216.pdf. It should be noted however that applying for asylum did not provide much protection to the applicants and several people who were waiting for a reply from the UNHCR were deported from Israel to their homeland. However, there were instances in which the UNHCR was able to intervene and stop the deportation. One should note Palestinian requests for refugee status were handled by UNRWA – a unique UN organisation established solely for handling Palestinians. Their decisions were not transferred to the State of Israel.

lum-seekers to the Israeli government. According to the new procedure, an intra-ministerial committee would make recommendations to the Minister of Interior, who would then make the final decision on each case forwarded to him. This limited the role the UNHCR had in the RSD process, restricting the international organisation to interviewing asylum-seekers and examining the conditions in their country of origin, and based upon its findings make a recommendation to the Israeli intra-ministerial committee.[19]

In July 2009, as the number of foreigners in Israel increased, the Ministry of Interior assumed full responsibility for processing RSD applications and determining whether a person is entitled to refugee status. The first Israeli RSD officers were trained by the UNHCR and HIAS (the Hebrew Immigrant Aid Society), a Jewish refugee rights NGO, which has since harshly criticised Israel's asylum system.[20]

Since July 2009, the State of Israel has granted only forty-five people refugee status out of the 17,778 asylum claims submitted, a recognition rate of 0.25 percent.[21] In 2011, the European Court of Human Rights ruled that Greece's asylum system was unfair due to its recognition rate of 1 percent (the lowest in the EU, but much higher than Israel's): "An asylum system with a rate of recognition not exceeding 1% is suspect *per se* in terms of the fairness of the procedure."[22] Judged against this standard, the fairness and impartiality of Israel's recognition procedure and those who implement it is suspect and demonstrated the unfairness inherent to Israel's process.

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[19] Yonatan Berman, *Until Our Hearts Are Completely Hardened. Asylum Procedures in Israel*, Tel Aviv, Hotline for Refugees and Migrants, March 2012, http://hotline.org.il/?p=1316.

[20] According to HIAS, Israel examines asylum claims in an unfair manner and its "[RSD] system is basically carved out to reject claims." See Lauren Gelfond Feldinger, "Seeking Asylum? No Spirit of Geneva Here", in *Haaretz*, 30 September 2012, http://www.haaretz.com/jewish-world/jewish-world-features/1.467529.

[21] Ilan Lior, "Israel has Granted Refugee Status to only Four Sudanese and Eritrean Asylum Seekers", in *Haaretz*, 19 February 2015, http://www.haaretz.com/news/israel/1.643134.

[22] ECtHR, Judgement in the case of *M.S.S. v. Belgium and Greece*, 21 January 2011, p. 105, http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050.

Israel has achieved such a low recognition rate first and foremost because until 2013 it barred all Eritrean and Sudanese citizens from filing individual requests.[23] In addition, its investigation process is conducted with the intention of finding people who are not refugees, so that they can be deported. Hence, the interviews during the RSD process are carried out as interrogations, with the Ministry of Interior clerks shouting at asylum-seekers and accusing them of lying, among other tactics. In contravention of UNHCR guidelines, asylum claims are rejected on the grounds of slight inconsistencies, non-existent inconsistencies or due to an individual's inability to remember details that are not relevant to the asylum claim.[24] In other cases, the asylum requests are rejected based on faulty information about the country of origin.[25]

Since 2013 Eritrean and Sudanese asylum-seekers have been allowed to file claims, but the dismally low recognition rate remains unchanged. To date, Israel has not recognised even one Sudanese national as a refugee out of a community of almost 9,000 people.[26] Israel examined only 45 of the 3,165 requests filed by Sudanese nationals and rejected them all.[27] To date, as far as Israeli human rights NGOs are aware, no claims of Darfuris have been rejected – Israel simply has not responded to any request filed by a survivor of the genocide in Darfur, even to asylum claims filed two years ago.[28] Compared with Israel's 0 percent recognition rate

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[23] Eli Shani et al., *No Safe Haven. Israeli Asylum Policy as Applied to Eritrean and Sudanese Citizens*, Tel Aviv, Hotline for Refugees and Migrants, December 2014, http://hotline.org.il/?p=2362.

[24] For example, a citizen of Myanmar had her asylum request rejected because she did not remember the name of an official in the university she had claimed to attend. See Yonatan Berman, *Until Our Hearts Are Completely Hardened*, cit., p. 33.

[25] For example, a gay asylum-seeker from Morocco was not granted refugee status in Israel because Morocco was deemed to be safe for gays. The RSD unit determined that Morocco is safe for gays because it found a Moroccan website that supports gay rights and because Elton John, who is openly gay, once performed in Morocco. See Ibid., p. 36-37.

[26] Population, Immigration and Border Authority (PIBA), *Data on Foreigners in Israel. Summary for 2014* (Hebrew), cit.

[27] Ilan Lior, "Israel has Granted Refugee Status to only Four Sudanese and Eritrean Asylum Seekers", cit.

[28] Eli Shani et al., *No Safe Haven*, cit., p. 34.

of Sudanese refugees, in 2013, 58.7 percent of refugee status claims filed by Sudanese citizens worldwide received a positive response.[29]

Eritrean asylum-seekers have fared no better than the Sudanese. To date, Israel has granted only four Eritrean citizens refugee status, out of a community of 34,000.[30] Hundreds of asylum requests filed by Eritreans have been rejected because Israel does not consider national service evaders or defectors to be deserving of refugee status.[31] By comparison, in 2013, 67.3 percent of refugee status claims filed by Eritreans worldwide received a positive response and another 15.8 percent received complementary protection.[32]

Beyond the ideology guiding Israel's immigration policy mentioned above, it should be noted that the context within which Israel's RSD system operates is extremely hostile to the possibility of non-Jewish asylum-seekers remaining in Israel. On a daily basis, leading decision-makers, including the Minister of Interior and the Prime Minister, have declared that the overwhelming majority of those claiming asylum in Israel are "illegal work infiltrators" and not genuine refugees.[33] The people in charge of examining RSD requests have internalised this faulty logic. For example, the chair of the intra-ministerial committee, Adv. Avi Himi, insisted that a refugee is a person "who was persecuted in his country and that there is an objective danger to his life," thus setting a much higher standard than that stipulated in the Refugee Convention.[34]

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[29] UNHCR, *Global Trends 2013*, Data Annex, Table 11, http://www.unhcr.org/global trends/2013-GlobalTrends-annex-tables.zip.

[30] Population, Immigration and Border Authority (PIBA), *Data on Foreigners in Israel. Summary for 2014* (Hebrew), cit. Ilan Lior, "Israel has Granted Refugee Status to only Four Sudanese and Eritrean Asylum Seekers", cit.

[31] Eli Shani et al., *No Safe Haven*, cit., p. 31.

[32] UNHCR, *Global Trends 2013*, cit.

[33] Barak Ravid, "Netanyahu: Israel has no asylum seeker problem - only illegal job immigrants", in *Haaretz*, 30 September 2014, http://www.haaretz.com/news/israel/1.618505. Gideon Saar, "We Will Not Surrender to Lies" (Hebrew), in *Israel Hayom*, 7 January 2014, http://www.israelhayom.co.il/article/147359.

[34] Article 1 of the Refugee Convention states that a refugee is a person who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of

He also made the absurd claim that "15% of the asylum-seekers ask for protection because spirits are haunting them."[35]

6.5 THE STRUGGLE OVER THE 1954 PREVENTION OF INFILTRATION LAW

At this point it is important to focus on the struggle over the 1954 Prevention of Infiltration Law as part of our attempt to understand the asylum system, including its detention policies. This section will also enable us to broaden our perspective by understanding the complex relations between policymakers, the judiciary, human rights NGOs and the community affected by the law, the asylum-seekers.

From 2008, successive Israeli governments, first the Olmert government and then the Netanyahu government, attempted to push through an amendment to the 1954 Prevention of Infiltration Law that would allow Israel to hold asylum-seekers in administrative detention, that is, detention without trial or even an indictment. Successful lobbying by Israeli human rights NGOs prevented the passage of such an amendment until January 2012, when the Israeli parliament approved the third amendment to the Prevention of Infiltration Law. The amendment mandated three years imprisonment without trial for asylum-seekers from Eritrea and indefinite detention for asylum-seekers from enemy states, such as Sudan. The government began jailing asylum-seekers under this law only in June 2012 because it first had to expand the prisons holding

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that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." The Convention also states: "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." (Article 33). See *Convention and Protocol Relating to the Status of Refugees* (1951 and 1967), http://www.unhcr.org/3b66c2aa10.html.

[35] Tomer Zarhin, "Advisor to Eli Yishai: 15% of the Asylum-Seekers Claim that They Are Haunted by Spirits" (Hebrew), in *Haaretz*, 30 December 2011, http://www.haaretz.co.il/news/education/1.1604904.

asylum-seekers so it would be able to accommodate the detainees to be held under the amended law.[36]

Israeli human rights NGOs filed a petition with the High Court of Justice against the amendment. In September 2013, the High Court ruled unanimously to void the law declaring that it disproportionately violated the right of "infiltrators" to liberty. The court ordered the state to immediately begin releasing all of the detainees – about 1,750 asylum-seekers were detained under the law at the time – and complete their release within ninety days.[37] Instead of releasing the asylum-seekers, however, the government began advancing a law through the parliament that would bypass the High Court ruling and allow Israel to continue to indefinitely detain asylum-seekers. After the petitioners turned to the High Court and demanded that the state be found to be in contempt of court, the Immigration Authority began releasing some of the detainees.[38] About 800 asylum-seekers in total were released before 10 December 2014, when the Knesset passed the fourth amendment to the Prevention of Infiltration Law.

The new law allowed Israel to continue detaining the asylum-seekers it had failed to release – in contravention of the High Court ruling – mandated the detention of asylum-seekers who enter Israel after the law came into effect and, for the first time, affected asylum-seekers who entered Israel in the preceding decades. Under the new law, asylum-seekers who entered Israel were to be detained without trial for a year in Saharonim prison. Following this period of detention, they were to be transferred to a semi-open detention camp and held there indefinitely or until they "agree" to be deported to their country of origin. The law also affected asylum-seekers who lived inside Israel: when they came to renew their conditional release visa, they could be ordered to report to indefinite detention in the new semi-open detention facility, Holot. This

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[36] Human Rights Watch, *Israel: Amend 'Anti-Infiltration' Law*, 10 June 2012, http://www.hrw.org/news/2012/06/10/israel-amend-anti-infiltration-law.

[37] Noam Sheizaf, "Israel's High Court nixes law allowing detention of asylum seekers without trial", in *+972 Magazine*, 16 September 2013, http://972mag.com/?p=78948.

[38] Omri Ephraim, "The Infiltrators Are Still in Prison: 'Work Extra Hours'" (Hebrew), in *Ynet*, 7 November 2013, http://www.ynet.co.il/articles/0,7340,L-4450763,00.html.

new facility, constructed across the road from Saharonim prison, near the border with Egypt, is operated by the Israeli Prison Services. The detainees in the facility are not allowed to work and, though they are free to leave during the day, are required to take part in three daily roll calls, introduced to prevent them from venturing too far from the facility.[39]

In September 2014, Israeli human rights NGOs persuaded the High Court to void the law on the grounds that it disproportionately violated the right of "infiltrators" to liberty, autonomy and freedom of movement. Significantly, it was the first time in Israel's history that the High Court voided the same law twice. The High Court gave the state ninety days to draft a modified version of the law that would meet the standards stipulated in Israel's Basic Law: Human Dignity and Liberty. If a new law failed to be passed within ninety days the government would have been compelled to shut down Holot and release its detainees.[40]

The government used the ninety days to pass a new law, which came into force on 17 December 2014. This amendment to the Prevention of Infiltration Law mandates three months imprisonment without trial for the few asylum-seekers who managed to cross the border fence with Egypt after the law came into effect. After this period of detention in Saharonim prison, the asylum-seekers are transferred to the Holot facility for twenty months of detention. According to the new law they have to sleep in the facility, participate in one daily roll call and are forbidden from working in Israel while detained.[41] Most of the people currently held under this law are asylum-seekers who entered Israel more than five years ago and were ordered to report to detention in Holot when they came to renew their conditional release permit at the Immigration Authority. Following the twenty months of detention, the asylum-seekers will be released back into Israeli society.

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[39] Elizabeth Tsurkov, "Knesset Passes Revised Law for Detention of African Asylum Seekers", in *+972 Magazine*, 10 December 2013, http://972mag.com/?p=83395.

[40] Reuven Ziegler, "The Israeli Supreme Court's Decision on Detention of Asylum Seekers", in *MigRefLaw* blog, 29 September 2014, http://wp.me/p3yZb7-8p.

[41] Association for Civil Rights in Israel (ACRI), *Anti Infiltration Law 3.0: Continuing to Ignore the High Court of Justice*, 19 December 2014, http://www.acri.org.il/en/?p=8828.

The official purpose of all of these laws is to deter future "infiltrations," the logic being that if asylum-seekers know that they will spend prolonged periods in detention in Israel without being able to work, they will not attempt to enter the country. Another stated goal of these laws is to actively encourage asylum-seekers to leave Israel "voluntarily."[42] Officially, Israel follows UN recommendations to not deport Sudanese and Eritreans back to their homelands. Instead, the government has resorted to instituting abusive detention laws to pressure asylum-seekers into "agreeing" to leave Israel.

Due to the above-mentioned measures, over 9,000 asylum-seekers have left Israel since 2013. Most have returned to their homelands, while several hundred have moved to Europe and North America, and about 1,000 to Rwanda and Uganda, two African countries that have agreed to receive "infiltrators" from Israel in exchange for aid from Israel.[43] In its recent report, the Hotline for Refugees and Migrants focused on the extremely difficult living conditions faced by asylum-seekers who have "voluntarily" gone to Uganda, Rwanda and Sudan.[44] This data was recently confirmed by one of the authors who has recently interviewed Eritreans and Sudanese who left Israel for Uganda and Rwanda. According to the interviewees the measures implemented by Israel compelled them not only to risk their lives by leaving Israel, but also sentenced them to a vicious cycle of never-ending destitution mainly because both Uganda and Rwanda do not provide them with adequate conditions to live, nor do they grant them asylum-seekers' status. These measures also provoked acts of peaceful resistance among asylum-seekers remaining in Israel and led to a widespread sense of desperation among them.

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[42] Ibid.; Human Rights Watch, *Make Their Lives Miserable: Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel*, 9 September 2014, http://www.hrw.org/node/128687.

[43] Adi Drori Avraham, Sigal Rozen, Nimrod Avigal, *Where there is No Free Will. Israel's "Voluntary Return" Procedure for Asylum-seekers*, Tel Aviv, Hotline for Refugees and Migrants and ASSAF, April 2015, http://hotline.org.il/?p=2742; Population, Immigration and Border Authority (PIBA), *Data on Foreigners in Israel. Summary for 2013* (Hebrew), January 2014, http://bit.ly/PK0Uzm.

[44] Adi Drori Avraham, Sigal Rozen, Nimrod Avigal, *Where there is No Free Will*, cit.

