

# **JOURNAL of MODERN SLAVERY**

*A Multidisciplinary Exploration of Human Trafficking Solutions*

Volume 8, Issue 1, 2023

## **Forced Migration and Modern Slavery: Unplanned Journeys of Exploitation and Survival**

Guest Editor

**Brad K. Blitz**

Professor of International Politics and Policy at UCL

Cover Art by **Kristína Uhráková**

# JOURNAL OF MODERN SLAVERY

*A Multidisciplinary Exploration of Human Trafficking Solutions*

Volume 8, Issue 1, 2023

## Forced Migration and Modern Slavery: Unplanned Journeys of Exploitation and Survival

Guest Editor

**Brad K Blitz**

Editor-in-Chief, Journal of Modern Slavery

Jodi L. Henderson

Assistant Editor

Dr. Tina Davis

Digital Editor

Peter F. Zimowski

Web Design

Peter F. Zimowski / Sandra Munuera Teruel

ISSN: 2574-9897

Cover Art: Kristína Uhráková

**Publisher: SlaveFree Today**

<https://slavefreetoday.org>

<https://journalofmodernslavery.org>

### Advisory Board

Dr. Kevin Bales

Dr. Tina Davis

Dr. Mohamed Y. Mattar

Helen Burrows

Heather Moore

Victor Ochen

Emma Christopher

Sarah Jewell

Polina Smiragina-Ingelström

Chloe Setter

Debbie Ariyo

Vimal Kumar

Sophie Otiende

### Editorial Board

Dr. Zoe Trodd

Dr. Aidan McQuade

Benjamin Thomas Greer

Dr. Carter F. Smith

Dr. Monti Narayan Datta

Geraldine Bjällerstedt

Benjamin Thomas Greer

Roger-Claude Liwanga

Marcel van der Watt

Brad K. Blitz, Ph.D.

## TABLE OF CONTENTS

<b>Introduction to Forced Migration and Modern Slavery: Unplanned Journeys of Exploitation and Survival</b>	<b>1</b>
Brad K. Blitz	
<b>Summary of the Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences on the Nexus Between Displacement</b>	<b>11</b>
Tomoya Obokata	
<b>Europe’s Migrant Human Trafficking – A Case Study of Romania’s Sexually Exploited Women</b>	<b>21</b>
Roxana Claudia Tompea	
<b>What Has 20 Years of ‘Freedom’ Meant for Kamaiya Men in Kailali District, Nepal? Analysing Changing Patterns of Migration as a Marker of Freedom</b>	<b>45</b>
Matthew Maycock	
<b>Re-(B)ordering: The Impact of the European Union’s Externalisation of Migration on the Human Rights of Migrants in Libya</b>	<b>65</b>
Lauren Jackson	
<b>Stuck in the Middle: the Case of Venezuelan Migrants</b>	<b>79</b>
Carolina Spiridigliozzi and Florencia Barbeito	
<b>Forced into Slavery: Eritreans Caught Between Refugee and Migration Policies</b>	<b>102</b>
Lucy Hovil and Sasha Jespersen	
<b>Immigration Detention in Australia and Asylum Seekers’ Rights to Appropriate Health Care. Health Care Consequences of Keeping Asylum Seekers in Mandatory Detention in Alternative Places of Detentions (APOD)s</b>	<b>120</b>
Vinu Verghis, Jackson Moody, and Suzanna Fay	
<b>The Ru.Lag: the Kremlin’s New Empire of Forced Labor</b>	<b>143</b>
Alexandra Lewis and Brad K. Blitz	

## INTRODUCTION

# Forced Migration and Modern Slavery: Unplanned Journeys of Exploitation and Survival

Guest Editor

**Brad K. Blitz**

Professor of International Politics and Policy at UCL

In 2021, Tomoya Obokata, the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, presented his report on the nexus between displacement and contemporary forms of slavery to the UN Human Rights Council.<sup>1</sup> His report highlighted a number of causal factors such as discrimination, having an uncertain migration status, and exposure to the informal labour market both inside and outside camp settings.

This special issue develops the key messages from the UN Rapporteur's report. It explores the relationship between forced migration, extreme exploitation and vulnerability to contemporary forms of slavery across six countries. While these geographies differ greatly, a unifying concept in this volume is the idea of the migrant journey as an experiential space in which vulnerabilities are structured, restructured, and often exacerbated by political forces, as illustrated in the politics of trafficking, asylum-seeking and the use of detention, and the governance of reception in host countries. Recognizing that displaced people may be exposed to a wide range of slavery-type abuses, including forced labour, domestic servitude, forced marriage, and sexual slavery, this volume focuses in particular on the experience of forced migration, as the context in which abuses may occur.

Throughout this volume the authors present a disturbing global picture that records not only the legacies of bondage, and the concomitant gaps in the regulatory framework, but also how transit migration, including the process of seeking asylum in third countries, gives rise to a particular vulnerability context: the nexus between forced migration and contemporary forms of slavery. While there has been much research on the drivers of forced migration<sup>2</sup> and the conditions of asylum-seekers, as Patricia Hynes records, where the studies overlap, the emphasis

---

<sup>1</sup> See: UN General Assembly, "Nexus between displacement and contemporary forms of slavery – Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/48/58 (2021)". Human Rights Council, Forty-eighth session, 13 September–1 October 2021.

<sup>2</sup> For a recent review, see: Mathias Czaika and Constantin Reinprecht, "Migration Drivers: Why Do People Migrate?", in *Introduction to Migration Studies*, ed. P. Scholten (IMISCOE Research Series. Springer, Cham 2022). [https://doi.org/10.1007/978-3-030-92377-8\\_3](https://doi.org/10.1007/978-3-030-92377-8_3)

has been on policy responses at the expense of historically informed investigations<sup>3</sup> that detail the influence of hegemonic legacies; political discourses which are often in conflict with each other.<sup>4</sup> This volume seeks to address this shortcoming. It includes regional experts who provide historically rich case studies on Australia, Libya, Nepal, Romania, Ukraine, and Venezuela, in which they expose some critical challenges for effective migration governance, and describe the limitations of international and domestic laws to protect forced migrants, including asylum-seekers, from conditions of extreme exploitation. In addition to the geographical breadth, this volume recognises important temporal modalities through its coverage of forced migration in states that have experienced conflict, or are the site of ongoing conflicts, or may be classified as recovering from conflict, and others which by contrast have enjoyed long periods of peace. This is an important consideration since conflict-induced migration may be just one illustration of forced migration, and indeed, the reasons why people are forced to flee may vary even en route, as their status changes in response to conditions in transit.

In spite of their geographical differences, there are, nonetheless, some common vectors for analysis across the countries featured in this volume. We suggest that the ways in which forced migration is experienced and connects to situations of extreme vulnerability, including contemporary slavery type situations, follow some well observed patterns. For analytical purposes, we propose that the vulnerability context which informs the nexus between forced migration and contemporary forms of slavery is marked by the following processes:

- 1) trafficking and/or survival migration, where individuals may be forced to move by parties or circumstances beyond their control, including organised criminal activity, and structural conditions, such as extreme poverty, political instability, and environmental risk factors such as climate change;
- 2) asylum-seeking journeys across third countries, where individuals on the move may be exposed to threats to their personal security including economic exploitation;
- 3) the practice of detention, where state and contracted non-state forces may hold asylum-seekers and other migrants, restricting their freedom of movement and leaving individuals at risk of organised exploitation, including forced labour, sexual exploitation and other abuses;
- 4) the governance of reception in host countries, where individuals may be exposed to threats to their personal security due to overcrowding and ineffective and inhumane practices.

These processes in turn raise other important definitional issues.

---

<sup>3</sup> Patricia Hynes, "Exploring the Interface between Asylum, Human Trafficking and/or 'Modern Slavery' within a Hostile Environment in the UK", *Social Sciences* 11, no. 6 (2022): 246. <https://doi.org/10.3390/socsci11060246>

<sup>4</sup> Julia O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration and Child Rights", *Critical Social Policy* 31 (2011): 454–77.

Trafficking is defined in domestic and international law: Article 3 (a) of the UN Trafficking Protocol defines it as “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.” Yet, questions of control may be beyond the sanction of law, for example where individuals are compelled to migrate from situations of poverty. This migration context informs our understanding of vulnerability. Here, we are keen to draw from the country studies to investigate practices and conditions which both help to explain how forced migration is experienced and shine a light on the ways in which vulnerabilities are shaped, including through migration. For example, Tomoya Obokata recalls how Yazidi women, displaced by the Islamic State were subject to forced marriage and sexual slavery. Roxana-Claudia Tompea describes the politics that give rise to coercive transnational sex work, which lures in Romanian women. Elsewhere other contributors to this volume consider both the direct and indirect effects of exploitation on migration choices that may engender new vulnerabilities, as illustrated in Matthew Maycock’s article on forced migration and masculinities in Nepal. Maycock exposes system-level practices in Nepal, where the legacies of the Kamaiya system that so dominated the Terai in Western Nepal continue to inform the experience of both out-migration, and new forms of exploitation. He argues that even 20 years after the abolition of the Kamaiya system, male labour migrants are compelled by social convention to embrace restrictive and unfree labour migration practices both in Nepal and in receiving states such as India.