6.6 ASYLUM-SEEKERS' PERCEPTIONS OF ISRAEL'S POLICIES: BETWEEN HOPELESSNESS AND STRUGGLE

Most African asylum-seekers live in and around Tel Aviv, Israel's largest city. Since the vast majority of them earn the minimum wage or even lower, they can afford to live only in the poorest neighbourhoods. Hence, about 30,000 of them reside in the rundown districts of south Tel Aviv, specifically the Shapira, Hatikva and Neve Sha'anan neighbourhoods. Naturally, the higher concentration of people in these impoverished and neglected areas has resulted in tension and violence. In turn, these tensions have been exploited by elected Israeli officials and ministers, such as MK Miri Regev, who referred to asylum-seekers as "a cancer in our body," and former Minister of Interior Eli Yishai, who has made many vitriolic, racist statements inciting feelings against asylum-seekers, labelling them as "infiltrators," "criminals," a "demographic threat" and worse. This incitement has led to a significant increase in hate crimes against Africans in Israel since 2012.[45]

Conversations and interviews with asylum-seekers in Israel reveal a great deal of anxiety, desperation and an overall sense of hopelessness. As has been demonstrated in this chapter, the Israeli policy toward asylum-seekers had changed over the years due to legislation, legal battles and random decisions made by the Ministry of Interior. Many asylum-seekers expect Israel to be an orderly and law-abiding country and thus perceive these changes in policy and the sometimes random abuse they endure at the hands of the Ministry of Interior to be part of an overall pattern or policy.

The constant changes in laws and regulations confuse many asylum-seekers, who struggle to understand the dynamics between the different centres of power in Israel – the High Court, the Knesset, the Ministry of Interior, the government, and civil society organisations. Many are una-

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[45] Elizabeth Tzurkov, *"Cancer in Our Body". On Racial Incitement, Discrimination and Hate Crimes against African Asylum-Seekers in Israel, January-June 2012*, Tel Aviv, Hotline for Refugees and Migrants, July 2012, http://hotline.org.il/?p=1750.

ble to understand why they are kept in detention if the High Court has voided the laws mandating their detention. Following the abrogation of two laws and the passing of three different version of the Prevention of Infiltration Law, there is a growing sense of wariness, if not outright distrust, of Israel's democratic institutions. A common perception among asylum-seekers is that the racist politicians control everything in the country and therefore that nothing can stop them from achieving their goal – expelling all asylum-seekers from Israel. Believing their expulsion to be the ultimate goal of Israeli policy, asylum-seekers reject Israel's official characterisation of the emigration of about 9,000 asylum-seekers in the past three years as "voluntary departures." The testimonies of those who have left or "agreed" to leave under this scheme support this assertion: they repeatedly state that they had no choice in the matter – it was either prolonged detention in Israel, return to their country of origin, or resettlement in Uganda or Rwanda.[46]

Due to the hostility of the Ministry of Interior towards asylum-seekers and the abysmally low recognition rates, asylum-seekers have lost faith in Israel's asylum system. Since 2013, when the Israeli government began allowing Sudanese and Eritrean nationals to file individual asylum claims, only 5,573 did so.[47] This is because they believe they have no chance of receiving refugee status in Israel and some worry that having their request rejected will deprive them of even the few rights they enjoy in Israel and lead to their forcible expulsion.

Between 2007 and 2013, several protest campaigns against Israeli policies towards asylum seekers were initiated and led by Israelis, many of which drew several hundred demonstrators.[48] However, with the growing pressure by the Israeli government, asylum-seekers took the lead. In December 2013, after the government passed the fourth

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[46] Adi Drori Avraham, Sigal Rozen, Nimrod Avigal, *Where there is No Free Will*, cit.

[47] Ilan Lior, "Israel has Granted Refugee Status to only Four Sudanese and Eritrean Asylum Seekers", cit.

[48] The only exception was the Eritrean demonstration held in 2008 when hundreds of Eritrean with while masks led a peaceful protest against Israeli policies. See Ruth Eglash, "Eritreans want recognition as refugees", in *The Jerusalem Post*, 16 December 2008, http://www.jpost.com/page.aspx?pageid=7&articleid=124814.

amendment to the Prevention of Infiltration Law, asylum-seekers who were detained under the voided third amendment were told they would be released after the High Court ruling from September 2013. Instead, they were loaded onto buses and transferred from Saharonim to the newly constructed Holot detention facility across the road, where they were to be held indefinitely.

In response, about 150 Sudanese asylum-seekers launched a hunger strike and then decided to march to Jerusalem to protest against their prolonged detention without trial, an act of protest that became known as the March for Freedom.[49] On their way to Jerusalem dozens of Israeli supporters joined, yet the leadership of the protest remained in the hands of the Sudanese. On 17 December, the march ended in front of the Knesset, where Immigration Authority inspectors beat and arrested the peaceful protestors who participated in the march.[50] The Sudanese marchers were sentenced by the Ministry of Interior to three months' incarceration in Saharonim as punishment, the maximum allowed under the law. During their punitive imprisonment, the marchers launched another hunger strike that lasted almost three weeks.[51]

On 19 December 19, two days after the march had ended, another group of Holot detainees, most of them Eritreans, embarked on a second March for Freedom. Immigration Authority inspectors ended the march a few kilometres from the facility and resorted to such extreme violence that several of the marchers required medical treatment after their arrest.[52] In the end, the Eritrean marchers were punished in the same

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[49] Daniel Baltman, "After Fleeing Detention, African Migrants March toward Jerusalem", in *Haaretz*, 16 December 2013, http://www.haaretz.com/news/israel/.premium-1.563811.

[50] Haggai Matar, "Police Arrest Asylum Seekers Who Left "Open Prison", Marched to J'lem", in *+972 Magazine*, 17 December 2013, http://972mag.com/?p=83866.

[51] Hotline for Refugees and Migrants, *Israeli Prison Service Adopts Severe Measures to Crush the Hunger Strike in Saharonim; About 50 Asylum-Seekers Continue to Strike for 11 Days Now*, 16 January 2014, http://hotline.org.il/?p=1307.

[52] Hotline for Refugees and Migrants, *Voices from Prison: Refugees Explain Why the Decided to Protest*, 2 March 2014, http://hotline.org.il/?p=1298; *Extreme Violence Used against Asylum-Seekers who Marched to Protest their Detention* (Hebrew), 9 January 2014, http://hotline.org.il/?p=652.

fashion as the first protestors: three months in Saharonim, after which they were transferred back to Holot.

As mentioned, the fourth amendment to the Prevention of Infiltration Law, unlike the previous (voided) amendment, also applied to asylum-seekers residing in Israel. The marches of asylum-seekers detained in Holot and the summoning of asylum-seekers inside Israel to indefinite detention sparked a protest movement among asylum-seekers residing in Israeli cities. Thousands of asylum-seekers took part in protests held in Tel Aviv, Eilat, the Knesset and the Holot facility, and held a three-day strike during which most asylum-seekers in Israel stopped working. The largest protest, held in Rabin Square in central Tel Aviv on 5 January 2014, was attended by about 30,000 asylum-seekers.[53] After this wave of large protests, many asylum-seekers expected the Israeli government policy towards them to change, but this change did not materialise. Discouraged by the lack of positive results, the protests began to decrease in frequency and size. At the same time, the leaders of protest movement outside of detention were ordered to report for detention in Holot.

In June 2014, protests were renewed in Holot following deterioration in the detention conditions and further restrictions placed on the freedom of the detainees. The detainees stopped taking part in the three daily roll calls they were obligated to attend and demanded to be released from detention.[54] The Israeli Prison Services attempted to end the strike and protests by transferring the leadership of the detained asylum-seekers to Saharonim prison.[55] On 27 June 2014, about 750 asylum-seekers walked out of the Holot facility and marched to the border with Egypt, demanding that the international community intervene and help them. Israeli soldiers prevented the marchers from reaching the

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[53] Activestills, "A Week in Photos: African Asylum Seekers Strike for Their Rights", in *+972 Magazine*, 10 January 2014, http://972mag.com/?p=85344.

[54] Hotline for Refugees and Migrants, *Asylum Seekers at Holot Detention Center Launched a New Protest: "We Demand Our Freedom"*, 16 June 2014, http://hotline.org.il/?p=1783.

[55] Hotline for Refugees and Migrants, *Leaders of the Refugee Protest at Holot Transferred to Saharonim Prison*, 24 June 2014, http://hotline.org.il/?p=1781.

Egyptian border and the asylum-seekers then set up a protest camp near the location where they had been stopped. After two days at the encampment, Immigration Authority inspectors and Police Special Forces once again resorted to excessive force, aggressively detaining the asylum-seekers at the protest camp and transferring them back to prison. In the hurried legal proceedings that followed, Ministry of Interior clerks sentenced the marchers to three or six-month detention in prison for participating in the protest.[56] As of this writing, this was the last protest held by asylum-seekers in Israel, giving way to a general mood of hopelessness in the refugee community inside and outside of detention.

CONCLUSIONS

This chapter has traced and analysed Israel's policies towards asylum-seekers from 2002 to 2014, a period during which the number of asylum-seekers in Israel increased dramatically from a mere handful at the beginning of the century to over 60,000 in 2012. It focused on Israel's newly developed asylum system and argued that, although it was erected in a non-systematic chaotic manner, it was consistent with the central norms of Israel's citizenship and immigration process.

Moreover, it was argued that asylum-seekers in Israel have been subjected to often-changing policies, detention and practices intended to coerce them into leaving Israel. The aim of all these policies is to ensure that the number of non-Jewish refugees who reach, enter and remain in the country will be as low as possible. Israeli governments faced obstacles in implementing the most draconian components of this policy, in the form of repeated High Court rulings that forced the state to allow asylum-seekers to work and struck down laws mandating prolonged detention without trial for asylum-seekers. Over and over again, the Israeli government managed to circumvent the rulings and successfully pushed

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[56] Elizabeth Tsurkov, *"From One Prison to Another". Holot Detention Facility*, Tel Aviv, Hotline for Refugees and Migrants, June 2014, http://hotline.org.il/?p=1649.

through measures that helped to achieve its goal of ridding Israel of asylum-seekers. Attempts by asylum-seekers to change the policy through mass protests, work strikes and hunger strikes have failed, leaving asylum-seekers desperate and despondent.

7.

Gender and Mobility across Southern and Eastern European Borders: "Double Standards" and the Ambiguities of European Neighbourhood Policy

Sabrina Marchetti and Ruba Salih

Since the mid-1990s, the gendered nature of migration flows has become the object of growing attention among scholars, policy makers and practitioners. This growing body of scholarship has crucially shed light on the gendered dynamics of mobility and explored the relationship between the feminisation of migration and the development of migrant women's societies of origin.[1] Naila Kabeer suggests that empowerment could be defined as the capability of living the life one wants, whereby access to resources represents a crucial element for exercising choice.[2] A gendered analysis, however, reveals that resources are often distributed through institutions, families and communities according to asymmetric power relationships. Therefore, agency in relations to empowerment

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[1] Nicola Piper (ed.), *New Perspectives on Gender and Migration. Livelihood, Rights and Entitlements*, London and New York, Routledge, 2008; Laura Oso and Natalia Ribas Mateos (eds.), *The International Handbook on Gender, Migration and Transnationalism. Global and Development Perspectives*, Cheltenham, Edward Elgar, 2013.

[2] Naila Kabeer, *Gender Mainstreaming in Poverty Eradication and the Millennium Development Goals. A Handbook for Policy-makers and Other Stakeholders*, London and Ottawa, Commonwealth Secretariat and International Development Research Centre (IDRC), 2003, http://www.idrc.ca/EN/Resources/Publications/Pages/IDRCBookDetails .aspx?PublicationID=229.

implies not only actively exercising choices but also "doing this in ways that challenge power relations".[3]

It is in this perspective that this article examines the gendered patterns and dynamics of migration across the southern and eastern Mediterranean and Europe. In particular, we aim to highlight how the traditional organisation of gender roles in countries of origin as well as of destination impinge upon female migration to Europe from its southern and eastern neighbours and whether and how these mobilities bring about challenges to them. We will also show how the mere celebration of the quantitative increase of female migrants, labelled under the slogan "feminisation of migration," conceals complex and ambivalent dynamics and does not necessarily translate into concrete and clear opportunities for autonomous mobility for women.

Our focus is the area involved in the European Neighbourhood Policy (ENP), that is, a EU policy framework that entails different modes of interactions between the EU and its border countries,[4] ranging from the support to ENP countries' political, economic and social development, to the strengthening of economic relationships between ENP countries and EU country members. Importantly, the ENP framework foresees agreements that facilitate the mobility of migrants from the ENP areas to the EU. However, we highlight the "gender ambiguities" or the double standards of the European Neighbourhood Policy that underlie the discrepancies in the proportion of female vs. male migration from the ENP area to the European Union.

In the following, we argue that the ENP's policies carry an ambiguous bias in relation to gender. While a strong gender sensitivity permeates the analysis produced by the European Union External Action[5] on the impact of political and socio-economic reforms on women living in ENP

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[3] Ibid., p. 172.

[4] At the time of writing, the countries involved in the ENP framework (henceforth "ENP countries") are: Armenia, Belarus, Ukraine, Moldova, Georgia, Azerbaijan, Syria, Lebanon, Israel, Jordan, Palestine, Egypt, Libya, Tunisia, Algeria and Morocco. For updates on the status of the negotiations between these countries and the EU, see http://eeas.europa.eu/enp.

[5] See reports published at http://eeas.europa.eu/enp/documents/progress-reports.

countries,[6] the policy documents on the mobility between the ENP countries and the EU remain astonishingly gender blind.[7] In the latter there is no mention of which specific measures enhance or curtail mobility in gendered ways, nor there is any assessment of the ways in which the ENP framework channels and reproduces specific gender regimes and gendered mobilities. For example, the framework reproduces gender ideologies when it restricts women's access to mobility for family reunification and participation in feminised labour sectors (e.g. domestic work). Whether this reflects an unawareness of gender dynamics within migration flows by the EU, or whether it is the result of an ad hoc political-economic and demographic strategy, we argue that the ENP mobility framework fails to support the transformation of gender roles in the countries of origin, or in the migratory contexts, by failing to enhance opportunities for women to safely embark on autonomous migratory projects. The limitations on women's autonomous mobility in the ENP mobility framework stand in striking contradiction with the overall declared and public aim of ENP to promote the general socio-economic improvement of the neighbouring area. While readily blaming female women's countries of origin for institutionalising gender discrimination in their laws and practices, the EU is short of measures aiming at promoting the conditions for autonomous female mobility and incorporation in a fair labour market.

The article starts with an overview of the literature that argues for the relevance of a gender perspective in migration studies. Thus, work-

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[6] For a critique of the gender mainstreaming approach in these interventions, see Petra Debusscher, "Mainstreaming Gender in European Union development policy in the European Neighborhood", in *Journal of Women, Politics & Policy*, Vol. 33, No. 4 (2012), p. 322-344.

[7] See European Commission, *A Wider Europe. Neighbourhood: A New Framework for Relations with Our Eastern and Southern Neighbours* (COM/2003/104), 11 March 2003, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52003DC0104; European Commission, *European Neighbourhood Policy Strategy Paper* (COM/2004/373), 12 May 2004, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52004DC0373; Regulation (EC) No 1638/2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument, 24 October 2006, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32006R1638.

ing on United Nations' data on migration, we discuss the dynamics of women's regular migration from countries on the eastern and southern borders of Europe to the EU. Data on ENP countries will be cross-examined and compared with those on selected EU countries (the EU15 countries, plus Poland) in order to identify the main corridors for female migration to the EU. The article then analyses four specific groups of female migrants from ENP countries to the EU, and compares personal reasons for migrating (family, labour, study, etc.), mobility patterns (permanent vs. temporary), and the cultural and socio-economic forces that shape their experiences. We will look at women migrating from a) Algeria to France, b) Morocco to Spain, c) Ukraine to Poland, and finally d) Moldova to Italy. These groups have been selected for the numerical relevance of female migrants from these emigration countries and also because they shed interesting light on the different kind of forces at work in shaping women's movements.

By drawing on these four case studies, we try to assess the ways in which gendered socio-economic and cultural specificities in different ENP countries impact on women's mobility between the EU and its neighbouring countries. In so doing, we hope to contribute to the aims of this special issue by providing a much needed gendered critique to the construction of EU neighbourhood policies.

7.1 GENDER AND MIGRATION

The number of women migrating under various forms has been increasing across the world, rising from 75 million in 1990 to 111 million in 2013.[8] However, the types and patterns of women's migration are extremely heterogeneous. Women migrate under family reunion schemes, as single migrants, to pursue studies or as active agents of trade and as labour migrants, but women are also increasingly trafficked to work in

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[8] UNDESA, *Trends in International Migrant Stock: The 2013 Revision - Migrants by Age and Sex* (United Nations database, POP/DB/MIG/Stock/Rev.2013), United Nations, December 2013, http://www.un.org/en/development/desa/population/publications/migration/migrant-stock-age-2013.shtml.

the sex industry, exported as suitable wives under arranged marriage schemes and exploited as undocumented domestic workers with no legal or social protection.[9] They also flee from wars, violence and conflicts as refugees[10] often crossing the EU borders in life-threatening conditions, which are fatal for many of them.[11] This heterogeneity, among other factors, makes it very difficult to reach uniform or monolithic conclusions on the empowering or disempowering nature of migration for women.

In understanding gendered mobility, mainstream approaches to migration present limitations in that they either concentrate exclusively on push and pull factors understood as resulting from structural frameworks, such as relations of production and new systems of accumulations under neo-liberal market arrangements, or they focus predominantly on individuals' agency and reasons for migrating. A gender approach shows the inadequacy of the "push and pull factors" model. The difference between male and female migratory patterns cannot be seen as the result of an individual choice resulting from a rational economic calculation, taking place independently from structural factors. Gendered norms, international regulations, cultural and religious pressures shape, hinder or prevent individuals' subjectivities and ability to exercise their choices. Nor can migration be understood solely from within a political economy approach whereby migrants are the inevitable outcome of an unequal distribution of economic and political power on a worldwide basis. Against this background, Sylvia Chant and Sarah Radcliffe, for example, propose a household strategy approach in order to understand gender selectivity in migration patterns, which focuses both on economic factors such as the gender division of labour and of relations of production, and on the reproductive roles and hierarchies within the household.[12]

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[9] See Eleonore Kofman et al., *Gender and International Migration in Europe: Employment, Welfare and Politics*, London and New York, Routledge, 2000.

[10] Barbara Franz, "Bosnian Refugee Women in (Re)Settlement: Gender Relations and Social Mobility", in *Feminist Review*, Vol. 73, No. 1 (January 2003), p. 86-103.

[11] Here again, although we are aware that women (and children) are amongst the many who die in crossing the Mediterranean and eastern borders of the EU, no comprehensive data are available on their numbers. See http://frontex.europa.eu/publications.

[12] Sylvia Chant and Sarah A. Radcliffe, "Migration and development: the importance

In that light, and as previously argued in Salih, in order to fully understand contemporary forms of women's migration and their gendered nature, there is a need for a meso-level of analysis where migration is analysed as the result of a dialectic relation between structures and agency.[13] Three levels have to be unfolded to understand the gendered dynamics of contemporary migration: 1) the migratory regime that includes the relations between countries of residence and of origins and the conditions of entry and residence; 2) the migratory institutions, both the formal and informal institutions and networks through which individuals negotiate migratory regimes; and 3) individual migrants whose migration choices are influenced by their personal histories and households.

By adopting such a framework it becomes clear how migrant women are increasingly filling the gaps left by the crisis of the welfare state in post-industrial societies through their (often irregular) jobs in the domestic sector and in care-related occupations. This is a consequence of the fact that, especially in the southern Mediterranean countries of the EU, the increasing participation of women in the labour market has not brought about changes in the traditional division of roles within their families. Migrant women seem to substitute for European women in their reproductive roles. An old system of gender division of labour has been simply maintained or reproduced through a new supply of labour along racialised lines.[14] Furthermore, since the new migratory flows happen in the context of increasingly fortressed boundaries, this also means that, in some contexts, sex work or domestic work are becoming the few possible channels for migrant women's employment.

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of gender", in Sylvia Chant (ed.), *Gender and Migration in Developing Countries*, London and New York, Belhaven Press, 1992.

[13] Ruba Salih, "The Relevance of Gender in/and Migration", in *CARIM Research Reports*, No. 2011/06 (2011), http://hdl.handle.net/1814/18958.

[14] Jacqueline Andall, *Gender, Migration and Domestic Service. The Politics of Black Women in Italy*, Aldershot and Burlington, Ashgate, 2000.

7.2 WOMEN MIGRANTS TO THE EU FROM THE EAST AND SOUTH

This article elaborates on the dataset released by the United Nations in 2013 on migration in order to assess the amount and the shape of female migration from countries of the Eastern and Southern Partnerships to the European Union. As mentioned already, we focus on the European countries of the EU15 group, with the addition of Poland. Poland represents a very telling case of the East to West migration of women, being a transit point to Germany, or representing a destination of circular movement of women workers across the Ukraine-Poland border, as we will further illustrate.

As a premise it is important to mention that our data is based on the UN definition of "migrant," namely a person who resides in a country that is different from the country of his/her birth for more than a year. In some exceptional cases, the UN also counts as "migrants" those who stay abroad for a period shorter than a year (e.g. seasonal workers). However, the data accounts only for official migrants, excluding all those who, for different reasons, are in the European Union without having a regular residence permit.

The first data we discuss concerns the official number of men and women who live in the EU, for each nationality, and are born in the ENP countries (Figure 1). Data from 2013 show that the number of migrant men is still predominant in all countries of destination (3,492,037 men vs. 3,358,480 women). France, in particular, is the country where official presences from ENP countries are most numerous (1,503,377 men and 1,436,160 women). Following France, Germany, Italy and Spain are the countries that in 2013 received most ENP regular migrants. In all cases, the number of men surpass the number of women. Poland and Italy are an exceptional case, receiving more women than men, for reasons that, as we will further explain, have to do with easy border crossing and employment opportunities in the domestic sector.

It is important to highlight that not all EU countries are relevant destinations for migrant women. Only France, Germany and Spain receive significant numbers of women – and Poland and Italy actually receive more women than men. Thus a gap in the official numbers of men and women

**Figure 1 – Men and women migrating from the ENP area
to the EU15 and Poland (2013)**
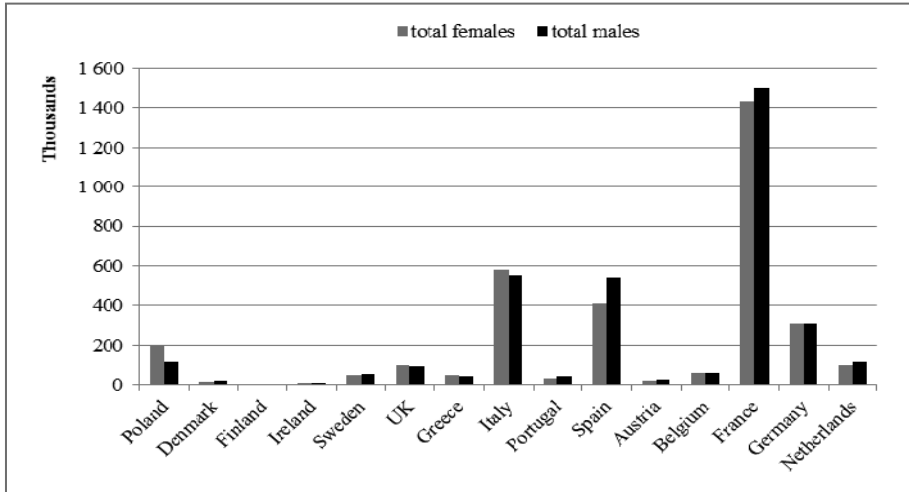
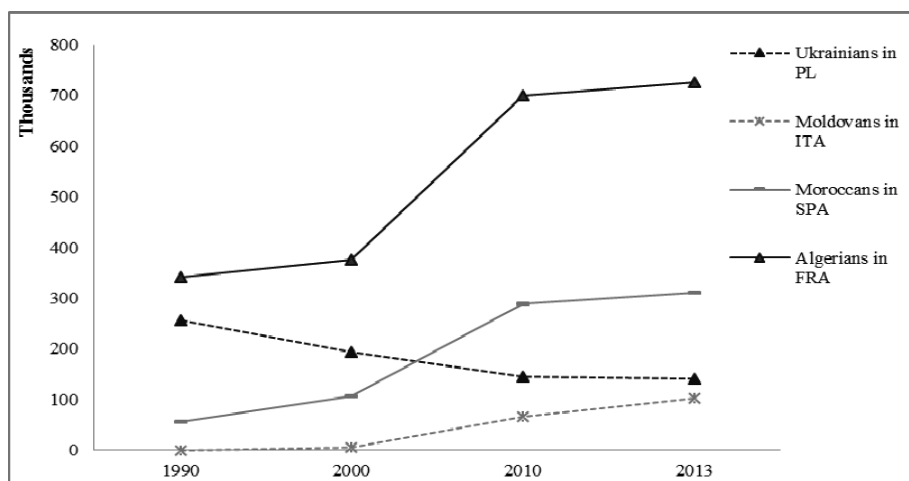*Source*: UNDESA, *Trends in International Migrant Stock: Migrants by Destination and Origin*, 2013.

living in the EU is recognisable in all the destination countries of Figure 1, which suggests that EU-ENP mobility does not represent a framework that offers equal opportunities for regular migration to women and men. This imbalance might be explained by the different access to residence permits for women in the country of destination. Women are inserted into strongly gendered labour sectors such as home care and domestic work, sex work, nursing and agriculture, which are regulated differently in each EU country. For example, the feminisation of migration is predominant in Italy where paid domestic work is a preferential channel for obtaining a residence permit, whereas it is a far more limited phenomenon in countries such as the Netherlands where this opportunity is precluded since these jobs do not entitle workers with a permit to stay.[15] This issue will be further discussed when illustrating the case of Moldovans in Italy and Ukrainians in Poland.

If we move our focus to the countries of origin of the women officially

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[15] Sarah van Walsum, "Regulating Migrant Domestic Work in the Netherlands: Opportunities and Pitfalls", in *Canadian Journal of Women and the Law*, Vol. 23, No. 1 (January 2011), p. 141-165.

migrating to Europe (Figure 2), Morocco comes into sight as a very important country of departure with 1,133,634 Moroccan women residing in the EU. It is followed, although with fewer numbers, by Algeria (778,713), Ukraine (567,706), Tunisia (243,630) and Moldova (141,644): all these figures are based on data from the UN Population Division. Other countries from the Eastern and Southern Neighbourhood show significantly fewer numbers. In short, on the basis of UN data, female mobility from the ENP area to the EU primarily concerns women from the Maghreb and, to a lesser extent, women from Ukraine and Moldova. Great differences, however, exists between these groups as we discuss in the third part of this article.

Figure 2 – Women migrating from the ENP area to the EU15 and Poland (2013)
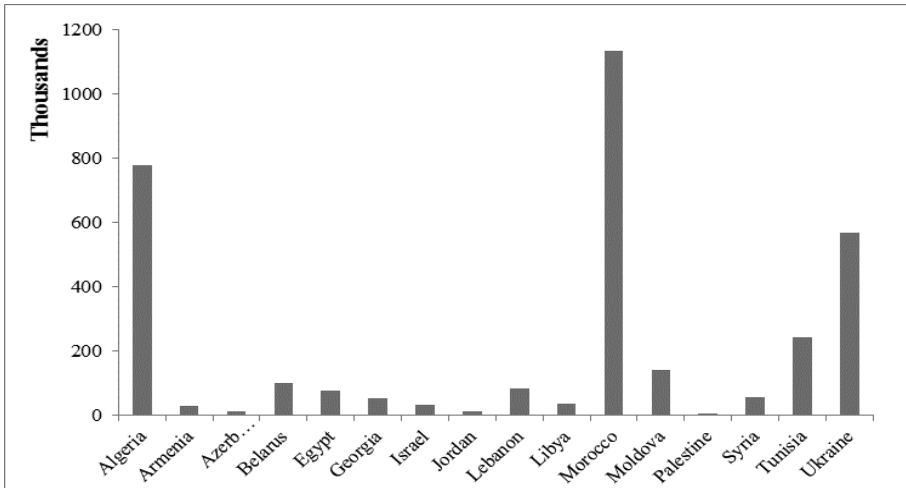
Source: UNDESA, *Trends in International Migrant Stock: Migrants by Destination and Origin*, 2013.

Let us thus focus on a selection of countries to sharpen the analysis and explore the case studies. Figure 3 shows the distribution of the five women's national groups that are predominant in Europe (Moroccans, Tunisians, Algerians, Ukrainians and Moldovans) in the five EU countries which are in general the most common destinations of women from the ENP area (i.e. France, Germany, Italy, Spain and Poland). From this figure, we see that these groups are not equally distributed across the five destinations. France, the larger recipient of ENP women, shows very high numbers of, first, Algerian and then of Moroccan women. In-

terestingly, Algerian women do not migrate to European destinations other than France, while Moroccans are more widespread, with big numbers also in Italy and Spain. Equally, the distribution of Ukrainian women is widespread; there are large numbers in Italy, Poland and Germany but also smaller numbers in France and Spain. It is also worth pointing out that Ukrainians almost make up the total number of women arriving in Poland from the five selected countries of departure. In this scenario, Italy stands out as the country that receives good numbers from all the selected national groups, with the exception of Algerians. This is partly in line with the diverse types of flow that have characterised migration to Italy since the country became an immigration country in the 1980s. France, on the other hand, has traditionally been a destination predominantly for former colonial populations. Lastly, it can be noted that Moldovan women are present only in Italy – for reasons that will come clear in Section 6 below.

**Figure 3 – Women migrating from the ENP area
to Europe (selected countries, 2013)**
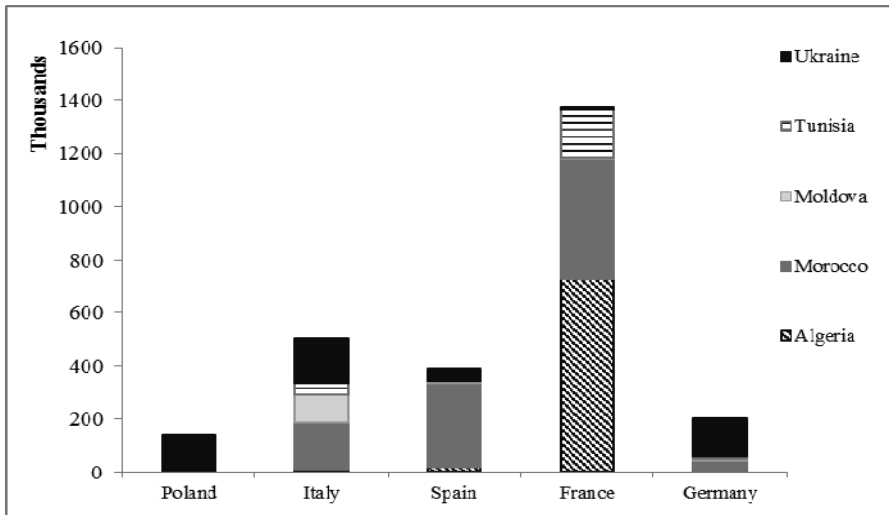
Source: UNDESA, *Trends in International Migrant Stock: Migrants by Destination and Origin*, 2013.