The asylum system is another space where vulnerabilities are generated. While asylum is protected under international law, several states have introduced reservations to the Refugee Convention, and the ways in which states grant access to their asylum system varies widely. Moreover, in many parts of the world it is exceptionally difficult to satisfy the legal criteria for asylum, not least as traditional host states have sought to criminalise irregular entry to their territory. As Sasha Jespersen and Lucy Hovil describe in their article on Eritreans moving into Ethiopia and Sudan, the process of seeking asylum frequently entails navigating around legal, illegal, and unlawful processes, which give rise to additional governance gaps that expose individuals to considerable risk. To illustrate this point, they record instances of forced labour. Throughout this volume, we consider how these gaps appear, and the experiences of forced migrants when faced with these risks.

Related to the vulnerabilities created during the process of seeking asylum, is the increasing use of detention, including offshore centres and cooperative arrangements with third countries to process asylum claims, as found in Australia and the USA, where agreements were struck with Nauru and Papua New Guinea, and Mexico and Guatemala respectively. Detention is not simply a place of confinement, but as Vinu Verghis argues, a system which undermines the health and wellbeing of migrants, contrary to international human rights law. The logic of detention generates additional vulnerabilities, as asylum-seekers and others have found themselves further exploited in situations of detention, where they enjoy even less protection. In

the language of Giorgio Agamben, these are ‘states of exception’ which exist outside the law, where procedural guarantees are absent.<sup>5</sup>

Less studied, but of great concern, is the reception system in which forced migrants find themselves. While this includes offshore processing centres, for most, in-country centres and camps of many kinds dominate their experience of host states.<sup>6</sup> Personal accounts of life in these centres and camps have called attention to widespread abuse, including the recruitment of asylum-seekers and refugees for sexual exploitation by protection officers,<sup>7</sup> and their use in forced labour, including in host states.<sup>8</sup> There is also alarming evidence of host governments engaging in forced conscription, as found in Rwanda where Burundian refugees were coerced into the army,<sup>9</sup> and elsewhere in Africa.<sup>10</sup>

This four-part rubric is not linear and it is important to stress that vulnerabilities are found at multiple points in the migration journey, which may be multidirectional, multi-causal, and influenced by both system-level factors and individual decision-making. One critical indicator of vulnerability is change of status, which includes the loss of economic, social, occupational, marital, and citizen/immigration status. Such changes may occur at varying points throughout the displacement experience, either as a causal push factor, for example, as Arendt suggests, with the loss of citizenship and the removal of rights and freedoms,<sup>11</sup> or when outside the protection of a functioning state, which may give rise to conditions of statelessness.<sup>12</sup> One only needs to think of Syria and Libya, which formerly hosted thousands of migrants whose lives were then turned upside down following war and instability. They saw their status shift as they transitioned from labour migrants to people in need of international protection. Thousands became asylum-seekers overnight. These shifting statuses are explored by Lauren Jackson, who describes how migrants

---

<sup>5</sup> See: Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005).

<sup>6</sup> Oliver Bakewell, “Encampment and Self-Settlement”, in *The Oxford Handbook of Refugee and Forced Migration Studies*, eds Elena Fiddian-Qasimiyeh et al. (Oxford Academic, 2014), <https://doi.org/10.1093/oxfordhb/9780199652433.013.0037>, accessed 17 Feb. 2023.

<sup>7</sup> Juliana Araujo, Fernanda Mattos de Souza, Raquel Proença, Mayara Lisboa Bastos, Anete Trajman, and Eduardo Faerstein, “Prevalence of Sexual Violence among Refugees: A Systematic Review”, *Rev Saude Publica* 53 (2019): 78. <https://doi.org/10.11606/s1518-8787.2019053001081>. PMID: 31553381; PMCID: PMC6752644.

<sup>8</sup> See: UNHCR, “People Seeking Asylum at Risk of Exploitation in the UK”, UNHCR (2022). Available at: <https://www.unhcr.org/uk/news/press/2022/8/62ea94464/people-seeking-asylum-at-risk-of-exploitation-in-the-uk.html> [accessed 17 February 2023].

<sup>9</sup> Michelle Nichols and Louis Charbonneau, “Burundi Rebels Say Trained by Rwandan Military - U.N. Experts”, Reuters. 4 February 2016. Available at: <https://www.reuters.com/article/us-burundi-rwanda-un-idUSKCN0VD04K> [Accessed 17 February 2023].

<sup>10</sup> See: Tomoya Obokata (2021), where he records that displaced children have been recruited into armed groups in the Central African Republic, the Democratic Republic of Congo, Mali, Mozambique, Nigeria and Somalia.

<sup>11</sup> Hannah Arendt, *The Origins of Totalitarianism* (Penguin UK 2017).

<sup>12</sup> See: Brad K. Blitz, “The State and the Stateless: The Legacy of Hannah Arendt Reconsidered”, in *Understanding Statelessness*, eds Tendayi Bloom, Katherine Tonkiss and Philip Cole (London: Routledge 2017).

were recruited into agriculture and construction in Libya where they were subject to extreme exploitation, and this account is prefaced by the distressing images of African migrants being sold in Libyan slave markets. In a different part of the world, Florencia Barbeito and Carolina Spiridigliozzi record how Venezuelan migrants in Colombia are exposed to new vulnerabilities, as their detachment from their home state and ensuing flight leaves them open to recruitment into the drugs trade, a situation also identified by Obokata in Colombia's neighbours, Ecuador and Peru.

One critical factor in the vulnerability framework described here is gender. We note that the history of displacement is replete with accounts of how the departure of men from the home context saw the weakening of traditional male-dominated social capital networks, which all too often left women insecure and at risk of violence and coercion, as for example in Afghanistan today where not only is forced marriage on the rise, but so is the sale of children for food.<sup>13</sup> Equally, as Obokata notes in this volume, displaced Syrians in Egypt and Rohingya in South Asia, have been vulnerable to forced marriage in host situations. For unaccompanied female migrants, and mothers accompanying children, the journey alone is also a source of great insecurity, as recorded in the testimonies of Afghan and Middle Eastern migrants transiting the Balkans in the hope of reaching Western Europe.<sup>14</sup> Roxana-Claudia Tompea draws upon similar themes in her study of sexual exploitation among Romanian female migrants, which details the political economy of sex trafficking that is facilitated by poor law enforcement and an underdeveloped rights regime. Similarly, Obokata recalls how Syrian refugee children in Lebanon, many of whom are irregularly present, have been exploited in agricultural production in the Bekaa Valley.

Yet, the creation of vulnerability is due not simply to weak governance in rights violating states, but also to the involvement of external parties. As Lauren Jackson argues, the EU not only tolerates human rights violations occurring in Libya as a result of EU policies, but proactively enables these abuses to occur. There is a long and telling history here. Elsewhere others have recorded how legal structures and law enforcement systems were dissolved, as Gaddafi decentralised state institutions and then re-concentrated power and authority in southern tribal groups, all under the watch of Italy. The introduction of immigration policies to attract both skilled and unskilled workers fed into a wider programme of geopolitics where migrants were seen as indicative of support for pan-Arabism and pan-Africanism, or conversely in the case of asylum-seekers, as infiltrators. Over many years, Italy and the EU also sought to benefit from the

---

<sup>13</sup> Ángel Sastre, "Selling a Child for Food: 'Several Suitors Showed Up and I Tried to Choose the Youngest'," *El Pais* (6 July 2022). Available at: <https://english.elpais.com/international/2022-07-06/selling-a-child-for-food-several-suitors-showed-up-and-i-tried-to-choose-the-youngest.html#:~:text=Arranging%20marriages%20with%20underage%20girls,at%20least%2015%20years%20old> [Accessed 17 February 2023].

<sup>14</sup> See: Caterina La Cascia, Giulia Cossu, Jutta Lindert, Anita Holzinger, Thurayya Zreik, Antonio Ventriglio and Dinesh Bhugra, "Migrant Women: Experiences from the Mediterranean Region", *Clin. Pract. Epidemiol. Ment. Health* 16 (Suppl-1) (2020):101-108. <https://doi.org/10.2174/1745017902016010101>. PMID: 33029187; PMCID: PMC7536719.



establishment of a vast detention complex in post-Gaddafi Libya. They provided funds, supported training, and lent legitimacy to the successor regime in the name of protecting Europe's southern border. While Europe was involved before and after the removal of Gaddafi and division of the country, the closure of state borders created conditions for exploitation, trafficking, bonded labour, and contemporary forms of slavery, especially as former migrant labourers were removed from their jobs, and denied lawful access to state resources.

The distinctive feature of this volume is the emphasis on forced migration. While migration features extensively in studies on contemporary forms of slavery, these phenomena are distinct and need further clarification. Chantal Thomas, for example, describes immigration controls as an 'adjacent issue', which remains 'the single most formal and legally permitted basis for discrimination and coercion' that gives rise to extreme economic exploitation.<sup>15</sup> Others similarly charge that the conditions which encourage trafficking are structural, and hence the emphasis on individual forced migrants who are deprived of their agency misses a broader point. Scholars including Julia O'Connell Davidson argue that the way major legal instruments such as the Trafficking Victims Protection Act of 2000 in the US, as well as the Modern Slavery Act of 2015 in the UK, define trafficking and modern slavery fails to capture the realities, abuses and needs which in turn affects the definitions we use. They maintain that, in the case of sex work for example, economic coercion as a result of extreme poverty offers greater explanation than physical coercion. In this context, women and other sex workers are making choices, and so may not be considered 'forced migrants'. Rather, O'Connell Davidson suggests, it is important to note the underlying structural and socio-economic factors when examining the junction of work, freedom, and expressions of forced migration, including trafficking.