In the light of the distribution shown in Figure 3, we develop the following four case studies:

1) Algerian-born women living in France, given their very high numbers and their exclusive relationship with France as a destination;

2) Moroccan women in Spain, for their prominent role in the national context since they are the 4/5 of the total number of women who reside in Spain from the selected countries of origin;

3) Ukrainians to Poland, in the light of the astonishing central position that they seem to have, in comparison with the other four groups, in this country; and finally

4) Moldovans in Italy, in order to understand what are the specific reasons of their almost exclusive relationship with Italy as their western European destination.

As will become clear, these four case studies are relevant to our overall argument for different reasons: numerical (given their growing visibility in official numbers during recent years), but also on the basis of the specific gendered normative and socio-economic opportunities or limitations that affect migratory paths therein.

Figure 4 compares UN data from 1990 and 2013. This further confirms the high number of Algerian women present in France: although being already the most numerous group of women amongst the four in 1990, their number steadily increased over time. Likewise, the number of Moroccan women in Spain has increased. In fact, just as Morocco and Algeria have long-standing histories of emigration, so France and Spain have been receiving consistent numbers of migrants since the mid-1990s. This is different from the case of Moldovans in Italy: there were almost none in 1990 and immigration has started to increase only during the 2000s. This is line with the periodisation of the arrivals from countries of the former Soviet Union to Italy that have developed during the 1990s to became visible in the 2000s, and also due to specific migratory policies, as we will further elaborate. Finally, the presence of Ukrainian women in Poland has a very special feature: it was quite consistent in 1990, but decreased in the following years until today. This striking data is due to the fact that, for historical reasons, many of those counted today as Ukrainian migrants are actually people that until 1991 were counted as Polish because they were born in territories that in 1991 passed from the Polish to the Ukrainian government. The actual migration of Ukrainians to Poland started only in the mid-1990s.

Figure 4 – Selected cases, 1990-2013

Source: UNDESA, *Trends in International Migrant Stock: Migrants by Destination and Origin*, 2013.

In what follows, we elaborate on these four cases on the basis of secondary literature and the authors' original research. We examine the extent to which the figures above described reflect the ENP-EU relationships or are a consequence of the migration regimes in place across the Mediterranean. In particular, we compare the patterns of female mobility from the most relevant sending countries in the south (Morocco and Algeria) and from the east (Ukraine and Moldova) of Europe. The gender geography of the neighbourhood is also of some importance: Italy, France, Spain and Poland are differently positioned at the borders of the EU (Italy and Spain facing south, and Poland facing east), France is located in the heart of Europe and yet is destination to the highest figure of female migrants arriving from the neighbourhood. Thus, while migration from Morocco to Spain and Ukraine to Poland happens between two geographically close areas, movements from Moldova to Italy and Algeria to France show that factors other than proximity enter into the picture.

7.3 ALGERIAN WOMEN IN FRANCE

Since the year 200, the pattern of Algerian emigration as a whole has changed.[16] Along with the traditional emigration of intellectuals and students, there is now increasing emigration of women: women represent 42 percent of the 4.5 million people who were born in Algeria and are today resident in France. As Figure 4 shows, Algerian women in France outnumber other female presences from the ENP area in the EU, with a sharp increase in numbers from the year 2000. This feminisation of migration in the Algerian context can be explained in the face of the changing configuration of mobility, which is no longer driven by strictly economic reasons but that is also a reflection of the desire to pursue other goals, within a context of social mobility and cultural and economic transnational interconnections. Reasons for migrating may go beyond the simple need for work, but reflect the need to fulfil a variety of projects. Examples include university students who increasingly participate in scientific networks, members of civil society associations taking part into Euro-Mediterranean cooperation, but also women engaged with transnational trade circuits, such as trabendo, popularly called the "*biznasiates*," that is the "business women".[17]

Hocine Labdelaoui shows how Algerian women in France are increasingly taking on the role of reproducers of the Algerian national community living outside the national territory.[18] This is part of a wider political attempt to promote a moral discourse that encourages the incorporation of the diaspora into the homeland and, thus, to increase their investments back home. Migrant women therefore have a pivotal role in the symbolic and physical reproduction of the nation's identity and collectivity abroad. The reproduction of certain gender ideologies, and the perpetuation of specific gendered roles within the communities abroad, are then also part and parcel of keeping diasporas linked to their communities of origin and explain the contradictory gendered

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[16] Hocine Labdelaoui, "Genre et migration, en Algérie", in *CARIM Notes d'analyse et de synthèse*, No. 2011/12 (2011), http://hdl.handle.net/1814/15597.

[17] Ruba Salih, "The Relevance of Gender in/and Migration", cit.

[18] Hocine Labdelaoui, "Genre et migration, en Algérie", cit.

laws enacted by the Algerian government. For example, the government has eased patriarchal control over the migration of women by, for example, making sure that women no longer require the authorisation of their male guardian to leave the country. However, at the same time the Algerian state has kept the clause that fathers, not mothers, have to authorise a child's passport registration, thus perpetuating the principle that citizenship rights are predominantly male prerogatives and enhancing the cultural construction of women as legal minors.[19]

The large number of Algerian women in France also reflects a dynamic and complex situation. On the one hand, it results from the classic pattern of reunification with a spouse who migrated earlier; on the other, this data reflects the increasing erosion of the patriarchal orders that limit women's ability to exercise their desires and choices.

7.4 MOROCCAN WOMEN IN SPAIN

Moroccan women are by far the largest number of female migrants from the ENP area to the EU (Figure 2), residing mainly in France, Italy and Spain (Figure 3). In particular, the numbers of women born in Morocco and who live in Spain has significantly increased from the year 2000, accounting today for 312,000 women, compared with only 57,000 in 1990 (see Figure 4). This tendency can be inscribed in a more general feminisation of the long history of international migration among the Moroccan population. While in the 1950s and 1960s Moroccan migration was predominantly a male experience, the economic crisis of the mid-1970s and the closing of borders brought a structural change in migratory flows and in the composition of the Moroccan "communities" abroad. Already in the year 2000, a survey by the Fondation Hassan II pour les Marocains résidant à l'étranger revealed that about 65 percent of Mo-

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[19] Ali Mebroukine, "Migrations, genre et relations international. Le cas d'Algérie", in *CARIM Notes d'analyse et de synthèse*, No. 2011/07 (2011), http://hdl.handle.net/1814/15592; Rafik Bouklia-Hassane, "La feminisation de l'immigration d'origine algérienne: Un état de lieux", in *CARIM Notes d'analyse et de synthèse*, No. 2011/20 (2011), http://hdl.handle.net/1814/15617.

roccan men abroad lived with their spouses and children, which is strikingly different from the situation in the 1970s when 90 percent of Moroccan migrants were men living alone.[20]

If marriage reunification is one reason for the increased feminisation of Moroccan migration to Spain, other factors relate to the changing realities of women's life in Morocco. On the one hand, women are facing increasing levels of poverty and are often the solely responsible for supporting their children and households,[21] with migration becoming one of the few available solutions. On the other, due to their higher levels of education and the improvement of their legal status, Moroccan women are less tolerant towards gender discrimination and see migration as a viable and possible exit. Moroccan women in Spain find employment primarily in the paid domestic and service sectors, in hotels or restaurants.[22] Next to these is employment in the agricultural sector.

Since 2006, in a scheme promoted by a mobility partnership between the Morocco and Spain, women have been able to undertake seasonal work as fruit pickers.[23] Moroccan women are recruited in the areas of Fès, Mohammedia, Agadir and Dakhla; they have to be between 18 and 40 years of age, and have young children – which in theory means they will wish to return home at the end of season. The number of women joining this scheme has grown from 1,800 in 2006 to 17,000 in 2009. In the Spanish province of Huelva, where the cultivation of strawberries is concentrated, Moroccan women represent 60 percent of all pickers. Employers seem to prefer Moroccans to other foreigners because they are "docile, good workers and submissive," in the words of the coordina-

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[20] Abdelkrim Belguendouz, "Maroc: genre et migrations entre hier et aujourd'hui", in *CARIM Notes d'analyse et de synthèse*, No. 2010/67 (2010), http://hdl.handle.net/1814 /15286.

[21] Khadija Elmadmad, "Femmes, migrations et droits au Maroc", in *CARIM Notes d'analyse et de synthèse*, No. 2011/01 (2011), http://hdl.handle.net/1814/15586.

[22] Mohamed Khachani, "Genre et migration au Maroc", in *CARIM Notes d'analyse et de synthèse*, No. 2011/12 (2011), http://hdl.handle.net/1814/15616.

[23] Chadia Arab, "La migración circular femenina marroquí en Huelva: impacto y cambio", in *OBETS. Revista de ciencias sociales*, Vol. 5, No. 2 (2010), p. 165-174, http://hdl.handle.net/10045/16095.

tor of the employment scheme.[24] Moreover, this mobility scheme only partially satisfies the needs of migrants households (given the temporariness and the low pay that characterised seasonal pickers' employment). Moroccan women who wish to find more permanent and remunerative jobs in Spain are still predominantly directed towards the domestic and service sector, where exploitation tied to and reinforced by undocumented migration is very widespread.

The previous example clearly shows that bilateral arrangements do little to enhance women's autonomous mobility between ENP countries and the EU. Rather, the promotion of this type of circular migration contributes to perpetuate a process of racialising and gendering, where migrant women can easily turn into an exploitable workforce, whilst these forces them into a transnational market of care and cheap flexible work. Although seasonal work and domestic/service work may represent new opportunities in comparison with the traditional scheme of family reunification, they still do not offer an empowering alternative for working women.

7.5 Ukrainian women in Poland

While Algerian and Moroccan migrant women live mostly in a few EU countries – France, Spain and, in the case of Moroccans, also Italy – Ukrainian women are present in a wider spectrum of destinations in the European Union (see Figure 3). Their numbers are particularly high in Italy (168,000 in 2013) as well as in Germany and Poland (about 140,000 in each country). However, we decided to take the case of Ukrainians in Poland as to allow for comparisons with the other three cases under study. The long tradition of migration of Ukrainian women to Poland must be understood against the background of the economic decline of the country, since the 1990s. In this context, women have taken the role of breadwinners required to support often unemployed hus-

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[24] Abdelkrim Belguendouz, "Maroc: genre et migrations entre hier et aujourd'hui", cit.

bands and school-age children.[25] The mobility between Ukraine and Poland has very often taken the shape of temporary migration, facilitated by historical ties, geographical proximity and favourable policies for border crossing.[26]

From the policy point of view, the present situation is the last stage in a complex evolution of different arrangements. Flows between 1945 and 1989 were entirely regulated by state apparatuses, were mutual agreements and the result of diverse mobility programmes within the COMECON framework (e.g. tourism, student exchanges, cross-border employment, military dislocations, etc.) During the 1990s, and especially after the non-visa agreement of 1996, increasing mobility between Ukraine and Poland developed.[27] This is also the time of the so-called suitcase traders who were very active across the Ukraine-Poland border from the mid-1950s.[28] This regular movement between the two countries was virtually halted in 2003, when Polish migration policy had to adjust to the standards of the European Union, which required the introduction of visa requirements for non-EU nationals.

At present, the legal framework for the entrance of Ukrainians is relatively liberalised: in 2006 Poland decided to gradually liberalise the legislation on employment of third country nationals. This was achieved, on the one hand, by facilitating the issuing of work permits, and, on the other hand, by expanding the catalogue of nationalities who, under certain con-

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[25] Suzanne LaFont, "One step forward, two steps back: women in the post-communist states", in *Communist and Post-Communist Studies*, Vol. 34, No. 2 (June 2001), p. 203-220; Jacqui True, *Gender, Globalization, and Postsocialism. The Czech Republic after Communism*, New York, Columbia University Press, 2003.

[26] Aleksandra Grzymała-Kazłowska and Marek Okólski, "Influx and Integration of Migrants in Poland in the Early XXI Century", in *CMR Working Papers*, No. 50 (November 2003), http://www.migracje.uw.edu.pl/publ/233; Agata Górny et al., *Immigration to Poland. Policy, Employment, Integration*, Warsaw, Scholar, 2010.

[27] Krystyna Iglicka and Agnieszka Weinar, "Ukrainian Migration in Poland from the Perspective of Polish Policies and Systems' Theory", in *Journal of Immigrant & Refugee Studies*, Vol. 6, No. 3 (2008), p. 356-365.

[28] Dariusz Stola, "Two Kinds of Quasi-Migration in the Middle Zone: Central Europe as a Space for Transit Migration and Mobility for Profit", in Claire Wallace and Dariusz Stola (eds.), *Patterns of Migration in Central Europe*, London and New York, Palgrave, 2001, p. 84-104, http://ssrn.com/abstract=2292616.

ditions, are allowed to take employment in Poland without necessarily holding a permit, as in the case of EU eastern neighbours including Russia. In 2008, the Agreement on the Local Border Traffic with Ukraine was concluded, which facilitated the mobility of people living on the Ukrainian border, including the many women who were seeking employment in the expanding domestic and care sector of Polish cities. The reduction in the number of those counted as Ukrainians (although born in what was formerly Poland), together with the fact that the entrance of these Ukrainian workers was not registered after 2008, might explain why the official number of Ukrainian women migrants is decreasing (see Figure 4). Yet it is a matter of fact that their presence in the domestic and care sectors, as well as in Polish society more generally, has increased.

In relation to the temporary migration, which characterised the mobility pattern of this group, scholars have argued that migrants from Ukraine have little interest in, or the possibility of, settling in Poland because of economic, legal and cultural constraints. Their aim is, rather, to improve their living conditions at home. For this reason, Ukrainian migrants perceive their migration as a temporary activity, additional to their work at home. This has resulted in a lasting phenomenon of temporary trips and repeated mobility. Some of the Ukrainian domestic workers circulating to and from Poland make use of tourist visas in order to enter the country and work irregularly.[29] They are generally live out and do cleaning jobs. Polish scholars point to the risks related to the undeclared character of this work, the structural conditions of the sector and the limited opportunities for mobility within it.[30] Ukrainian circular migration has been defined as "incomplete migration," characterised by short-termism and the unstructured departure of individuals in search of immediate profit rather than being a structured project.[31] Along the

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[29] Krystyna Iglicka, Katarzyna Gmaj and Wojciech Borodzicz-Smoliński, *Circular Migration Patterns. Migration between Ukraine and Poland*, San Domenico di Fiesole, European University Institute, 2011, http://hdl.handle.net/1814/19720.

[30] Marta Kindler, "The relationship to the employer in migrant's eyes: the domestic work Ukrainian migrant women in Warsaw", in *Cahiers de l'Urmis*, No. 12 (June 2009), https://urmis.revues.org/853.