While acknowledging that forced migrants may also exercise a degree of agency – they may make choices at various points over the course of their journey, and even once they reach third countries – we also recognise that their choices are constrained by external forces. Perhaps nowhere is this more acute than in the case of Australia's offshore asylum processing system, as recorded in Vinu Verghis' article. Yet, we should note that even where the state has less direct control over the fate of refugees and asylum seekers, the lack of effective governance does not excuse states from their international responsibilities. Modern slavery abuses cannot simply be attributed to poor migration governance. As Philippa Webb and Rosana Garcianda argue, states too are responsible, including for the recruitment of individuals into systems of forced labour.<sup>16</sup>

In a similar vein, this volume challenges the argument that both forced migration and contemporary forms of slavery are the result of opportunism. One frequent explanation, popularised by US and EU officials and the governments of host states both on the frontier and

---

<sup>15</sup> Chantal Thomas, "Immigration Controls and 'Modern-Day Slavery'", in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, ed. P. Kotiswaran (Cambridge Studies in Law and Society, pp. 212-237). (Cambridge: Cambridge University Press, 2017). <http://doi.org/10.1017/9781316675809.008>.

<sup>16</sup> Philippa Webb and Rosana Garciandia, "State Responsibility for Modern Slavery: Uncovering and Bridging the Gap". *International & Comparative Law Quarterly*, 68(3) (2019): 539-571. <https://doi.org/10.1017/S0020589319000277>.

in final destination states, maintains that desperate migrants are attracted by ‘pull factors’, above all economic opportunity, which makes them ripe for exploitation by smugglers and traffickers.<sup>17</sup>

A related and unproven charge is that enabling people to transit to host states, for example by providing search and rescue missions,<sup>18</sup> or failing to close informal settlements, puts migrants at risk of traffickers. This logic is deeply problematic. First, it assumes that the experience of forced migration is rational, especially in explanations for transnational flows towards host states. Yet, this account is at odds with a growing body of empirical research on the persistence of intervening ‘push factors’, and the realisation that many migrants do not in fact plan their outcomes. Second, this logic fails to consider how smuggling and trafficking may take place across the migratory experience, not simply where people seek to board ships or lorries in the hope of reaching destination states.

Third, the threat of abuse is not limited to encampment – though this is a site of great vulnerability – but also results from the policy and politics of dispersal in both transit and host states. As we see from the appalling tragedy of the Manston reception centre in the UK, where asylum seekers found themselves in an overcrowded and disease-ridden holding site, the issue is not simply the bounded camp environment but the absence of state protection in general.<sup>19</sup> Further, attempts to resolve the problems at Manston led to practices where refugees and asylum-seekers were transported to other locations, and even dumped in city centres in winter, with nowhere to stay, and without proper clothing.<sup>20</sup>

This volume presents a collection of articles which challenge the above assumptions, to describe how forced migrants may be drawn into slavery-like situations in transit and host states. The volume begins with a preface by Tomoya Obokata, UN Special Rapporteur on contemporary forms of slavery which describes how displaced people may be vulnerable to contemporary forms of slavery due to personal, situational and structural factors. In addition to illustrating how displaced individuals and communities may be at risk of forced labour, domestic servitude, forced marriage and sexual slavery, he calls attention to the dangers facing displaced children, including the words forms of child labour. While acknowledging reform among some states, he provides several recommendations to enhance durable solutions both to end the situation of displacement, and the conditions which give rise to extreme economic exploitation. As he

---

<sup>17</sup> See: Leila Hadj Abdou, “‘Push or pull’? Framing Immigration in Times of Crisis in the European Union and the United States”, *Journal of European Integration*, 42:5 (2020): 643-658, <https://doi.org/10.1080/07036337.2020.1792468>.

<sup>18</sup> Eugenio Cusumano and Matteo Villa, “Sea Rescue NGOs: A Pull Factor of Irregular Migration?”, *Policy Briefs*, 2019/22, Migration Policy Centre (2022). Available at: <http://hdl.handle.net/1814/65024> [Accessed 17 February 2023].

<sup>19</sup> See: Clare Moseley, “Manston Scandal is a Disgrace that Could have been Easily Avoided”, Open Democracy. 31 October 2022. Available at: <https://www.opendemocracy.net/en/manston-immigration-processing-kent-overcrowding-scandal/> [Accessed 17 February 2023].

<sup>20</sup> Amelia Gentleman, “Home Office Leaves Asylum Seekers from Manston Stranded in Central London”, *The Guardian* (2022). Available at: <https://www.theguardian.com/politics/2022/nov/02/home-office-leaves-asylum-seekers-from-manston-stranded-in-central-london> [Accessed 17 February 2023].

concludes, ‘access to livelihoods is essential for the prevention of and the response to protection concerns, including contemporary forms of slavery.’

Obokata’s report is followed by some geographically focused articles, which revisit the legacies of bondage, and examine how they inform our understanding of contemporary exploitation. Matthew Maycock employs a gender-based analysis of masculinity to consider the symbolic and material significance of contract and labour migration in Nepal, 20 years after the abolition of the Kamaiya system. The focus on migration for this group of young male former bonded labourers who were previously unable to migrate, facilitates analysis of the ways in which migration between Nepal and India enables new performances of masculinity. Ultimately, this paper argues that such exploitative labour migration, however precarious, has become an important marker of freedom for the Kamaiya.

Gaps in the regulatory framework are exposed through an analysis of the political economy of sex trafficking and what Roxana-Claudia Tompea describes as ‘forced prostitution’. She considers how push factors prevail over ineffective law enforcement and a lack of investigative will, to undermine the protection of vulnerable women. Further, she argues that existing laws at both the national and EU level tend to be corrective, and only address the supply side, rather than the economic forces which draw women into systems of organised criminal activity. Hence, she argues that the Romanian authorities should refocus their efforts on tackling the recruiters and agents that enable these women’s illegality. Her argument recalls Andrew Crane’s thesis that modern slavery should be categorised as an organised criminal activity, integral to the supply chain, and is better described as a management practice.<sup>21</sup>

The experience of transit migrants and the potential for abuse are explored by Lauren Jackson in her article on the EU’s externalisation policies in the case of Libya. She examines how the use of international agreements has created a permissive space in which human rights abuses, including contemporary slavery offences, have taken place. The article points to the exceptional space where migrants fleeing war, poverty and instability find themselves contained. In a related vein, but different geographical context, Florencia Barbeito and Carolina Spiridigliozzi consider the situation of displaced Venezuelans in Colombia to examine how social, economic and political forces create complex transnational processes which enable human exploitation networks. The complexities of asylum-seeking and mixed migration flows across East Africa are explored by Sasha Jespersen and Lucy Hovil in the context of Eritreans in Ethiopia and Sudan, many of whom feel compelled to move on for safety yet remain in situ. This notion of exceptionalism is further described in Vinu Verghis’s account of the Pacific model, as pioneered by Australia where neighbouring states were contracted to manage and contain asylum-seekers.

---

<sup>21</sup> Andrew Crane, “Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation.” *The Academy of Management Review*, 38, no. 1 (2013): pp. 49–69. JSTOR, <http://www.jstor.org/stable/23416302> [Accessed 17 February 2023].

Finally this edition concludes with another look at the power of legacy. In an innovative article on the current war in Ukraine, Alexandra Lewis and Brad Blitz examine continuities between Russian, Soviet and post-Soviet systems of exploitation. They introduce the idea of the ‘Ru.Lag’ as a space where large-scale deportations by Russian state forces fit into a broader programme of oppression. They suggest new modes of abuse which build on historical practices, where forced relocation and deportation, both as a form of punishment for dissidents and as a means to generate forced labour, now characterise Putin’s war on Ukraine in which contemporary slavery abuses abound.

## **BIBLIOGRAPHY**

Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.

Araujo, Juliana, Fernanda Mattos de Souza, Raquel Proença, Mayara Lisboa Bastos, Anete Trajman, and Eduardo Faerstein. “Prevalence of Sexual Violence among Refugees: A Systematic Review”, *Rev Saude Publica* 53 (2019).

Arendt, Hannah. *The Origins of Totalitarianism*. Penguin UK 2017.

Bakewell, Oliver. “Encampment and Self-Settlement.” In *The Oxford Handbook of Refugee and Forced Migration Studies*, edited by Elena Fiddian-Qasmiyeh et al. Oxford Academic, 2014.

Blitz, Brad K. “The State and the Stateless: The Legacy of Hannah Arendt Reconsidered.” In *Understanding Statelessness*, edited by Tendayi Bloom, Katherine Tonkiss and Philip Cole. London: Routledge 2017.

Crane, Andrew. “Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation.” *The Academy of Management Review*, 38, no. 1 (2013).

Cusumano, Eugenio and Matteo Villa. “Sea Rescue NGOs: A Pull Factor of Irregular Migration?” *Policy Briefs*, 2019/22, Migration Policy Centre (2022).

Czaika, Mathias and Constantin Reinprecht. “Migration Drivers: Why Do People Migrate?” In *Introduction to Migration Studies*, edited by P. Scholten. IMISCOE Research Series. Springer, Cham 2022.

Gentleman, Amelia. “Home Office Leaves Asylum Seekers from Manston Stranded in Central London.” *The Guardian* 2 November 2022.

- Hadj Abdou, Leila. “‘Push or pull’? Framing Immigration in Times of Crisis in the European Union and the United States”, *Journal of European Integration*, 42:5 (2020).
- Hynes, Patricia. "Exploring the Interface between Asylum, Human Trafficking and/or ‘Modern Slavery’ within a Hostile Environment in the UK", *Social Sciences* 11, no. 6 (2022): 246.
- Nichols, Michelle and Louis Charbonneau. “Burundi Rebels Say Trained by Rwandan Military - U.N. Experts.” Reuters. 4 February 2016.
- La Cascia, Catarina, Giulia Cossu, Jutta Lindert, Anita Holzinger, Thurayya Zreik, Antonio Ventriglio and Dinesh Bhugra. “Migrant Women: Experiences from the Mediterranean Region”, *Clin. Pract. Epidemiol. Ment. Health* 16 (Suppl-1) (2020):101-108.
- Moseley, Clare. “Manston Scandal is a Disgrace that Could have been Easily Avoided.” Open Democracy. 31 October 2022.
- O’Connell Davidson, Julia. “Moving Children? Child Trafficking, Child Migration and Child Rights.” *Critical Social Policy* 31 (2011): 454–77.
- Sastre, Ángel S. “Selling a Child for Food: ‘Several Suitors Showed Up and I Tried to Choose the Youngest’.” *El Pais* (6 July 2022).
- Thomas, Chantal. “Immigration Controls and ‘Modern-Day Slavery’.” In *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, edited by P. Kotiswaran. Cambridge: Cambridge University Press, 2017.
- UN General Assembly, “Nexus between displacement and contemporary forms of slavery – Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/48/58 (2021)”. Human Rights Council, Forty-eighth session, 13 September–1 October 2021.
- UNHCR. “People Seeking Asylum at Risk of Exploitation in the UK”, UNHCR 2022.
- Webb, Philippa. and Rosana Garcíandia. “State Responsibility for Modern Slavery: Uncovering and Bridging the Gap”. *International & Comparative Law Quarterly*, 68(3) (2019): 539-571.

# **Summary of the Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences on the Nexus Between Displacement and Contemporary Forms of Slavery - A/HRC/48/58 (2021)**

**Tomoya Obokata**

Special Rapporteur on contemporary forms of slavery,  
including its causes and consequence

## **Introduction**

At the 48<sup>th</sup> Session of the Human Rights Council, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata, presented his thematic report on the nexus between displacement and contemporary forms of slavery (A/HRC/48/52). The present submission provides a summary of its main findings and recommendations. Readers are referred to the report itself for detailed references and evidence used.

## **Vulnerabilities of displaced persons to contemporary forms of slavery**

Displaced persons are vulnerable to contemporary forms of slavery as a result of personal, situational and structural factors. For instance, poverty levels among displaced populations are known to be high. As members of populations often discriminated against within their own communities and countries, many displaced persons do not have sufficient means of subsistence. Even where they do, their assets are often stolen or taken away or they need to leave them behind when fleeing their home.

Discrimination on the basis of age, gender, race, nationality, ethnicity, sexual orientation, migration status, religion, class and disability, among other categories, is another root cause of contemporary forms of slavery, including for displaced persons. Structural discrimination may be facilitated by States, employers or society as a whole, limiting access to decent work, education and other opportunities.

Among others, displaced persons with an irregular or uncertain migration status are particularly vulnerable to contemporary forms of slavery. As many of them are unable to register as asylum seekers or when their asylum claim remains pending for a long time, they may feel compelled to accept exploitative work due to a lack of alternatives.

In addition, informality of employment increases the vulnerability of displaced persons to contemporary forms of slavery. Employment in the informal sector is often characterized by low wages, exploitative working conditions, and a lack of job security. Also, the bargaining power of displaced persons is often limited because they do not feel empowered to mobilize or unionize and, being displaced, are located in areas that are not their habitual residence or communities.

Because of a lack of freedom of movement and poor security, displaced persons are vulnerable to violence, exploitation and abuse in camp settings. The risk is particularly high in informal camps and settlements where there are no basic protection and humanitarian structures or land tenure, including for internally displaced persons.

Finally, exposure to criminal groups and traffickers/smugglers is a pressing problem. Displaced persons often have no choice but to rely on them to escape as regular channels for migration are very limited or non-existent. The interaction with these individuals and groups may transform into a longer-term exploitative relationship, for example, in bonded labour when displaced persons need to pay their fees and debts for migration. In conflict-induced displacements, it has further been found that parties to the conflicts, such as non-State armed groups and security forces, are overwhelmingly the perpetrators of conflict-related forms of contemporary slavery.

## **Manifestations of Contemporary Forms of Slavery Affecting Displaced Persons**

### **1. Forced Labour**

Forced labour among displaced persons is a major concern. The industries in which displaced persons regularly face exploitation include agriculture, construction, catering and hospitality, cleaning, domestic and household work, care services, street vending and the general service industry. The casualization and informality of the workforce in these industries explain the higher number of displaced persons engaged in those sectors and the greater extent of the exploitation.

In India, for example, there are between 5,000 and 6,000 internally displaced workers in bonded labour in the tea gardens of Bihar and Rajasthan. Instances of forced labour have also been identified among displaced populations in Mexico, primarily in the agriculture sector, which is controlled by drug cartels.

### **2. Domestic Servitude**

Domestic servitude among displaced persons has been identified in a variety of States, including Egypt, Libya, Malta and the Sudan. There is a strong gender dimension to this form of exploitation, as mainly women and girls are affected by it. It has also been reported that Venezuelan women and girls in Colombia, Ecuador and Peru often do not have proper

identification documents and are subjected to domestic servitude. Such women often suffer sexual harassment and/or abuse at the hands of their employers.

### **3. Forced Marriage**

Examples of displaced persons being subjected to forced marriage have been reported in various States. In Iraq, for example, women risked being abducted for the purposes of forced marriage when Islamic State in Iraq and the Levant controlled significant parts of the territory. This has been a driver of displacement for women and girls from Yazidi and other ethnic minority communities in recent years. In Ethiopia and Uganda, forced marriage affects displaced women both within and outside camps and it has also increased among Syrian refugees in Lebanon.

### **4. Sexual Slavery**

Sexual exploitation that may amount to sexual slavery particularly affects displaced women and girls. There have been disturbing reports of displaced women in Nigeria being forced to work in “baby factories”, where they become sex slaves and bear children without medical assistance. Conflict-related sexual violence that may amount to sexual slavery has also been used systematically against women and girls in Tigray, Ethiopia, and similar instances have been reported in other regions, including in Latin American countries.

## **Manifestations of Contemporary Forms of Slavery Affecting Displaced Children**

As 2021 marks the International Year for the Elimination of Child Labour, the Special Rapporteur decided to examine contemporary forms of slavery affecting displaced children.

### **1. Worst Forms of Child Labour**

According to ILO Convention 182, the worst forms of child labour are considered a contemporary form of slavery.

There is clear evidence of displaced children experiencing the worst forms of child labour. In Lebanon, for example, 75 per cent of the Syrian refugee children working in the Bekaa Valley are exploited in agriculture. Displaced children are more vulnerable to child labour because of legal restrictions on access to work for adult Syrian refugees, as many of them are in an irregular situation.

Risks are even higher for stateless children, as well as displaced children who may not have access to birth registration. Having no identity documents makes official confirmation of age, for example for the purposes of marriage, not possible. This means that child labour, child marriage and similar practices are more difficult to identify and prevent.



## **2. Child Marriage**

Child marriage amounts to slavery where control tantamount to possession exists. It tends to be exacerbated by the social and economic insecurity triggered by displacement, particularly in the context of emergency situations, such as armed conflicts and disasters. For some Syrian families displaced in Egypt, for example, challenges related to displacement, such as disruptions in girls' education, protection gaps and livelihood uncertainty, exacerbated the vulnerability of girls to child marriage, and a similar trend has been observed among displaced Rohingya communities. The COVID-19 pandemic has increased instances of marriage of displaced girls in some regions of the world, including Asia and Africa. Many parents view child marriage as a way to cope with economic hardship and to ensure the safety and security of girls.

## **3. Forced Recruitment**

Forced recruitment of displaced children into criminal groups, including armed and terrorist groups, remains a critical concern. In African countries, including the Central African Republic, the Democratic Republic of the Congo, Mali, Mozambique, Nigeria and Somalia, many children, including displaced children, are recruited and forced to join the ranks of armed groups. Recruitment of adolescents into criminal groups or gangs has also been evidenced in Colombia, Ecuador and Peru. The limited protection in refugee settlements and camps, coupled with poverty, insecurity, a lack of access to education and training, and other challenges leave displaced children in such settings particularly vulnerable to forced recruitment.

### **Good Practice**

The Special Rapporteur acknowledges that States, civil society organizations, intergovernmental organizations and other stakeholders have been playing an important role in preventing displaced persons from being subjected to contemporary forms of slavery. Some examples of good practice are highlighted in the present report.

Access to legal and formal work is provided to displaced persons by a number of States. For example, refugees in many States in Latin America are allowed to work legally. In Asia, the Temporary Relocation Programme of Malaysia grants Syrian refugees access to employment, including jobs in the formal sector (for example, in information technology, engineering, medicine and architecture), and refugees and stateless persons in the Philippines have full access to employment without a need for work permits.

Others have promoted employment opportunities for displaced persons in conjunction with non-State partners. The Government of Sweden, in cooperation with trade unions and employer associations, has introduced a fast-track initiative whereby refugees with qualifications and experience are integrated into the labour market, in professions such as medicine, health and social care and teaching. In the Middle East, the Government of Jordan promoted access to

livelihoods and self-reliance opportunities for both Syrian refugees and host communities as a result of the 2016 Jordan Compact.