[31] Marek Okólski, "Recent Trends in International Migration. Poland 1997", in *CMR Working Papers*, No. 19 (October 1998), http://www.migracje.uw.edu.pl/publ/329.

same lines, Marta Kindler and Monika Szulecka have emphasised the importance assigned by Ukrainians to the ties with their country of origin as a result of the obstacles that they face in the host country.[32]

Thus we believe that the case of Ukrainian women in Poland is an example of the negotiations taking place around women's work on the borders of the EU, with the formation of a gendered and ethnicised labour force to be employed in the lowest strata of the European labour market. While Polish women still engage in temporary and permanent migration to Germany, the United Kingdom and other western European countries where they mainly take up domestic and care work in private households, Ukrainian women are doing the same in Poland.[33] The overlapping of these different circuits of women's mobilities denotes the increasing stratification of labour markets opportunities for migrant women. If gendered occupations such as domestic work still play a major role, this is however split into jobs with different entitlements from the point of view of rights and labour conditions. Women on the borders of the EU, as in the case of the Ukrainians, are included in a hierarchical way in this market compared with women holding citizenship from a member country, by being allowed to enter into it only in the most precarious and invisible way, namely as flexible, undocumented privately hired service workers.

7.6 MOLDOVAN WOMEN IN ITALY

Figures 3 and 4 show how Moldovan women's presence in Italy, although not being the most significant in terms of numbers (fewer than Ukrainians or Moroccans), offers some interesting elements in support of the argument of this article. In 2010 Moldovan emigrants were esti-

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[32] Marta Kindler and Monika Szulecka, "The Economic Integration of Ukrainian and Vietnamese Migrant Women in the Polish Labour Market", in *Journal of Ethnic and Migration Studies*, Vol. 39, No. 4 (2013), p. 649-671.

[33] Ewa Palenga-Möllenbeck, "Care Chains in Eastern and Central Europe: Male and Female Domestic Work at the Intersections of Gender, Class, and Ethnicity", in *Journal of Immigrant & Refugee Studies*, Vol. 11, No. 4 (2013), p. 364-383.

mated at 21 percent of the country's population, with about 20 percent of them in Italy.[34] Italy is today the most important destination for women from Moldova: since the early 2000s their numbers have steadily grown, reaching today the 100,000 mark (see Figure 4). This is an interesting case of highly gendered migration which, contrary to the example above of Ukrainians in Poland, is mainly based on permanent migratory projects and the opportunity for formal access to the labour market. The permanent character of this migration finds evidence in the work of Pia Pinger who emphasised how the persistent poverty of Moldovan families is a deterrent for migrant women who want to return, given the lack of opportunities open to them back home.[35] For Pinger, it is important to consider that Moldovan women migrating to countries such as Italy need longer periods of work before they are able to compensate for the economic efforts that have served to finance their initial emigration.[36]

It goes without saying that the expansion of the private market for home care service has had a deep impact on labour opportunities for Moldovan women in Italy and so on the level of immigration.[37] Italy is one of the European countries where the private market of home-based elderly care provided by migrant women has been established for the longest time – since the end of the 1970s – and where it has grown extensively: today, 88.6 percent of the Italian private service sector is

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[34] World Bank, *Migration and Remittances Factbook 2011*, 2nd ed., Washington, World Bank, 2011, http://go.worldbank.org/QGUCPJTOR0; Ummuhan Bardak (ed.), *Labour Markets and Employability. Trends and Challenges in Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine*, Luxembourg, Publications Office of the European Union, 2011, http://dx.doi.org/10.2816/14590.

[35] Pia Pinger, "Come Back or Stay? Spend Here or There? Return and Remittances: The Case of Moldova", in *International Migration*, Vol. 48, No. 5 (October 2010), p. 142-173, http://dx.doi.org/10.1111/j.1468-2435.2009.00562.x.

[36] See Dennis Görlich and Christoph Trebesch, "Mass Migration and Seasonality: Evidence on Moldova's Labour Exodus", in *Kiel Advanced Studies Working Papers*, No. 435 (May 2006), http://hdl.handle.net/10419/4012.

[37] Sabrina Marchetti and Alessandra Venturini, "Mothers and Grandmothers on the Move: Labour Mobility and the Household Strategies of Moldovan and Ukrainian Migrant Women in Italy", in *International Migration*, Vol. 52, No. 5 (October 2014), p. 111-126.

made up of women and 81 percent by migrants.[38] It is relatively easy for foreigners to access this job sector, in comparison with what happens in other countries. Regularisations are the main gate of access in the context of Italian migration policy, and indeed domestic and care workers have received special treatment in the regularisation of 2002, with the extension of the applications deadline. In 2009 the government took further special measures to favour these workers with an ad hoc regularisation. This has resulted in a general increase in the official numbers of foreigner workers in this sector. Finally, it is important to consider that, in the yearly allocation of quotas for migrants, the government always assigns a relatively high number of permits to prospective care and domestic workers from specific countries of origin, included Moldova.

More generally, the arrival of Moldovan women in Italy has been clearly facilitated by specific government provisions. Indeed, official data on Moldovans' presence in Italy have boomed after the government's launch of a regularisation process for undocumented migrant workers in 2002: with 29,471 applications, their (official) presence in Italy has multiplied five times.[39] Again in 2009, at the time of a regularisation directed only to undocumented workers in the care and domestic sector, Moldovans have been incredibly active by submitting 26,605 applications.[40] Furthermore, Moldova and Italy have established a bilateral agreement for workers' recruitment, which was signed in 2003 and renewed in 2011.[41] There is therefore an *ad hoc* quota for Moldovans in the yearly state decree which regulates the quotas for new foreign workers in Italy. Between 2002 and 2010, more than 27,000 Moldovans

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[38] Italian Ministry of Labour, *Secondo rapporto annuale sul mercato del lavoro degli immigrati*, July 2012, http://www.governo.it/backoffice/allegati/68685-7839.pdf.

[39] ISTAT, *Permessi di regolarizzazione concessi in base alle leggi n. 189/2002 e n. 222/2002 per area geografica e principali paesi di cittadinanza, per sesso al 1° gennaio 2004*, 2004, http://demo.istat.it/altridati/permessi/2004/tav4.13.pdf.

[40] Italian Ministry of Interiors, *Colf e badanti, i dati riepilogativi al 5 luglio*, 12 July 2010, http://www1.interno.gov.it/mininterno/export/sites/default/it/sezioni/sala_sta mpa/notizie/immigrazione/0076_2010_07_12_colf_badanti.html.1728265669.html.

[41] Marta Giuliani, Franco Pittau and Antonio Ricci (eds.), *Visa Policy as Migration Channel in Italy*, Rome, EMN Italy and IDOS, 2012, http://www.emnitaly.cnr.it/eng/wp-content/uploads/2015/02/Visa-Policy-as-Migration-Channel-2012-.pdf.

entered Italy through these quotas, without counting those that, as domestic workers, could also apply for the 290,000 vacancies in the quotas for this sector.[42] More recently, in 2008, Moldova signed a visa facilitation agreement with the whole European Union which was followed by a visa exemption for Moldovans entering the Schengen area for short stays, starting from 28 April 2014. It is thus an open question as to how this last facilitation will affect the movement of Moldovan women to the EU and Italy in particular.

The case of women's migration from Moldova and Italy thus stands in opposition to the three cases that we have previously illustrated. Without forgetting the ample margins of undocumented migration that still persist between Moldova and Italy, as well as the difficult conditions in which regular migrants perform their jobs in the home care and domestic sectors, it is nevertheless important to reflect upon the way this case can serve as an example for other countries There is no doubt that the legal and permanent employment in the domestic sector offers women the opportunity for an autonomous type of mobility, in which they can potentially engage in an activity independently from their husbands or fathers' will. It allows them to earn a living and take on the role of breadwinner for their transnational households, which they are often able to reunify in Italy. The less precarious legal conditions allow for better conditions of employment, and, under these conditions, domestic work may provide a working and living space that can be relatively safer for women than the conditions they face in factories or agriculture. However, the field of domestic work in Italy is still often low paid, with precarious working conditions, a lack of rights and, in some cases, subject to sexual and physical abuse. Moreover, workers complain that such work does not allow them to climb the social ladder towards more rewarding occupations, more in line with their educational backgrounds.

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[42] Sabrina Marchetti, Daniela Piazzalunga and Alessandra Venturini, "Costs and Benefits of Labour Mobility between the EU and the Eastern Partnership Countries Country Study: Italy", in *IZA Discussion Papers*, No. 7635 (September 2013), p. 67, http://www.iza.org/en/webcontent/publications/papers/viewAbstract?dp_id=7635.

CONCLUSIONS

After this excursion through different models of gendered mobility be-
tween ENP countries and the EU, we now come back to our initial ques-
tion. What are the limits of ENP policies regarding female migration
across the eastern and southern Mediterranean? To date the ENP
framework does not seem to have taken significant steps to promote a
safe and autonomous migration specifically for women from the ENP to
the EU. The cases of Moroccan fruit pickers in Spain and Ukrainian do-
mestic workers in Poland show how women's labour opportunities are
predominantly characterised by temporariness, difficult working condi-
tions and poor legal protection. There is a transnational hierarchy that
confines women to care and domestic work, or to the seasonal agricul-
tural sectors, which are all variably located across a continuum of ille-
gality, exploitation and invisibility. In both the countries of origin and
destination women suffer from economic and structural disadvantages.
Migrant women come into sight as transnational figures more suitable
to find work in flexible (agriculture) or gender-biased (domestic and
care) labour markets. At the same time, they are far from being prospec-
tive full citizens in the countries of destination; on the contrary, they are
destined to short periods of stay, invisibility and to being on the margins
of social and civil entitlements. The type of circular migration they are
embedded in, moreover, allows for the welfare costs to be totally upheld
by the country of origin.

From the perspective of ENP frameworks and categorisations, mi-
grant women do not seem to fall into the category of the economically
rewarding working migrant "who sends remittances," nor into that of
the entrepreneur who facilitates trade across the borders, nor finally in-
to that of the cultural mediators that spurs innovation amongst his/her
diaspora fellow members.

The case of Moldovans in Italy might be seen as the exception to this
overall view, but the specific connotation of the employment available to
these working women in the Italian home care sector (thus very isolat-
ed, badly remunerated and socially stigmatised) prevents them from
becoming transformative social actors, either in the country of origin or
of destination. It is also a sector where migrant women cannot generally

fulfil their aspirations by capitalising on their education and the work experience they have accumulated in the country of origin, resulting in their gradual deskilling. Domestic work, in general, comes into sight as a significantly double-edged job opportunity for migrants, as far as it offers employment on the fringes of an EU labour market, in a sector characterised by lack of rights and by a scarce economic and social mobility.

It is on these grounds that we formulate the following policy recommendations to improve conditions for migrant women in the ENP area:

1. Enhance mobility partnerships for *permanent* work (i.e. along the lines of the Moldova-Italy agreement, not the Morocco-Spain agreement) between all countries of the European Neighbourhood and the EU member states;
2. Avoid limitations to the employment of migrant women in which their *family situation* is used as a parameter for assessing their suitability for the work;
3. Promote the entrance of women in *non*-traditionally precarious and flexible labour sectors. This can be done, for example, by facilitating the recognition of their previous study and work careers in the countries of origin;
4. Facilitate labour employment for those who have arrived in Europe as *family migrants* and who also have an interest in being economically active, which can also favour their integration into the country more generally;
5. Finally, promote the active role of women as transnational actors between ENP countries and the European Union, by designing specific policy tools for gender mainstreaming in this field.

Such provisions would help the EU to meet its proclaimed interest in enhancing gender equality in neighbouring countries. At present, the EU is not always critical of the gender biases of migrants' countries of origin, but, rather, reproduces strong gender stratifications and inequalities in its ENP approach to migration. To embrace the recommendations above would help to overcome the current gender blindness in ENP migration policies which seem to position migrant women along a geographical and gendered hierarchy of care and domestic work, or low paid and gendered and racially constructed seasonal agricultural work,

which reifies their roles as "carers with extra work burdens" rather than as workers. This could be a first step to dismantle the gendered (and racialised) material and discursive devices that structure women's mobility across the eastern and southern Mediterranean.

8.

Migration and Refugee Governance in the Mediterranean: Europe and International Organisations at a Crossroads

Sarah Wolff

Since the beginning of 2015, more than 644,000 people have crossed the Mediterranean: a number that includes 3,135 migrants and refugees who died at sea trying to reach Europe in hopes of a better life.[1] The numbers of people rescued at sea have been increasing dramatically on a daily basis, with around 6,771 people rescued within two days in May 2015.[2] The Greek Islands of Kos and Lesbos are on the verge of explosion, with rising tensions between refugees and their inhabitants.[3] Although European public opinion and leaders are starting to acknowledge the situation, this is happening quite late. Indeed, since the Arab uprisings, the Mediterranean region has been confronted with unprecedented refugee and migratory fluxes. Since March 2011, some 9 million people have fled Syria, going mostly to neighbouring countries, with 6.5 million in Turkey, Lebanon, Jordan and Iraq. Only 150,000 have claimed asylum in the EU, mostly in Germany and Sweden (66,845 and 57,390,

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[1] UNHCR, *Refugees/Migrants Emergency Response – Mediterranean. Regional Overview*, updated 19 October 2015, http://data.unhcr.org/mediterranean/regional.php.

[2] Nikolaj Nielsen, "EU rescue mission yet to receive extra cash or boats", in *EUobserver*, 4 May 2015, https://euobserver.com/justice/128566.

[3] UNHCR, *Numbers of refugee arrivals to Greece increase dramatically*, 18 August 2015, http://www.unhcr.org/55d3098d6.html.

respectively).[4] Migrants arriving from Libya are also on the surge, and the Central Mediterranean route identified by Frontex, the European border agency, has seen a sharp increase in migrants trying to reach Italy and Malta.

This quantitative crisis should, however, be put into perspective, given that, by comparison, 50 million persons were forcibly displaced worldwide in 2014.[5] The problem is that, on their route to Europe, migrants die. Since 2000, over 22,000 migrants have lost their lives trying to reach Europe.[6] Faced with this humanitarian situation, global institutions and civil society have condemned the EU for its inaction and inability to implement an efficient common European migration and asylum policy.[7] What we are facing at present is a global crisis of responsibilities, as well as a European crisis of governance. So far though, the chain of responsibilities is being diluted amongst EU member states, third countries and Frontex, the European agency coordinating the operations of border guards in the Mediterranean which has come under the fire of civil society and EU member states. This convenient scapegoat, however, masks EU member states' reticence to expand further legal migration opportunities.

Europe is at a crossroads. Since 2011, the increased arrival of irregular migrants and refugees has only further highlighted the incoherencies of its migration and refugee politics. While initially, the "crisis" seemed to be limited to Italy, Greece and Malta, the death of 71 refugees in a truck in Austria in August 2015, as well as those trying to cross the

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[4] Data from Eurostat and ECHO, updated 31 May 2015. See "Aid & Asylum map" in the website of the European University Institute and Migration Policy Centre: *Syrian Refugees. A snapshot of the crisis in the Middle East and Europe*, http://syrianrefugees.eu/?page_id=199.

[5] Amnesty International, *Global Refugee Crisis in Numbers*, 15 June 2015, https://www.amnesty.org/en/latest/news/2015/06/global-refugee-crisis-in-numbers.

[6] Tara Brian and Frank Laczko, "Counting Migrant Deaths: An International Overview", in Tara Brian and Frank Laczko (eds.), *Fatal Journeys. Tracking Lives Lost during Migration*, Geneva, IOM, 2014, p. 20, http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=1393.

[7] Martin Geiger and Antoine Pécoud, "International Organisations and the Politics of Migration", in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 871.

Channel in July 2015 show that the rest of European countries cannot remain detached from the crisis. Most of the refugees and migrants are, in any case, eager to reach the UK, Germany and the Nordic countries. The Schengen System is at risk and Angela Merkel has already warned that, without a fair distribution of refugees throughout Europe, the free-passport area would need to be on the table. The Dublin Convention, which determines which EU member states are responsible for the processing of asylum-seekers applications, is also under strain, with southern European countries willing to renegotiate its core principle of first country of entry. It does not fit refugees' desires either, as 70 percent of migrants in Calais, for instance, do not wait for their application to be processed and prefer to try move elsewhere in Europe.[8] Variable geometry characterises EU member states' policy answers. While Germany has opened its door to refugees in September 2015, it has announced the reinstatement of border controls. Between July 2014 and June 2015, Germany received 59,605 applications from Syrians refugees, compared with the UK's 2,204.[9] At the same time, Hungary also announced it would deploy the military on its border, and several Eastern European countries and Cyprus claimed they would rather only accept Christian refugees, which adds an even more disturbing element to the crisis.

This chapter[10] argues that the current crisis is not only a European but a transregional governance crisis. What role and influence do international organisations (IOs) have on promoting an efficient and morally sound regional migration policy? To what extent can they influence the EU and their Mediterranean partners? This chapter critically assesses the role of IOs and their influence over global migration politics, particularly in the Mediterranean. In section 1 it reviews two main challenges that IOs are facing. First, the current refugee and migration governance

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[8] Camino Mortera-Martinez, "Storming the castle: Calais, or the failure of the EU's migration policies", in *CER Articles*, 3 August 2015, http://www.cer.org.uk/node/4546.

[9] George Arnett and Alberto Nardelli, "Germany gets 27 Syrian asylum applications for every one to the UK", in *The Guardian*, 27 August 2015, http://gu.com/p/4bpk7/stw.

[10] This work draws from in-depth interviews conducted with nine EU, NGO and international organisation officials in Brussels between February and March 2015 and in June 2013 in Rabat.

in the Mediterranean is EU-driven and risk-averse. Second, even though regional forums have been put in place, these are mainly state-driven. Coupled with a lack of comprehensive refugee and migration policies in the Middle East and North Africa (MENA), the challenges are enormous. Then, in section 3, it looks at the role of IOs involved in migration governance, and their ability to frame an alternative narrative on international protection and migration towards their EU partners. Some constraints are highlighted in section 4, as well as good practices via cooperation with Frontex in section 5. Finally, the chapter formulates recommendations on the future role of IOs in the transregional migration governance of the Mediterranean.

8.1 AN EU-DRIVEN AND RISK-AVERSE MIGRATION AND REFUGEE GOVERNANCE

The Mediterranean "crisis" has revealed the incoherencies of Mediterranean transregional governance, which remains underdeveloped and maladjusted to the current international protection needs of refugees as well as of migrants. Over the past 15 years, Mediterranean migration and refugee governance has been mostly EU-driven and risk-averse, with the prioritisation of the fight against irregular migration and the externalisation of border controls. This mostly EU driven and risk averse agenda has driven transregional governance efforts in the region. Transregional governance refers to "sets of formal and informal institutions that cut across and connect different geographical regions."[11] It can involve inclusive and exclusive practices of regulatory governance of migration via different regional, interregional or bilateral norms.[12] Until now though, it has been used mainly by receiving countries or regions such as the EU to externalise the EU's border controls and co-opt send-

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[11] Alexander Betts, "The Global Governance of Migration and the Role of Trans-Regionalism", in Rahel Kunz, Sandra Lavenex, Marion Panizzon (eds.), *Multilayered Migration Governance. The Promise of Partnership*, London, Routledge, 2011, p. 25.

[12] Ibid.

ing and transit countries in the "management" of migration, instead of being thought as a coordinated and collective solution of European and MENA countries.

One example of this Euro-centric approach to migration and refugee governance in the Mediterranean is the issue of offshoring the process of asylum applications. It has been regularly discussed by the EU and its member states since it was raised in the United Nations (UN) by Denmark at the end of the 1990s.[13] While Europeans claim to resist the Australian model that diverts migrants to offshore centres in the Papua New Guinea islands of Manus and Nauru, discussions to introduce offshore processing in countries like Niger, Egypt, Turkey or Lebanon are not completely off the table. Germany, Malta and France support this idea. A 2015 joint paper of the European Commission and the High Representative for Foreign Policy announced that an EU-funded International Organisation for Migration (IOM) project in the Nigerian transit hub of Agadez could become a "multipurpose centre" to "offer assistance and information to stranded migrants and support those who are willing to return or integrate in host communities."[14] Many fear those that this could lead to organising the offshore processing of asylum applications.[15] Such an option would necessarily raise important questions as to its international and EU legal compliance and whether EU delegations would be in charge of such processing. There is also little evidence that this would stop the flow of refugees willing to risk their lives to come to Europe.

Instead, Professor Goodwin-Gill has suggested the creation of a European Migration and Protection Agency that would help implementing

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[13] Jane McAdam, "Extraterritorial processing in Europe. Is 'regional protection' the answer, and if not, what is?", in *Kaldor Centre Policy Briefs*, No. 1 (May 2015), p. 4, http://www.kaldorcentre.unsw.edu.au/node/1111.

[14] European Commission and High Representative of the Union for Foreign Affairs, *Addressing the Refugee Crisis in Europe: The Role of EU External Action* (JOIN/2015/40), 9 September 2015, p. 7-8, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:520 15JC0040.

[15] Sebastian Elischer, "The EU's Migration Diversion: Outsourcing the Refugee Crisis", in *Foreign Affairs Snapshots*, 15 September 2015, https://www.foreignaffairs.com/node/1115411.

the Common European Asylum System.[16] Others have proposed it could become a "service" and be modelled as the European system of Central Banks, in order to grant it an EU-wide status.[17] This is a maximalist option, which would require more integration on asylum and which would provide an EU-wide asylum status. It would also present various legal challenges such as the ability of refugees to appeal against rejection of their application.[18] Such developments could then involve close cooperation with the UN Refugee Agency (UNHCR), for instance, and an evolution of the current European Asylum Support Office. A lesson from the creation of Frontex, however, is to be cautious as the lowest common denominator amongst various EU member states often impedes progress towards integrated European solutions.[19]

Furthermore, the design of transregional migration and refugee governance is greatly influenced by the internal politics and legal competences of the EU. Even though migration legislation is today an issue jointly decided between the European Parliament and the Council of the EU, many issues still remain under the control of European states. Thus, EU member states retain a role of gatekeepers since they have the right to determine admission criteria for people coming from third countries to seek work (Article 79 TFEU). Also, the legal responsibility of EU external border control operations remains within EU member states. This is in addition to a multitude of bilateral activities and operations conducted by EU member states independently of the EU. Thus, Frontex operations represent in fact only a minority of the total number of border guard operations.[20]

Since 2005, EU external migration policy has mainly been dealt with under the Global Approach on Migration and Mobility (GAMM).[21] Bilat-

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[16] Elspeth Guild et al., *Enhancing the Common European Asylum System and Alternatives to Dublin*, Brussels, European Parliament, July 2015, p. 58, http://www.europarl. europa.eu/thinktank/en/document.html?reference=IPOL_STU%282015%29519234.

[17] Ibid.

[18] Ibid., p. 38.

[19] Sarah Wolff and Adriaan Schout, "Frontex as Agency: More of the Same?", in *Perspectives on European Politics and Society*, Vol. 14, No. 3 (2013), p. 305-324.

[20] Interview C with EU official, Brussels, 2 March 2015.

[21] See the website of the European Commission DG Migration and Home Affairs,

eral and regional frameworks (such as the European Neighbourhood Policy) implement the GAMM, as well as legal instruments such as re-admission and visa facilitation agreements, and provide operational support and capacity-building through cooperation with Frontex. EU development aid also contributes to implementing the GAMM.[22] Although the number of instruments has increased in the past decade, deficiencies remain in terms of fundamental rights, and the instruments also heavily EU-driven.[23] International protection has only been added in 2011 to the revised GAMM. Very often, third countries' priorities and needs have been overlooked, leading to a weakening of the EU's leverage in the negotiations. Thus, EU-Morocco and EU-Turkey readmission agreement negotiations have been considerably delayed by the lack of credible EU incentives, such as visa facilitation and/or liberalisation.[24] In the summer of 2014, Morocco suspended all negotiations, including on the EU readmission agreement, due to a strong disagreement over trade negotiations and the so-called "Tomato Affair."[25] The conclusion of mobility partnerships (MPs) is another instance of asymmetric negotiations, whereby the EU uses the MP to exert its soft power to negotiate on border management, but not necessarily improve legal mobility opportunities.[26] The 2014 GAMM evaluation acknowledges the need for im-

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http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration/index_en.htm, updated 13 April 2015.

[22] European Commission, *Report on the implementation of the Global Approach to Migration and Mobility 2012-2013* (COM/2014/969), 21 February 2014, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52014DC0096.

[23] Interview A with civil society official, Brussels, 2 March 2015.

[24] Sarah Wolff, "The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey", in *European Journal of Migration and Law*, Vol. 16, No. 1 (2014), p. 69-95, https://sarahwolffeu.files.wordpress.com/2013/04/emil_016_01_69-96-euras-sw.pdf.

[25] Interview F with EU official, Rabat, 25 June 2013.

[26] Sandra Lavenex and Rachel Nellen-Stucky, "Partnering for Migration in EU External Relations", in Rahel Kunz, Sandra Lavenex, Marion Panizzon (eds.), *Multilayered Migration Governance. The Promise of Partnership*, London, Routledge, 2011, p. 116-142. See also on asymeties Aderanti Adepoju, Femke Van Noorloos and Annelies Zoomers, "Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review", in *International Migration*, Vol. 48, No. 3 (June 2010), p. 42-75.

plementing MPs "in a balanced manner, i.e. better reflecting all four thematic priorities of the GAMM, including more actions with regard to legal migration, human rights and refugee protection."[27]

Following the Arab uprisings, the Justice and Home Affairs (JHA) Council set up a Task Force Mediterranean in October 2013. Bringing together all EU member states, the European External Action Service (EEAS) and several EU agencies,[28] it identified five main priorities to address: actions in cooperation with third countries; regional protection, resettlement and reinforced legal avenues to Europe; the fight against trafficking, smuggling and organised crime; reinforced border surveillance contributing to enhancing the maritime situational picture and saving the lives of migrants in the Mediterranean; and, finally, improving assistance and solidarity between member states dealing with the pressures of high migration.[29] For many, the Task Force has only "repackaged existing measures and policy instruments. It is a monitoring instrument for what is going on."[30] Behind the innovative title, there has been little risk-taking. Also, it is mostly driven by a law enforcement approach and lacks a long-term strategy.[31] Only a few concessions have been made in discussions of safe ways to arrive in the EU. The European Commission has, for instance, tried to put on the agenda protection entry and humanitarian visas, but "member states are opposed and the Council is not looking beyond resettlement."[32]

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[27] European Commission, *Report on the implementation of the Global Approach to Migration and Mobility 2012-2013*, cit., p. 9.

[28] The European Asylum Support Office (EASO), Frontex, Fundamental Rights Agency (FRA), European Maritime Safety Agency (EMSA) and European Police Office (Europol).

[29] European Commission, *On the work of the Task Force Mediterranean* (COM/2013/869), 4 December 2013, par. 1, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52013DC0869.

[30] Interview D with ECRE official, Brussels, 26 February 2015.

[31] Interview A, Brussels, 25 February 2015.

[32] Ibid.; Interview B with IO official, Brussels, 25 February 2015.

8.2 Mediterranean partners and state-driven regional initiatives

Next to the EU GAMM, bilateral relations between EU countries and Mediterranean partners, the Rabat Process and the Khartoum Process are two regional consultative processes (RCPs), which enable transgovernmental cooperation. They are informal policy networks helping governments to deal with irregular migration and have been actively promoted by IOM.[33] They are a typical example of transregionalism since most of those processes are highly dependent upon power struggles and financial resources.

The Rabat Process, also called the Euro-African Dialogue on Migration and Development, gathers together 30 European countries, five North African countries and 23 West African and Central African countries. Launched in 2006 by France, Morocco and Spain, it fosters thematic meetings amongst experts, has enabled senior official meetings and has put in place several strategies, but remains mostly based on dialogue and exchange of information. International protection was not originally at the heart of the discussions, and has only been brought on the agenda since the adoption of the 2008 Dakar Strategy. The Rome Programme for 2015-2017 develops international protection more thoroughly as one of the four pillars of the process, next to the objectives of organising mobility and legal migration; improving border management and combating irregular migration; and strengthening the synergies between migration and development.[34] Also, the EU has begun to include an international protection element within the MPs with Morocco and Tunisia, although countries in these regions are still mostly interested in managing their own migrants.[35] Countries such

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[33] Alexander Betts, "The Global Governance of Migration and the Role of Trans-Regionalism", cit., p. 33.

[34] Rabat Process, *Rome Declaration and Rome Process*, 27 November 2014, http://processusderabat.net/web/uploads/cms/EN-Rome_Declaration_&_Programme.pdf.

[35] Interview with ECRE official, Brussels, 26 February 2015.

as Jordan, for example, are still reticent to deliver permits to refugees.[36]

Confronted with the smuggling of migrants in the Sahel-Saharan "arc of crisis," the Khartoum Process, launched in 2014, similarly brings together EU countries with Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt and Tunisia to discuss issues regarding the EU-Horn of Africa migration route. Eritreans represent the second most common nationality of migrants arriving by sea to Europe after Syrians. The ambition is to establish a platform of dialogue amongst the countries but also to share knowledge and experience together with IOM, UNHCR and the United Nations Office on Drugs and Crime (UNODC), as well as to identify pilot projects.[37]

The 5+5 Dialogue is another regional framework for discussing migration issues. Created in 1990, it gathers together Algeria, France, Italy, Libya, Malta, Mauritania, Morocco, Portugal, Spain and Tunisia. After a decade of very unsuccessful talks, the forum regained some dynamism in 2001 and is today seen as "the forum for dialogue and cooperation that creates the highest level of consensus among the Southern Partners."[38] Since 2012 and its summit in Malta, however, this intergovernmental initiative has not been meeting and little is known about its position on the current situation in the Mediterranean. The Mediterranean Transit Migration Dialogue (MTM) includes 45 states in Europe and North Africa, Cape Verde, Egypt, Ethiopia, Ghana, Kenya, Lebanon, Mali, Niger, Nigeria, Norway, Senegal, Switzerland, Syria and Turkey. Launched in 2002, this intergovernmental framework is hosted by the International Centre for Migration Policy Development (ICMPD) Secretariat and is mostly consultative, set up to discuss issues of irregular migration and mixed migration as well as migration and development.

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[36] Ibid.

[37] T. Craig Murphy, "The Khartoum Process: EU-AU Cooperate to Combat Human Trafficking in the Horn of Africa", in *IOM Blog*, 28 October 2014, http://weblog.iom.int/node/960.

[38] Gabriel Busquets, "Regional Integration in the Western Mediterranean: the AMU and 5+5", in *IEMed Mediterranean Yearbook 2015*, forthcoming 2015, p. 90, http://www.iemed.org/observatori/arees-danalisi/arxius-adjunts/anuari/anuari-2014/Busquest_5-5_Dialogue_Arab-Maghreb_Union_IEMed_yearbook_2014_EN.pdf.