The Special Rapporteur also notes that employment opportunities have been extended to displaced persons in the context of the COVID-19 pandemic. In Latin America (Argentina, Chile, Colombia, Cuba, Mexico and Peru) and Europe (Austria, Denmark, France, Germany, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland), as well as in Canada and the United States, refugees with medical qualifications have been allowed to join medical personnel in host States to fight the pandemic. Refugees in some African States (Cameroon, the Democratic Republic of the Congo, Egypt, Kenya, Malawi, Mozambique, the Niger, Zambia and Zimbabwe), including those residing in camps run by UNHCR, have been making medical masks.

It is also encouraging that labour and social protection laws and regulations apply to displaced persons in various States, thereby enhancing the just and favourable conditions of work. In Japan, employers are prohibited from unilaterally terminating the employment of any workers, including refugees. Those eligible for residence or work permits in Malaysia enjoy the same rights, such as paid annual and sick leave, as Malaysian workers. Syrian refugees in Turkey received cash assistance as part of the Emergency Social Safety Net programme, and displaced persons in Uganda have full access to social and health services.

There are also examples of good practice in camp settings. In some camps in Ethiopia and Jordan, refugees have been offered employment opportunities by civil society organizations, international organizations or government agencies, while other entities have promoted income-generating opportunities in farming, livestock and retail commerce. Similar initiatives have been implemented in States such as Kenya, Rwanda, Uganda, the United Republic of Tanzania and Zambia.

Furthermore, education and vocational training for displaced persons are provided in a number of States. Azerbaijan exempts internally displaced persons from payments for education and training, and Germany has been supporting an apprenticeship scheme for asylum seekers as well as those whose asylum applications have been rejected but who are not able to return home for various reasons. Such services are often provided by non-governmental entities such as civil society organizations, for example in India, Indonesia, Japan, Malaysia and Thailand, among other Asian countries.

Finally, some States have taken active measures to ensure access to justice for displaced persons subjected to contemporary forms of slavery. Canada, Malta and Sri Lanka have created mechanisms to support access to justice, including helplines. Labour inspectorates and other bodies, such as ombudsperson offices in some States, have reportedly been playing an important role in identifying, investigating and addressing contemporary forms of slavery involving displaced persons. For example, in Australia, the Fair Work Ombudsman is a mechanism for identifying and tackling exploitation and promoting compliance with workers' rights, especially in respect of migrants and other vulnerable workers. In Namibia, an alternative dispute resolution mechanism has been established to deliver expedited relief in cases involving violations of

labour rights. In other contexts, awareness-raising activities targeting displaced populations and entities supporting them are widely promoted in States such as El Salvador, Malta, Mozambique and Slovenia.

### **Persisting Challenges**

Despite the examples of good practice, there are persisting challenges that must be addressed in order to prevent displaced persons from being subjected to contemporary forms of slavery. For example, effective access by displaced persons to the labour market and decent work is still limited. Of the 146 States that are party to the Convention relating to the Status of Refugees, nearly half have entered declarations or reservations, often comprehensive, with regard to the provisions relating to access to work, giving them discretion not to grant the same rights and entitlements to refugees as to their own nationals.

A total of 47 States Members of the United Nations are not party to the Convention relating to the Status of Refugees, leading to protection gaps. For example, in States that are not party to the Convention, including Bangladesh, Indonesia and Thailand, there is no formal right to work for refugees and asylum seekers. In these and other States that are not party to the Convention, displaced persons are heavily dependent upon humanitarian assistance provided by civil society and other organizations, which is often costly and not adequate. This increases the risk of their exploitation and abuse.

Even where displaced individuals are recognized as refugees, practical hurdles such as the requirement of work or residence permits, the costs of obtaining such permits, and difficulties in opening bank accounts prevent them from gaining access to the formal economy. It has also been reported that recognized refugees are barred from employment in some States, and that work or residence permits do not always allow them to formalize their employment.

The Special Rapporteur also notes that access to work is more challenging for those who are not recognized as refugees. In the European Union, access to the labour market for asylum seekers must be granted no later than nine months after the lodging of the application, although some allow employment earlier. In some States, such as Ireland, Lithuania and Turkey, asylum seekers are prohibited from entering the labour market for the entire duration of the refugee status determination process.

In addition, some States limit employment opportunities for asylum seekers to certain sectors, such as agriculture, cleaning and waste management, hospitality, fisheries and car washing, many of which are in the informal economy, where exploitation is more likely to occur. These concerns also apply to stateless persons and to internally displaced persons.

Within camp settings, many displaced persons still face restrictions on their freedom of movement. Consequently, access to services and assistance is tied to a particular place of residence, making it difficult for them to find employment. The situation is worse when camps and settlements are far from markets and services, as displaced persons remain dependent on

humanitarian assistance to survive. This creates a vicious cycle, further increasing their vulnerability to exploitation and abuse.

All of these factors may force displaced persons to take on exploitative work which - in its worst form - amounts to contemporary forms of slavery, as has been evidenced in States such as Bangladesh, India, Indonesia, Jordan and Lebanon.

## **Conclusions**

Displaced persons are not a homogeneous group. Some remain within their country while others flee across international borders. Some are stateless. People become displaced for a large variety of reasons, but generally all experience loss of livelihood. Depending on their age, gender, ethnicity, socioeconomic status and migration status and the local context, their vulnerability and exposure to contemporary forms of slavery are different. Also, the specific manifestation of contemporary forms of slavery may vary, as displaced persons may be subjected to forced and bonded labour, servitude, forced marriage, child labour, including in its worst forms, and other slavery-like practices before, during and after displacement. Slavery-like practices are part of multiple human rights violations suffered by displaced persons and do not happen in isolation.

The Special Rapporteur is encouraged by a number of good practices in preventing displaced persons from being victimized in contemporary forms of slavery, but there is an urgent need to step up efforts in this regard, particularly in emergency settings. The persisting protection gaps left by States have only partially been addressed by civil society, humanitarian and other actors, including regional and international organizations. Among other factors, this is due to the fact that contemporary forms of slavery continue to be a blind spot in humanitarian and development responses. This requires dedicated attention and an increase in the understanding of the nexus between displacement and contemporary forms of slavery.

Inadequate responses to displacement, including restrictions on the freedom of movement and the right to work, result in further marginalization and a lack of agency of persons who are already in a vulnerable situation. The protection, inclusion and empowerment of displaced persons must be ensured; this will help decrease their vulnerability to contemporary forms of slavery and their dependency on humanitarian assistance, and will strengthen their self-reliance and dignity.

Securing durable solutions through access to livelihoods is essential for the prevention of and the response to protection concerns, including contemporary forms of slavery. This is in the interest of States, as keeping displaced persons in limbo for years or even decades entails risks not only for the persons affected but also for the stability of host States and communities.

A shift in the mindset of States and other actors is needed in order to see displaced persons not primarily as a burden but as rights holders with potential. They can actively contribute to the economy of the host community and must not face discrimination in how they

are treated. Also, their access to labour and social protection must be enhanced, as people with a safety net face a smaller risk of being subjected to contemporary forms of slavery.

## **Recommendations**

### **States should:**

(a) Withdraw reservations to work-related provisions in the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons. States who are not yet party should ratify and implement those and other relevant instruments, such as the International Covenant on Economic, Social and Cultural Rights and relevant ILO conventions, in order to enhance labour and social protections for displaced persons and prevent them from being subjected to contemporary forms of slavery;

(b) More effectively implement the human rights obligations contained in the Guiding Principles on Internal Displacement related to the prohibition of slavery, particularly principle 11 (2) (b);

(c) Strengthen efforts to provide durable solutions for displaced persons. In this regard, States should ensure that displaced persons are able to contribute to the local and national economies by protecting such persons through domestic labour laws and by facilitating access to decent work, particularly in the formal economy, without discrimination. To this end, States should facilitate displaced persons' access to education, language training and skills development, as well as accreditation of previous skills and qualifications. States should also ensure the safety and security of displaced persons and an adequate standard of living;

(d) Decrease the vulnerability of displaced persons to a wide range of human rights violations, including contemporary forms of slavery, by facilitating their access to civil and identity documentation in host States and communities without discrimination;

(e) Ensure access to justice and remedies for displaced persons who have been subjected to contemporary forms of slavery. To this end, States should establish confidential, accessible, child-friendly and gender-sensitive complaint and referral systems to address all forms of violence, abuse and exploitation, and ensure that such persons, and their families and communities, are adequately informed about those mechanisms. All victims should be granted temporary residence and work permits while their cases are pending;

(f) Strengthen labour inspection in the informal sector, where most displaced persons work, with a view to identifying labour exploitation in a timely way and holding perpetrators, including private businesses, accountable while ensuring the protection of workers by avoiding their criminalization;

(g) Ensure that displaced persons participate effectively in decisions affecting them, including in relation to access to education, training and decent work;

(h) Ensure the protection of displaced children and provide equal access to free education, regardless of migration status. Interventions to address child and forced marriage should address gender-based stereotypes and harmful social practices;

(i) Increase resources for and strengthen the programmes of humanitarian and development organizations that play an important role in protecting and assisting displaced persons;

(j) Guarantee trade union rights for all displaced persons, including those with irregular immigration status. Also, States should provide relevant information to such persons so that they can exercise these rights;

(k) Significantly increase efforts to implement the commitments made under the global compact on refugees and the Sustainable Development Goals, in particular target 8.7, which requires States to end slavery, trafficking in persons and child labour, and to leave no one behind.

Businesses should:

(a) Provide employment opportunities without discrimination, bearing in mind the Guiding Principles on Business and Human Rights. In particular, they should facilitate access by displaced persons to employment in the formal sector by recognizing their relevant qualifications and experiences;

(b) Treat displaced persons on an equal footing with other workers in relation to just and favourable conditions of work, including fair wages, reasonable working hours, paid leave and holidays and trade union rights.

Civil society organizations, trade unions, humanitarian actors and members of academia should

(a) Undertake further research on the prevalence of contemporary forms of slavery among displaced populations, including data collection, in order to increase understanding thereof, with a view to better informing legal and policy responses;

(b) Enhance communication and collaboration between organizations working with displaced persons and trade unions, as well as other actors involved in labour standards monitoring and bargaining, to ensure that the human rights concerns of displaced persons are adequately represented;

(c) Adopt or strengthen monitoring mechanisms in displacement settings to ensure that displaced persons are protected from contemporary forms of slavery;

(d) Raise awareness among displaced persons and host communities about their human rights and existing reporting mechanisms in cases of exploitation and abuse. They should also provide information in border locations, in detention centres for migrants, in employment centres and in other locations frequented by displaced persons.

(e) In order to more effectively prevent and address contemporary forms of slavery as affecting displaced persons, humanitarian and development actors need to increase their

understanding of the nexus between displacement and contemporary forms of slavery, with a view to explicitly recognizing the latter as a protection concern and adjusting short and long-term responses accordingly through close cooperation.

### **Commentary**

While the thematic report aimed to shed some light on the nexus between displacement and contemporary forms of slavery, important knowledge gaps still remain. For instance, more systematic research should be conducted on the key causes (structural, personal & situational) which render displaced persons vulnerable to these practices and the nature and extent of their exploitation before, during and after displacement, both in humanitarian and non-humanitarian settings.

In relation to humanitarian settings including armed conflicts, disasters or in a context of public health crises such as the COVID-19 pandemic, the Special Rapporteur considers that anti-slavery strategy and actions must be effectively incorporated into humanitarian intervention and protection, including management of camps and settlements, in order to prevent displaced persons from being victimised in contemporary forms of slavery. However, the extent to which this is promoted and implemented by States, humanitarian actors as well as the international community is not clear, and there is scope for further research in this area. Also, there continues to be a lack of understanding of contemporary forms of slavery as a crime and human rights violation, as well as its specific manifestations. Therefore, awareness raising among key actors continues to be needed.

Furthermore, it is crucial that humanitarian and development actors strengthen their cooperation alongside States in order to jointly address contemporary forms of slavery in displacement contexts. This is particularly important in light of the protracted nature of most displacements which last between 10 and 26 years on average.

In non-humanitarian settings, equal access to decent work and wider labour/social protection for displaced persons is essential. It is important to acknowledge here that they make equally important contributions to local and national economies, and States should treat them without discrimination. While the Special Rapporteur has been able to identify some examples of good practice, further identification and analysis could enhance our knowledge on how best to protect displaced persons from contemporary forms of slavery. In addition to States, the respective roles to be played by businesses and employers, trade unions and civil society actors also merit further examination.

# Europe's Migrant Human Trafficking – a Case Study of Romania's Sexually Exploited Women

**Roxana Claudia Tompea**

Diplomatische Akademie Wien

## Table of Contents

Abstract .....	21
1. Introduction .....	22
1.2 The semantics on THB .....	24
1.3 Trafficking in human beings – a Union-wide dilemma .....	24
2. Migration and political economy as prime enablers for sex trafficking .....	25
2.1 Literature Review .....	25
2.2 Legal and political context for sex trafficking in Romania .....	28
3. Design and methodology .....	30
3.1 Key findings and ways forward .....	36
3.2 Limitations and implications for policy and practice .....	38
4. Conclusion .....	39
Bibliography .....	39

## Abstract

This paper examines the debate surrounding sex trafficking and forced prostitution in the context of a growing market for migrant sex workers in Europe in general, and in Romania, in particular. By focusing on the theory of political economy paired with one of international migration, it identifies two major hindrances that both national authorities and international organizations face when addressing this dynamic phenomenon. First, the existing policies do not recognise the determinants that push women into sex trafficking (there is a limited applicability of consolidated and cross-border laws, and a lack of national political will to invest more in investigative and protective efforts); and second, the laws that do exist are by default corrective and focused on the supply of sex. Thus, they omit to integrate the socio-economic framework required to embed appropriate responses. As such, organized groups vastly capitalise on these vulnerabilities which push European women into sexual exploitation, with most cases emerging from Romania. The paper concludes that the central challenges for Romanian authorities remain widespread, and it



endorses a shift of paradigm at the policymaking level (transferring focus from the supply to the demand of sex victims – as the former cannot sustain itself without the latter).

**Keywords:** THB, sex trafficking, migration, political economy theory, European Union, Romania

## 1. Introduction

Trafficking in human beings (THB) is a dynamic phenomenon, both from the perspective of traffickers, as well as the states and international institutions involved in combating it. Whether regarded as countries of origin, transit, or destination, THB affects states worldwide, posing risks to political regimes, state security, economic, and democratic functions. As it profits both recruiters/traffickers and customers, this type of organized crime is sustained and facilitated by numerous actors working at source, transit, and destination points. According to the Organization for Security and Co-operation in Europe (OSCE), despite only 19% of THB victims being trafficked for sex, sexual exploitation makes up to 66% of the global profits associated with human trafficking, at around \$99 billion/year. In 2020, the average annual profits generated by each victim of forced sex was at around \$100.000/year, six times more than the average profits resulting from other trafficking forms, worldwide - this helps sex trafficking yield investment returns between 100% to 1.000% (Tompea, 2020). Another report from the International Organization for Migration (IOM) from 2022 revealed that 52.5% of THB cases were for sexual exploitation (with 96.2% being for the purpose of prostitution) (DiRienzo, 2022).

To better depict the complex interplay between supply and demand in THB, it is important to make referral to its market-based system, as it represents a high reward and relatively low-risk enterprise based on the availability of an endless supply of victims from the countries of origin, the constant demand for services in the destination countries, and the criminal organizations commanding the supply and demand to generate profit (Bales, 2005). Here, the paper examines the policy frameworks and their effectiveness in promoting appropriate responses to the sexual exploitation of Romanian migrants in the European Union (EU) from 2007-2020. During this period, many women and young girls who were generally labelled as poor, juvenile, unschooled, and with few career-seeking options have been “*exported*” and sexually exploited in other EU countries. This comes at a time when, although Romania's economic growth has been one of the highest in the Union since 2010, in 2019, the country plunged back from being high-income toward an upper-middle-income level (The World Bank Group, 2022) while accounting for the highest population at risk of poverty or social exclusion across the EU (35.8%) (EUROSTAT, 2021) as one in two Romanians (47%) were struggling to make ends meet (Romania-Insider, 2022).

Simultaneously, Romania also presents specific socio-geographical features that make it susceptible to trafficking. Located at the crossroads between the West and East, it presents strategic access points to Asia via Moldova and Ukraine, to Turkey via Bulgaria and the Black

Sea, and to the Balkans through Serbia. Nonetheless, as an EU Member since 2007, the free movement of persons, capital, goods, and services has made Romania a source country that facilitates a cheap and fast flow of people across the Union's borders (European Union, 2020). Here, the THB market system analysis will mainly focus on the supply and demand for sex commerce of Romanian migrants within the EU. Romania is a top profile country for both the origin and transit of victims, recording some of the highest numbers of registered sex victims in the EU (both identified and presumed): the highest absolute number of registered victims, the highest number of reported persons suspected, arrested, or cautioned for sex trafficking (2.777 in 2020), and some of the largest numbers of prosecutions for trafficking in 2018 (817), comprising 100% of prosecutions. In 2018, Romania was also the highest contributing EU Member State (MS) to the prosecution of traffickers (44%, as compared to the second-highest contributor, Hungary, at 28%) (Francis, et al., 2018). Still, the its Executive had invested only in marginal prevention efforts and insufficient mechanisms for the protection of victims. In 2019, 698 THB victims were identified (518 from sex trafficking alone) out of which 327 were minors (an increase from 497 in 2018). Same as in previous years, less than half of the victims received assistance. The Government made efforts to reduce the demand for commercial sex, including through awareness-raising campaigns, but many Non-Governmental Organizations (NGOs) criticized the decisions as it meant redistributing important resources from the victim protection instruments to cover campaign costs (USA Department of State, 2020).

In this sense, the paper aims to contribute to the understanding of sex trafficking by applying, validating, and extending a fresh theoretical model towards the tangled stages of migrant THB. In addition, it adds a further layer to the existing literature on migrant and sex trafficking and endows practical implications on the push-and-pull factors associated with migrant sex trafficking in the EU. In themselves, these factors aim to explain *why* migrant sex trafficking exists in Romania, while the literature and policy review showcase *who* and *where* the main drivers for the sex market system are. By employing an approach based on political economy, it stipulates that young girls and women coming from precarious socio-economic backgrounds are more likely to use sex to earn a living, making them predisposed to become victims of trafficking. Fueled by the prevalent need to survive, these impoverished women (who either have few options to get by or have no other choice but to prostitute) often end up as victims of sex trafficking (Anthias, 2014). Taking a critical sociological account of the national and European efforts to curb the phenomenon, the paper underscores that in the context of sex trafficking alone, economic welfare and political processes deeply affect women's experiences and weaknesses. If the political environment reformed the welfare system, this segment of women would not be compelled to sell sex, but instead be granted equal opportunities to gain economic and social capital, decreasing, therefore, their likelihood of becoming trafficking victims (Adelman, 2004).