These state-driven forums are, however, often confronted with a lack of comprehensive migration and asylum policies in Mediterranean countries. Countries like Morocco or Tunisia have focused, until the turn of the millennium, on their own diaspora abroad, mostly in Europe. It is only recently that they have realised that they were countries of transit and of immigration. More and more African migrants have been settling in Morocco to study or to pursue careers.[39] As of January 2014, it was therefore high time for the country to launch an immigration reform. Even though civil society is still pointing to the problems regarding the dismantlement of migrant camps in Melilla in February 2015, so far 16,000 sub-Saharan migrants have been regularised.[40] Mashreq countries have also dealt with refugees for a long time. Jordan's unofficial population is thus 60 percent Palestinian refugees. After welcoming several waves of refugees from Iraq in the 1990s, and after the US-led 2003 invasion, Jordan was hosting, in January 2015, around 811,070 refugees. The biggest majority (around 747,360 of them) are Syrians, and they have been provided with access to health and education.[41] The government has, however, restrained access to its country to refugees, and restricts Syrian refugees' freedom of movement, notably in urban areas. The strain on native societies is huge, and even though the EU has provided some financial support, many warn against the "shrinking of the humanitarian space."[42] The EU has responded to this challenge by setting up a 40 million euros Regional Trust Fund, funded in great part by Italy, to support Jordan in delivering humanitarian aid.[43] The fund is, however, a modest

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[39] Hein de Haas, "Morocco: Setting the Stage for Becoming a Migration Transition Country?", in *MPI Country Profiles*, 19 March 2014, http://www.migrationpolicy.org/node/5256.

[40] Lova Rakotomalala, "Moroccan forces accused of abusing sub-Saharan migrants", in *GlobalVoices*, 17 February 2015, http://globalvoicesonline.org/?p=509256.

[41] UNHCR, *2015 UNHCR country operations profile - Jordan*, http://www.unhcr.org/pages/49e486566.html.

[42] Luigi Achilli, "Syrian refugees in Jordan: a Reality Check", in *MPI Policy Briefs*, No. 2015/02 (February 2015), p. 8, http://dx.doi.org/10.2870/821248.

[43] European Commission, *EU Regional Trust Fund in Response to the Syrian Crisis*, updated 22 July 2015, http://ec.europa.eu/enlargement/neighbourhood/countries/syria/madad/index_en.htm.

emergency mechanism that does not necessarily address the more long-term challenges of hosting refugees in MENA societies.

8.3 UNHCR AND IOM: FRAMING AN ALTERNATIVE DEBATE ON REFUGEES AND MIGRATION IN THE MEDITERRANEAN

In the Mediterranean, beyond their respective roles of a protection agency and of providing operational assistance, UNHCR and IOM are advocating for a more humane approach to the crisis. IOM contends that the current situation is not a migration crisis but rather a governance crisis. Thus, for the Director of IOM Europe,

> the main migration challenge is not the number of arrivals. Rather, this is a crisis of memory and perspective, of balance and political will that if corrected will allow us to better see the contours of how migration can be managed more effectively in Europe and beyond.[44]

By pointing at the failure of EU migration governance, IOs are legitimising their potential added value in order to improve migration governance. "Turning a blind eye isn't a solution: people will continue to cross and, because of Europe's inaction, to die,"[45] said UN Special Rapporteur on the human rights of migrants, François Crépeau. Instead he calls for "a new and concerted strategic approach by European states and the international community."[46] More specifically, IOs have been framing the debate on EU policy around three main themes: saving lives; improving safe ways into Europe; and finally opening the debate on mixed migration flows.[47]

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[44] Eugenio Ambrosi, "Our Sea", in *New Europe*, 18 February 2015, https://www.iom.int/oped/our-sea.

[45] See UN, *'Turning blind eye not a solution' to Mediterranean migrant crisis – UN rights expert*, 5 December 2014, http://www.un.org/apps/news/story.asp?NewsID=49526.

[46] Ibid.

[47] The UNHCR Central Mediterranean Sea Initiative (CMSI) offers 12 interlinked con-

a. Saving lives. Rescuing migrants at sea is an immediate measure that will stop people dying at sea. This international legal obligation is, however, not an EU competence. Each EU member state responds to obligations found in various international conventions, such as the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1982 UN Convention on the Law of the Sea (UNCLOS). Practically, these obligations fall upon shipmasters.[48] This can have adverse effects since some shipmasters prefer to avoid the Mediterranean.[49] In addition, the adoption of Guidelines at Sea has long been a point of contention amongst EU member states, in particular when it comes to the issue of disembarkation during joint operations coordinated by Frontex. Malta and Italy, as the main host countries, opposed the idea that the host country would have to be the point of disembarkation. A regulation establishing rules for the surveillance of external sea borders was eventually adopted in 2013,[50] in spite of strong opposition from EU southern member states. Yet much remains to be done, in particular regarding a possible revision of Frontex mandate.

b. Safe ways to Europe. IOs have been particularly active in advocating for multiplying safe channels for refugees and migrants to reach Europe. First, they argue that more legal migration channels should be opened. In a joint statement, Peter Sutherland, Special Representative of the UN Secretary-General for International Migration and Development, António Guterres, the UN High Commissioner for Refugees, William L.

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crete steps, such as a comprehensive and strategic policy on rescue at sea within the EU, which involves addressing issue of disembarkation, reception facilities and asylum-seekers' procedure, but also cooperation with countries of transit and first asylum as well as with countries of origins.

[48] Martin Scheinin, "Rescue at Sea - Human Rights Obligations of States and Private Actors, with a Focus on the EU's External Borders", in *EUI RSCAS Policy Papers*, No. 2012/05 (June 2012), http://hdl.handle.net/1814/22389.

[49] Interview B with IO official, Brussels, 25 February 2015.

[50] Regulation (EU) No 656/2014 establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 15 May 2014, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32014R0656.

Swing, Director-General of the IOM and Zeid Ra'ad Al Hussein, the UN High Commissioner for Human Rights, called for the need to create "sufficient channels for safe and regular migration, including for low-skilled migrant workers and individuals in need of family reunification, and access to protection where needed, as safe alternatives to resorting to smugglers," and for providing legal means to reach Europe safely.[51] This argument is shared by the EU FRA, which contends that increasing legal channels to Europe for refugees would avoid death at sea and, by the same token, diminish the proliferation of smuggling networks.[52] Carrier sanctions introduced by Directive 2001/51[53] – which penalise commercial airlines and shipping companies for carrying persons without the proper visas or travel documents to enter the EU – as well as EU visa requirements – are thought to contribute to the proliferation of smuggling. Refugees who have no means to reach Europe legally are therefore forced to undertake dangerous journeys and to pay smugglers astronomic amounts.[54] This problem is well known as, even as early as 2006, a study of the European Parliament was outlining that:

> This filtering technique is all the more problematic as no legal alternative is offered to those who need to flee their country urgently but do not meet the conditions laid down [...] Penalties for carriers, who assume some of the control duties of the European police services, either block asylum-seekers far from Europe's borders or force them to pay more and take greater risks to travel illegally.[55]

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[51] António Guterres, Zeid Ra'ad Al Hussein, Peter Sutherland, and William Lacy Swing, *Joint statement on Mediterranean crossings*, 23 April 2015, http://www.unhcr.org/5538d9079.html.

[52] FRA, "Legal entry channels to the EU for persons in need of international protection: a toolbox", in *FRA Focus*, No. 2/2015 (March 2015), http://dx.doi.org/10.2811/706733.

[53] Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement ..., 28 June 2001, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32001L0051.

[54] Elspeth Guild et al., "The 2015 Refugee Crisis in the European Union", in *CEPS Policy Briefs*, No. 332 (September 2015), http://www.ceps.eu/node/10900.

[55] Claire Rodier, *Analysis of the external dimension of the EU's asylum and immigration*

Widening legal asylum access is therefore a key feature particularly advocated by UNHCR. Regarding Syrian refugees, UNHCR has been pleading for increased labour migration schemes and opportunities for student visas, and has done a lot to push for increased resettlement. Thus, in a note on resettlement and "other forms of admission for Syrian refugees," UNHCR lists countries who have agreed to proceed with resettlement, humanitarian admissions and programmes, private sponsorship and "emergency scholarships for higher education," such as Portugal.[56] This follows a long-standing strategy of "resettlement expansionism" by the UNHCR in various OECD countries.[57] In the case of Syria, UNHCR has taken this discussion "at all levels possible"[58] and has been supportive of the Regional and Development Protection Programmes that the EU started in 2015. Even though the commitment of EU member states to resettlement is yet to be demonstrated, UNHCR expertise and knowledge have played a part in influencing the EU's legal framework and the adoption of an EU Joint Resettlement Scheme.[59] Solidarity and "sharing the burden" is, however, a tough task amongst EU member states and even more with Mediterranean partners. While a country like Jordan, with 6.5 million inhabitants, is welcoming over 1 million refugees,[60] France, which initially was opposed to the relocation mechanism in spring 2015 has finally offered to welcome 24,000. Similarly, the UK announced it would resettle 20,000 refugees over the next five years. This is in stark contrast with Germany. The German government estimates that around 800,000 refugees could arrive this year, which is al-

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policies – summary and recommendations for the European Parliament, Brussels, European Parliament, June 2006, p. 11, http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dt/619/619330/619330en.pdf.

[56] UNHCR, *Resettlement and Other Forms of Admission for Syrian Refugees*, 18 August 2015, http://www.unhcr.org/52b2febafc5.pdf.

[57] Adele Garnier, "Migration Management and Humanitarian Protection: The UNHCR's 'Resettlement Expansionism' and Its Impact on Policy-making in the EU and Australia", in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 942-959.

[58] Interview B with IO official, Brussels, 25 February 2015.

[59] Adele Garnier, "Migration Management and Humanitarian Protection", cit., p. 947.

[60] According to UNHCR 2015 data, the estimates for December 2015 include 937,830 Syrian refugees and 57,140 Iraqis. See UNHCR, *2015 UNHCR country operations profile - Jordan*, http://www.unhcr.org/pages/49e486566.html.

most the double the number Germany accepted in 1992 after the fall of ex-Yugoslavia.[61] This, however, still only represents 1 percent of the German population, while for Jordan this is closer to 12.5 percent of the population. The stakes are, therefore, not comparable.

Finally, fighting human trafficking and human smuggling is central to both the EU and IOs in providing safe ways to Europe. There has been a lot of interest in these matters from member states and human smuggling is likely to become a key priority of the 2016 Dutch presidency.[62] IOs such as IOM have, in particular, advocated the case of vulnerable migrants. Partnership with third countries would also be key. In spite of a series of conventions and global initiatives on trafficking,[63] the MENA region is blighted by human trafficking, in particular in Gulf countries, with domestic and migrant workers from Southeast and East Asia.[64] Although trafficking happens everywhere, including in Europe and North America,[65] conflicts in the Asian region have increased trafficking as well as sexual exploitation of women there. Thus, following the 2003 Iraq war, "the number of trafficked women has reportedly increased significantly to Jordan and Syria, but also to Saudi Arabia and the United Arab Emirates (UAE)."[66] Today the key challenge is to fight human trafficking and smuggling at sea. The High Level Dialogue on Protection at Sea has put in place a two-year Global Initiative on Protection at Sea. This initiative has helped to limit the loss of life at sea as well as exploitation, abuse and violence. This Dialogue is jointly supported by several IOs. In their Joint Statement on Protection at Sea in the Twenty-First

[61] In 1992 Germany accepted 438,191 refugees. See Erik Kirschbaum, "Germany expects refugee numbers to quadruple to record 800,000", in *Reuters*, 19 August 2015, http://reut.rs/1fp7R5M.

[62] Interview E with IO officials, Brussels, 25 February 2015.

[63] 2000 UN Convention against Transnational Organised Crime and its Trafficking Protocol, the 2007 UN Global Initiative to Fight Human Trafficking or the OSCE Alliance against Trafficking in Persons.

[64] Sari Hanafi, "Forced Migration in the Middle East and North Africa", in Elena Fiddian-Qasmiyeh et al. (eds.), *The Oxford Handbook of Refugee and Forced Migration Studies*, Oxford, Oxford University Press, 2004, p. 594.

[65] UNODC, *Global Report on Trafficking in Persons 2014*, New York, United Nations, November 2014, https://www.unodc.org/unodc/en/data-and-analysis/glotip.html.

[66] Sari Hanafi, "Forced Migration in the Middle East and North Africa", cit., p. 594.

Century, UNHCR, IOM, International Maritime Organisation (IMO), UNODC and Office of the United Nations High Commissioner for Human Rights (OHCHR) stress the need to shift the narrative and to stop viewing, at a global scale, people travelling by sea as criminals.[67] The latest meeting though, that took place in December 2014, "had a limited European attendance, with no high-level attendees."[68]

The discussions in the UN Security Council meeting over an EU-sponsored resolution to use military force to stop smugglers' boats is, however, another step towards the securitisation of EU policy. In spite of the principle of *non-refoulement*, which forbids EU member states to return migrants from countries where their lives are at risk, the draft resolution would allow EU military operations in international waters and in Libya's territorial waters and on its soil.[69] Not only is this morally problematic but also legally, since it would require the consent of members of the UN Security Council, in particular of Russia,[70] as well as of the Libyan government. This approach is in stark contrast with the framing of the debate by IOs so far.

c. Addressing stranded migrants and mixed migratory flows. The Syrian crisis and the instability in Libya have profoundly transformed migratory patterns, which has propelled IOs to frame new concepts.

First, there are numerous *stranded migrants* in transit countries such as North Africa, Yemen, Turkey and Greece.[71] Although there is no legal consensus on their status, they are often described as "vulnerable migrants" who are either in transit or at destination, but who do not have

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[67] UNHCR, IOM, IMO, UNODC and OHCHR Joint Statement on Protection at Sea in the Twenty-First Century, 10 December 2014, http://www.unhcr.org/548825d59.html.

[68] Interview B with IO official, Brussels, 25 February 2015.

[69] Somini Sengupta, "U.N. Wants to Let Europe Use Military Force to Stop Migrant Smuggling Boats", in *The New York Times*, 6 May 2015, http://nyti.ms/1Js8GV3.

[70] Somini Sengupta, "Russia Resisting Europe Request for Tough U.N. Anti-Smuggling Step", in *The New York Times*, 15 September 2015, http://nyti.ms/1UToVPm.

[71] Vincent Chetail and Matthias A. Braeunlich, "Stranded Migrants: Giving Structure to a Multifaceted Notion", in *Global Migration Research Papers*, No. 5/2013 (December 2013), p. 4-5, http://bit.ly/12Ksm3Q.

support from their government.[72] IOM categorises stranded migrants in three ways. First, their migration process is interrupted due to a loss or absence of required documents and a lack of financial resources. Second, unaccompanied minors, victims of trafficking, those stranded at sea (regular or irregular) and rejected asylum seekers are also migrants in a precarious legal situation. Third, and this is the most common reason, they are victims of natural disasters and political crises such as in Syria and Libya.[73] This new phenomenon calls for emergency humanitarian action. Stranded migrants are therefore not necessarily irregular migrants. Their situation can change at any time of their migration process, even if they have initially been regular migrants.[74] For instance, when the Gaddafi regime was overthrown in Libya, there were three main categories of stranded migrants: "migrants stranded inside Libya and unable to reach the border; migrants stranded at the border of Libya waiting to be admitted to a neighbouring state; and migrants stranded inside neighbouring countries (third countries)."[75] At the time of the revolution many migrants from Vietnam, Thailand, Bangladesh and Ghana working for Turkish companies in Libya were left behind in Benghazi's port waiting for help to get back home.[76] In 2015, the IOM's EU-funded project START helped Senegalese migrants stranded in Libya to return safely home, through Tunisia.

Second, *mixed migration flows* refers to both forced migration and economic migration which follow similar migratory routes. As for the concept of stranded migrants, this framing by IOs stresses the fact that "more and more migrants fall outside the provisions of the available instruments."[77] Refugees and migrants do indeed use the same networks

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[72] William Lacy Swing, *Stranded Migrants. A New Challenge for the International Community*, IOM Director presentation to the Migration Policy Institute, Washington, 9 May 2013, http://www.migrationpolicy.org/node/726.

[73] Ibid.

[74] Vincent Chetail and Matthias A. Braeunlich, "Stranded Migrants…", cit., p. 12.

[75] Ibid., p. 9.

[76] Kareem Fahim, "In Libyan Port, Stranded Migrants Watch Hope Depart", in *The New York Times*, 26 February 2011, http://nyti.ms/1UIFwKS.

[77] Roger Zetter, "Protection in Crisis. Forced Migration and Protection in a Global Era", in *MPI Reports*, March 2015, p. 18, http://www.migrationpolicy.org/node/15242.

and routes to get to Europe. The framing of this concept has increased interagency cooperation between IOM and UNHCR globally and in the Mediterranean. The Organisation for Security and Co-operation in Europe (OSCE) Chief, who considers the Mediterranean to be a "collective asset,"[78] has argued that the interconnectedness of mixed migration demands a more sustained and collaborative approach to regional policy-making.[79]

8.4 IOs' CHALLENGES REGARDING SHAPING AND INFLUENCING EU AND MEDITERRANEAN POLICIES

Over the two past decades, IOs have been the great winners of the internationalisation and regionalisation of migration politics. They have become the key partners of states willing to find collective solutions to global mobility. The historical creation of the three major IOs in the field, starting with the International Labour Organisation (ILO), UNHCR and, later, on IOM have, in a way, contributed to shaping legal distinctions globally and competition across very different mandates that cover, respectively, labour migration, refugees and logistical services to governments.[80]

IOs are nonetheless trapped between their advocacy role for an alternative EU policy in the Mediterranean and a series of constraints. First, they are financially dependent on EU member states and other donors such as the United States. UN agencies have been calling for more money to be able to provide humanitarian assistance to refugees in the

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[78] BBC Monitoring Europe, *OSCE chief says security in Mediterranean 'collective' asset*, 12 February 2013.

[79] "It calls for a comprehensive and multi-faceted approach, bringing together a wide array of actors at the international, regional and national level to manage irregular migration flows more effectively." Lamberto Zannier, *Opening Remarks at the 15th Alliance against Trafficking in Persons Conference "People at risk: combating human trafficking along migration routes"*, Vienna, 6 July 2015, http://www.osce.org/secretariat/173546.

[80] Martin Geiger and Antoine Pécoud, "International Organisations and the Politics of Migration", cit., p. 868.

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MENA, Africa and Europe. UNHCR has, for instance, been asking for more regular payments from member states to the main agencies in charge. In June 2015, the Regional Refugee and Resilience Plan (3RP), which brings together UN agencies and NGO partners, was still facing a shortfall of 3.47 billion dollars.[81]

Furthermore, IOM and UNHCR are often constrained by their donors when implementing policies that are not necessarily in line with their own normative discourse. This is illustrated by the role of IOs in EU-funded projects on the ground. For instance, the framing of a "mixed migration flows" discourse has provided a new entry door for UNHCR influence on the EU. But on the ground, in the case of UNHCR activities in Morocco, the concept of "mixed migration flows" has been used to legitimise "the perfection of border controls."[82] Indeed, if UNHCR has been prompt in criticising the EU for its externalisation of border control, the agency "is still unable to guarantee [refugees and asylum seekers] an effective protection against deportations to Algeria."[83] UNHCR finds itself trapped between its humanitarian discourse and identity, and its contribution to a "global police of populations."[84] Similarly, some argue that UNHCR operations in Turkey would have contributed to diffusing "an expansion of border and migration controls, but also provides for a legitimisation strategy by presenting restrictive controls as a necessary prerequisite for effective refugee protection."[85] Furthermore, one may question the independence of UNHCR and IOM from the EU with regard to the implementation of the Task Force Mediterranean. Both organisations are involved in two pilot projects regarding information campaigns on the eastern and the western African routes funded by the EU. Although IOM is not formally associated with the Task Force, its projects have been listed in the annex to the document, in particular one project

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[81] UNHCR, *Funding shortage leaves Syrian refugees in danger of missing vital support*, 25 June 2015, http://www.unhcr.org/558acbbc6.html.

[82] Stephan Scheel and Philipp Ratfisch, "Refugee Protection Meets Migration Management: UNHCR as a Global Police of Populations", in *Journal of Ethnic and Migration Studies*, Vol. 40, No. 6 (2014), p. 933.

[83] Ibid., p. 934.

[84] Ibid., p. 938.

[85] Ibid., p. 930.

in Niger, while UNHCR will implement another one in Ethiopia.[86] Other training courses on migration management have been developed together with UNHCR and IOM in Congo, Burundi, Niger, and in the Sahel.[87] Those types of information campaign have, however, in the past been seen as a promotion of information that supports migration control and encourages people to "stay home."[88] Consequently, they have lost all credibility in the eyes of migrants ready to take the risk of travelling to Europe by any means possible.[89]

In spite of their alternative pro-migrants' rights discourse, IOs are therefore trapped in the realities of their day-to-day operations. Beyond their role of advocates, UNHCR and IOM are also "migration managers." Transregional migration governance, including in the Mediterranean, has indeed been marked by a trend to "manage migration," whereby bureaucratic realities sometimes take precedence over policy objectives. The international migration management discourse and concepts are widely used by the EU, nation states and IOs. National and international bureaucracies have popularised this approach in order to justify their involvement in migration. This new public management approach, aimed at bringing a new order to international migration, has enabled administrative actors to justify their involvement in practices such as capacity-building, training, projects which focus on border control and irregular migration, voluntary and forced return, as well as diasporas and remittances.[90] Administrations and politicians willing to depoliticise

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[86] European Commission, *Implementation of the Communication on the Work of the Task Force Mediterranean. Part 2* (SWD/2014/173), 22 May 2014, http://ec.europa.eu/ dgs/home-affairs/e-library/documents/policies/legal-migration/gen eral/docs/sdw_im plementation_of_the_communication_on_the_work_of_the_task_force_mediterranean_part_ 2_en.pdf.

[87] Ibid., p. 4.

[88] Antoine Pécoud, "Informing Migrants to Manage Migration? An Analysis of IOM's Information Campaigns", in Martin Geiger and Antoine Pécoud (eds.), *The Politics of International Migration Management*, London and New York, Palgrave Macmillan, 2010, p. 184-201.

[89] Vincent Cochetel, "Politique d'asile en Europe: comment répondre aux défies venant de la Méditerranée?", in *Question d'Europe*, No. 365 (7 September 2015), p. 5, http://www.robert-schuman.eu/fr/doc/questions-d-europe/qe-365-fr.pdf.

[90] Martin Geiger and Antoine Pécoud (eds.), *The Politics of International Migration*

an issue where progress is limited due to electoral concerns have encouraged this.

Cooperation across IOs and the development of a "joined-up approach" has also sometimes been difficult, including in the Mediterranean. Thus, partnership between IOM and UNHCR in North Africa only started as of 2006. This is largely because, with the exception of Mauritania where it has little stake, IOM has historically been far ahead in its level of cooperation with the Maghreb states and had a comparative advantage to UNHCR in the areas that are of greatest concern to those states, such as tackling economic migration, readmission and border control.[91]

Since then though, a few good practices have taken place. In Lampedusa, the Praesidium Project was identified as "one example of good cooperation between UNHCR, IOM, the Italian Red Cross and Save the Children to improve reception, identification, profiling and referral of mixed arrivals."[92] Another interesting example of interagency cooperation was the establishment of a Yemen Mixed Migration Task Force (MMTF) in June 2008. This task force tackled interagency strategy in order to provide "effective humanitarian interventions" related to mixed migration flows in Yemen. This type of task force enables UN agencies as well as stakeholders such as the EU, the Danish Refugee Council or NGOs like the Red Cross or Save the Children to coordinate. Through joint planning and information sharing, it aims at raising awareness of a regional approach to mixed migration flows and advising the government of Yemen and other stakeholders.[93] The MMTF is chaired by UNHCR and IOM, and is funded by the Swiss Agency for Development and Cooperation (SDC), UNHCR and IOM.

IOM and UNHCR have also proved able to advance their interests

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Management, London and New York, Palgrave Macmillan, 2010, p. 8.

[91] Alexander Betts, "Towards a Mediterranean Solution? Implications for the Region of Origin", in *International Journal of Refugee Law*, Vol. 18, No. 3-4 (September/December 2006), p. 673.

[92] UNHCR, *Input to the Eleventh Coordination Meeting on Migration by the United Nations High Commissioner for Refugees* (UN/POP/MIG-11CM/2013/10), 15 February 2013, par. 9, http://www.un.org/en/development/desa/population/migration/events/ coordination/11/docs/UNHCR_Paper_11th_Coord_Meeting_on_Intl_Mig_15022013_final.pdf.

[93] See the website of the Yemen Mixed Migration Task Force: http://www.mmye men.org/?page_id=17.

through the implementation of EU projects. There are indeed knowledgeable and respected IOs in non-EU countries, which can rely on their local networks to bridge communication gaps with Brussels. Thus, in managing the implementation of EU-funded projects they are also able to shape policies and therefore have been seen as "brokers of Europeanization," especially in the eastern and southern areas of the EU.[94] An interesting example in that respect is the case of Frontex, the EU border agency, which is discussed in Section 5.

8.5 FRONTEX AND IOs:
AN EXAMPLE OF GOOD PRACTICE?

Within Frontex, IOs have been increasingly associated with the work of the agency with civil society. First, Frontex has signed several working arrangements with the Democratic Control of Armed Forces (DCAF), the International Civil Aviation Organisation (ICAO), the International Centre for Migration Policy Development (ICMPD), the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), the ILO, Interpol, IOM, the OSCE, UNHCR and UNODC. Most of these organisations are associated with providing training on integrated border management; preventing trafficking in human beings; and cooperating with each other's projects. Some IOs have cooperated, although modestly, in selected joint operations as well as in risk analysis. Thus, during Joint Operation Agelaus that took place in 2010 as a one-month fact-finding exercise on the irregular migration of children conducted in 42 European airports, IOM and UNHCR "acted as observers at three airports, for one week each, and advised the project team during the planning and preparation phases."[95]

Another important and structural contribution is the involvement of

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[94] Daniel Wunderlich, "Europeanization through the Grapevine: Communication Gaps and the Role of International Organizations in Implementation Networks of EU External Migration Policy", in *Journal of European Integration*, Vol. 34, No. 5 (2012), p. 500.

[95] Frontex, *Joint Operation Agelaus: Children in Irregular Migration*, 19 January 2011, http://frontex.europa.eu/news/joint-operation-agelaus-children-in-irregular-migration-H gSDR5.

UNHCR and IOM experts in the development of the Common Core Curriculum developed by Frontex to train EU border guards. Also, they contributed to the development of Frontex manual on anti-trafficking in human beings along with EU member states experts, Cepol and Eurojust, UNICEF and the OSCE.[96] However, one of the most significant developments is the involvement of the Council of Europe, the OSCE Office for Democratic Institutions and Human Rights, as well as the UNHCR and IOM, along NGOs and EU agencies[97] in the Consultative Forum of Frontex. Created after the 2011 revision of the Frontex mandate, the Consultative Forum contributes to the Frontex Fundamental Rights Strategy. Article 26a of the Frontex Regulation specifies that it shall assist the Executive Director and the Management Board in fundamental rights matters. It is also consulted regarding "the further development and implementation of the Fundamental Rights Strategy, Code of Conduct and common core curricula."[98] Frontex presents it as a body that provides "knowledge and expertise resource."[99]

8.6 FUTURE PROSPECTS AND RECOMMENDATIONS FOR IOS

The previous analysis has shown that IOs have been instrumental in framing an alternative debate on migration, mobility and international

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[96] Frontex, *Anti-trafficking Training for Border Guards. Trainers' Manual*, September 2012.

[97] Amnesty International European Institutions Office, Caritas Europa, Churches' Commission for Migrants in Europe, European Asylum Support Office, European Council for Refugees and Exiles, EU FRA, International Catholic Migration Commission, International Commission of Jurists, Jesuit Refugee Service, Platform for International Cooperation on Undocumented Migrants, Red Cross EU Office.

[98] Article 26a(2) of the Regulation (EU) No 1168/2011 amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, 25 October 2011, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32011R1168.

[99] See Frontex website: http://frontex.europa.eu/partners/consultative-forum/general-information.

protection in the Mediterranean. This work has been particularly geared towards the EU, and IOs can rely on their network and expertise to build communication bridges with Mediterranean partners.

The 2015 developments mark a new rupture between the open migration and humanitarian discourse of IOs and resistance from EU member states and the Council of the EU in particular. How can IOs influence the EU in order to provide efficient, effective migration and asylum policies that respect international law? How can they move from framing the debate to influencing policy on the ground?

- **Rely on IOs' expertise and knowledge**. IOs palliate the deficiencies of EU staff, for instance within the EEAS. Very few delegations have migration or asylum experts. Training EU officials at headquarter and country level could help spread that expertise more widely.
- **Multi-level advocacy strategy**. Since EU member states are the main gatekeepers, headquarter advocacy could extend more towards members of the European Parliament, a strategy that UNHCR, for instance, has already implemented. This should be accompanied in parallel by advocacy and the mainstreaming of IO ideas at country level, and in relation with beneficiary countries and regional forums.
- **Think outside the box and develop interagency cooperation**. The phenomenon of mixed migration flows demonstrates that IOs need to adapt rapidly and to *think outside the box*. Because flows are mixed and combine irregular and forced migration with economic migration, more interagency work is needed at headquarter and country level. Beyond joint statements and reports, UNHCR and IOM could, in particular, push the EU to set up a Libyan and Syrian MMTF.
- **Promote a transregional approach**. Namely, work on the relevance of adjacent regions to the Mediterranean, in particular the arc of crisis in the Sahel-Sahara. IOs and EU need to work together with Mediterranean partners to develop subregional strategies.
- **Capitalise on global membership**. The current crisis does not merely concern Europe and its MENA neighbours. IOs can capitalise on their wide membership to advocate different policies from the Gulf countries or even the United States. Potential impact on North Atlantic Treaty Organisation (NATO) or even the private sector and com-

mercial ships could ensure the United States will stop seeing the situation as mostly a European problem.

- **Remain modest**. Institutional expansionism, if not designed properly, can increase IOs' dependence on funders such as the EU, but also dilute IOs' objectives and thus contribute to their irrelevance vis-à-vis EU and Mediterranean countries.
- **Widen cooperation with Frontex**. This should apply to border management, training and scrutinising guards' activities. This would foster a socialisation of EU border guards to international legal norms.
- **Ensure the EU and Mediterranean partners reform their migration and refugee policies**. This could be done via, for instance, specific task forces that could foster national dialogue with beneficiary countries.

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