## 1.2 The semantics on THB

Sex trafficking is internationally defined as human trafficking (THB) for the scope of sexual exploitation (including sexual slavery). Here, the victim is coerced in various ways into a situation in which he or she is depended on the trafficker and used to give sexual services to different clients (Kara, 2009). A subject abundant with broad research speculations, sexual exploitation still remains poorly delineated and handled as compared to other THB activities (forced labour, slavery, removal of organs) as it is disproportionately and individually quantified, burdened by archaic national legal systems and feeble EU directives, and perceived and disproportionally absorbed by the civil society (different across countries and social mediums). Although Romania's case is an example of the limited and dispersed national efforts mixed up with convoluted socio-economic trends, the problem is nevertheless relevant for the wide understanding of the growing market demand for migrant sex workers in Europe, and on the globe. In the market system for sex trafficking, the demand side justifies *who* are the main drivers for trafficking, *what* type of products and services they generally seek, and *where* they are located within the EU (Tompea, 2020).

In Romania, a common term employed for this type of activity is "*trafic de carne vie*" (trafficking of living meat). This is because, although prostitution is not criminalised, the associated activities like sex procurement are treated as criminal offences with soliciting or buying being contraventions punishable by fines (Tompea, 2020). Rather than being labelled as victims, the persons rescued from sex trafficking are commonly hallmarked as forced prostitutes, victims of proxenetism or procuring (occupations that involve taking advantage of prostitution by exhorting or forcing the persons in custody to practice it), or victims of "*trafficking of living meat*" (Rebut, 2014). This aspect alone pushes the discourse on the Romanian sex trafficking even further in the shadow economy of sex labour, making it challenging to identify and assess the effectiveness of existing procedures and legislation to fully identify and tackle the phenomenon (European Commission, 2020).

## 1.3 Trafficking in human beings – a Union-wide dilemma

EU laws are also problematic, as they vary across member countries, with sex trafficking being either criminalised, decriminalised, or fully legalised. In the Netherlands, Austria, and Germany, sexual activities like prostitution are fully legalised and regulated, whereas Romania has in place an abolitionist approach (sex activities are decriminalised but treated as administrative offences punishable by either fines or community work). Moreover, the ill-defined nature of THB, juxtaposed against the national legislation of the EU Member States (MS) has translated into an imprecise number of cases and victims of trafficking that are not uniform across regions or even across types of human trafficking (Reinschmidt, 2016). Between 2013 and 2014, out of the 15,846 reported victims of human trafficking in the EU, two-thirds (67%) were victims trafficked for sexual exploitation [with 95% being female]. Furthermore, out of the top

five EU countries of origin of the victims, Romania was ranked first (European Parliament, 2017). This wicked problem continues its proliferation even today, making the country the primary origin and transit point for the victims of sex trafficking within the Union, regardless of the destination of exploitation (be it domestic or transnational). Hence, despite the Romanian Government making substantial efforts to reduce this type of THB (by indicting more suspected traffickers, adopting a five-year national strategy, and adopting national action plans), it still does not fully comply with the European and international standards. National judges generally lack specialised trainings on dealing with trafficking cases and trafficking victims, whilst insufficient funding is allocated for assistance and victim protection services (U.S. Embassy in Romania, 2019).

The recent years have also witnessed an increased effort from both national and international agencies in the EU to improve the assessment and THB curbing efforts, but these undertakings have been corrective, task-bound, or local. This has only widened the dichotomy between victims and perpetrators in sex trafficking, giving rise to new economic bonds such as an increased demand for sex coming from men based in rich countries, supplied by women coming from poor countries (or, poor-state, rich-state co-dependency, the prostitution-migration covariation in the migrant market system for sex trafficking, and so on) (Latham-Sprinkle et al., 2019).

## **2. Migration and political economy as prime enablers for sex trafficking**

### **2.1 Literature Review**

The theoretical and political discourse on sex trafficking and the commodification of sex work has been extensively and enthusiastically debated in the academic literature. Still, it mostly rivets attention towards the macro-level, failing to capitalise on the specific, case-bound, micro dimensions of the phenomenon. This can translate into the failure to present a concrete, unified comprehension over sex trafficking, and to design solution-based proposals to prevent and combat it.

Levy and Jakobsson (2013) argue that abolitionists see prostitution as default coercion (due to the prevalence of compulsory heterosexuality towards the embedded socio-economic burdens imposed by neoliberalism and patriarchal societies). They also underscore that prostitution is akin to slavery – there is no distinction between forced and voluntary prostitution because prostitution constantly reaffirms the patriarchal definition of women having the primary function of serving men sexually (O'Connell Davidson, 2014). Their successors (neo-abolitionists, radical feminists, socialists or Marxists) hypothesise on the idea that sex commodification is never entirely consensual, nor separated from the selfhood (Cavaliere, 2011). As it fundamentally questions the fabric of gender relations in society, the approach also condemns male sexuality for framing women as victims of sexual slavery. It also holds the primary assertion that masculine sexual coercion creates and encourages sexism to maintain male

privileges (Tiefenbrum, 2002). Radical feminists then frame violence against women to be symptomatic of structural and institutional paternalistic views over women and sexuality; here, sex commerce continues to be part of an oppressive and patriarchal system (Dobash and Dobash, 1979).

Radical feminists also state that most women who become prostitutes are forced into it (due to poverty, drug addiction, or various forms of trauma). These women come from the lowest socio-economic classes (low levels of education, impoverishment, disadvantaged ethnic minorities). Scholar Catharine MacKinnon asserts that this is precisely why prostitution is never a free choice; because only the women with the fewest choices in life are the ones practising it. Thus, they have sex with people they otherwise would not choose to, and the exchange of money becomes a form of coercion. Bodies, in this sense, become a sensitive matter, as they are the crucial item in the exchange between prostitutes and clients (Farley et al., 1998).

In opposition are the positivists, who see women as autonomous entrepreneurial sex workers who enjoy the specific conditions attached to their labour (high profit, flexibility) as compared to other less preferable, inflexible, or poorly paid jobs (Hoang, 2015). As well, those supporting sex labour argue for the right to choose prostitution or sex labour as a career. They are followed by the liberal feminists, who strive for the sale of sex only for economic purposes, necessary for one's survival (due to unequal distribution of wealth across social structures) (Monroe, 2005). Consequently, they also advocate for reduced stigmatisation of prostitution and improved working conditions for sex workers (Outshoorn, 2005). Still, Weitzer (2015) and Elrod (2015) point out that because sex commerce increases the demand for sexual services, traffickers also enjoy a steady profit-based environment that incentivises them to continue increasing their businesses; once the demand is fixed, traffickers can continue to employ exploitative methods to satisfy requests. According to Elrod (2015) this is how the prostitution industry (be it decriminalised or legalised) supplies the trafficking segment, keeping alive the inherent bondage between volitional prostitution and sex trafficking.

In this sense, the scholarly literature on the commodification of sex is mostly contained in the "*for versus against sex labour*" dichotomy. And while there are two main divergent frameworks over the understanding of sex commerce (abolitionist/neo-abolitionist and neo-liberal/positivist), there various intertwining sub-divisions that combine both sides and propose new theoretical lenses to view sex work and sex exploitation. This spawns a culture heavily embedded in misconceptions, leading to law enforcement agencies misidentifying sex trafficking for voluntary prostitution and vice versa (Gerassi, 2015). Another dilemma in defining sex trafficking lies in the similarities between the sex labour and other industries (modeling, acting, dancing). Yet, as prostitution is generally perceived as a unique form of self-commodification, there is an imperative to understand the meaning of sex, and the relationship between gender and sexuality. Abolition and radical feminists object to prostitution because it bolsters patriarchal power relations (where women sell their true selves). However, they fail to empirically challenge the view over the slavery dichotomy (mind/body, person/thing, subject/object). This has led to sex trafficking becoming a deep, wicked problem, with a complexity that requires a shift from

problem-oriented to solution-based approaches (Zelleke, 2011). What the scholarly discussion also omits to portray is the means to reveal controversies regarding the sex industry. THB is a clandestine crime, often facilitated by corrupt government officials and victims who are unable to report crimes, are unaware of their exploitation, or fear they cannot be fully separated from their traffickers (DiRienzo, 2022). Still, the authorities are not the only ones facing these challenges. Researchers, policymakers, and practitioners also use varying definitions to classify THB victims (including sex trafficking) which diverge across international, national, local, and agency levels. Moreover, the breadth of information collected by official institutions can also widely fluctuate; the lack of clarity makes it likely for victims to be misclassified and excluded from anti-trafficking programmes or governmental records (Anderson, Kulig, and Sullivan, 2022)

The claim is also supported by Julia O'Connell Davidson (2014), who draws attention to the global trends toward the commodification of sex (both forced and as wage labour). By ill-defining the meaning of sex labour (and not explaining if it can be detached from the person as a commodity), it is extremely difficult to establish adequate legal tools to deal with prostitution and sex trafficking. For example, when it comes to forced prostitution, customers rarely want only sex. They do not seek disembodied labour; they seek and pay for sex with a person (the body cannot be excluded from the service, nor vice versa). Going back to the “*for versus against*” dichotomy, to better tackle sex trafficking, anti-trafficking organizations need to better understand the public's perceptions of these types of exploitation and the socio-demographics of the potential victims.

In the case study of Romania's sexually exploited women, the paper also proposes an approach based on political economy which integrates the migration dimension into sex trafficking. This results in a holistic perspective of all facets of sexual violence (exploitation, proxenetism, trafficking) while describing the link between the state and the economy, in which the political economy angle veers that violence against women takes place because of a politico-economic imbalance in the welfare system. This situation pushes poor women in becoming more dependent on in-kind assistance from their sexual partners because of their precarious socio-economic status (Adelman, 2004). The approach also follows the logic of Marxist feminism, where women belonging to lower economic ranks drive the supply of sex commerce because they are more predisposed to use sex to survive. As poor women have by default fewer options to make ends meet, they are the first to fall victim to sexual exploitation (Gerassi, 2015).

An evocative example in this sense is the lack of an exhaustive definition, universally enforced both at the EU and national levels. Per se, the taxonomy on sex trafficking is widely applied in a plethora of contexts of different degrees or scopes, ranging from pimping to sexual exploitation, volitional prostitution, or sex commerce. What falls under the umbrella of sex trafficking in one MS can have a different meaning in another. Additionally, sex trafficking and sexual exploitation are often used interchangeably. Same goes for the national activities (forced prostitution, pimping, proxenetism, sex commerce, “*trafficking of living meat*”, etc.), meaning that the proper evaluation of reliable statistics is highly problematic. To support this claim, a

survey conducted in 2020 revealed that the understanding of THB and sex trafficking is problematic even for the very agencies established to help curb the phenomenon. When asked to define and distinguish between the two terms, 60% of the questioned NGOs had issues on the accuracy of the “*trafficking of living meat*” colloquialism, claiming it was identical to THB, and later stating it was depicting sex trafficking (Tompea, 2020). The theories on feminism also hold strong divisions in this case study, particularly when it comes to the opinions attached to what some label as THB or sex victims. Fundamental questions (what is regarded as exploitation, what is the appropriate criminal treatment, and how should those performing sex for money be treated) can have important political, financial, and socio-economic repercussions on a larger context. Henceforth, it is imperative to firmly review these theories to better grasp Romania's national debate on sexual trafficking and to propose a valid spin that might alleviate some of the pressures national agencies face when fighting sex trafficking (Gerassi, 2015).

## **2.2 Legal and political context for sex trafficking in Romania**

Across the EU, three legal frameworks are used when dealing with sex commerce: criminalisation, decriminalisation, and legalisation. When sex trade is treated as a criminal offence, purchasing and selling sexual services become criminal charges (handled by the police or legal practitioners from the government). There is an extensive body of literature on how criminalised systems often push sex workers into unsafe environments to avoid the police, making them more likely to suffer from poor health, violence, and abuse instilled by their employers. Separately, a decriminalised system replaces criminal penalties with administrative or civil ones. Here, some of the laws regulating sex commerce also regulate other businesses. Hence, relevant taxes and employment laws, together with health and safety standards can also apply to sex workers. The third framework, legalization, stipulates that the businesses involved in sex commerce face specific regulations and licensing procedures. For example, sex enterprises may be subject to restricted mobility, specific working conditions, or obligations for employees to undergo regular medical check-ups (Lutnick and Cohan, 2009).

This rivets attention back to the definition of sex trafficking (or the lack of a holistic one), in the context of a growing EU market for sex commerce, where the absence of any legal harmonisation between MS has provided many openings for criminal groups working on the demand and supply of sex victims. Some MS, such as the Netherlands, Austria, or Germany, have fully legalised prostitution, while others (Nordic states such as Sweden) have made it illegal to buy sex, but not to sell it (Seideman, 2015). While legalising sex has pushed sex trade to become safer for workers (providing access to health care, government services, pension schemes, etc.), it also succeeded in fuelling trafficking. The countries in which sex trade has been fully regulated have become an arena for a shadow economy to emerge, with prostitution becoming a major industry for hotels, transportation firms, brothel chains, and overall organized crime. What is then interesting to observe is the very fact that profile countries of origin for trafficking (such as Romania, Bulgaria, Ukraine, or the Balkan states), although maintaining

harsher approaches to sex, have had little to no decisional power with regards to their citizens being trafficked in states where prostitution is legalised (Business Insider, 2019).

Since it joined the EU in 2007, Romania has made important steps toward becoming a full-fledged EU MS. Still, with continuing problems of corruption, decreased efforts to promote governmental transparency, and outdated legal and judicial policies, Romania remains one of the top countries exporting victims of sex trafficking throughout Europe (European Union, 2020). A semi-presidential republic with the prime minister being the head of Government, and the president, the head of State, in the last two decades, Romania has increased efforts to curb sex trafficking by adopting the necessary (EU compliant) institutional and legislative frameworks, investing resources in the management and provision of assistance for the victims of trafficking, and by modernising the working and cooperation instruments needed to prosecute national and transnational traffickers. The importance given by both the governmental authorities, as well as the civil society (NGOs, NPOs, associations, foundations, etc.) in preventing and counteracting this type of crime has produced various case-specific results, and in general, a better understanding of the moral snare inherited to the idea of prostitution and migration (European Commission, 2020).

A 2020 European Commission report on THB in Romania revealed that in 2017, there were 662 registered victims (a 12% decrease from the previous year). Notwithstanding, the female population of victims increased, reaching 76% in 2017, with sex trafficking accounting for 69% of total THB victims. The core patterns remained the same: low and very low levels of education (with 88% of victims completing only middle school) topped with high levels of poverty and the dynamics of unstable, disintegrated families or communities. Additionally, despite the 2010-2017 dynamics matrix suggesting a drop in the number of victims exploited outside the national border (from 849 in 2010 to 261 in 2017), Romania remained the profile country of origin for the sexual exploitation of women and children in Europe. The vulnerable population, predisposed to low levels of well-being and in shortage of real long-term economic prospects, ventured outside the country and turned towards mass migration. On top of it, the high levels of poverty and insufficient labour opportunities have pressed individuals to assume highly risky decisions. Despite the growing number of awareness-raising campaigns provided by governmental agencies (mainly the National Agency Against Trafficking in Persons, ANITP) and non-profit organizations, human and sex trafficking are still regarded as taboo activities, with collective prejudice stereotyping the nature and context of the registered victims (European Commission, 2020).

The statement is also mirrored by the framework provided for such activities. Instead of being labelled as sex trafficking victims, rescued persons are commonly hallmarked as forced prostitutes, victims of proxenetism or procuring (occupations that involve taking advantage of prostitution by exhorting or forcing the persons in custody to practice it), or victims of "*trafficking of living meat*" (traffic de carne vie) (Rebut, 2014). This aspect alone pushes the discourse on Romania's sex trafficking issue further in the shadow economy of sex labour,



making it more difficult to identify and assess the effectiveness of existing anti-trafficking efforts and results (Tompea, 2020).

To counterbalance this, the Romanian Executive promulgated many normative and judicial acts in the field of THB and sexual exploitation (over 30). Examples include the Law no. 678/2001 on preventing and combating trafficking in human beings (subsequently amended and supplemented with Art. 213 of the new Criminal Code on proxenetism trafficking and the exploitation of vulnerable persons), the Government's decision no. 1238/2007 for the approval of National Specific Standards for specialised services for the assistance and protection of victims of THB, the Law no. 286/2009 on the Criminal Code of Romania, the Law no. 135/2010 on the Code of Criminal Procedure, as well as the Law no. 118/2019 regarding persons who have committed sexual crimes, the exploitation of persons (including minors), supplementing the Law no. 76/2008 on the organization of the National System of Judicial Genetic Data (European Commission, 2020). Additionally, President Iohannis also promulgated Law no. 118/2019 in June 2019, which serves as a basis for an operative national knowledge registry supervising the persons who committed acts such as rape, sexual assault, sexual intercourse with a minor and sexual corruption of minors, human trafficking and trafficking of minors, child abuse and proxenetism, child pornography, or incest (with the purpose of preventing recidivism on sex-related crimes) (Tompea, 2020).

As a consequence, the country continues to invest in national legislation that aligns its scopes and efforts with the EU and international standards. Since the entry into force of the 2014 Criminal Code (prohibiting THB via Art. 210, and addressing the specificities of trafficking of EU citizens in line with the Union's laws), the Romanian Executive succeeded to further harmonise national laws and gain a pre-emptive flare of its general capacity to combat THB. As a European Parliament analysis on the EU Directive 2011/36/EU (prevention and combat of THB) suggests, the majority of substantive and procedural criminal law provisions from the EU have been well incorporated into the Romanian domestic law by national legislative amendments and procedures (European Commission, 2020). As of 2018, a third National Strategy agenda against THB for 2018-2022 is in place together with a two-year National Action Plan for the implementation of the Strategy. However, Romania still needs to boost international collaboration with relevant institutions and stakeholders, especially with the ones operating in the destination countries of the victims (ANITP, 2018). For this purpose, ANITP has become an authorized agency under the EU aegis to evaluate the activities carried out in the field of THB (including sex trafficking) by both public institutions and non-governmental organizations in Romania (ANITP, 2019).

### **3. Design and methodology**

The research design is based on a policy review (socio-legal framework of sex trafficking in Romania), and on national reports provided by ANITP with reference to an international instrument, the Palermo Protocol. In addition, two interviews conducted with ANITP and five

Romanian anti-trafficking agencies in 2020 further endorse the predicament of the paper: there is an absence of one-size-fits-all definition of sex trafficking which leads to poorer identification and protection of victims, and unsynchronised anti-trafficking approaches, both at the national and European level. On top of it, the existing legal basis in Romania, corrective as it is, does not recognise the socio-economic determinants pushing women into sex trafficking, as it solely focuses on the supply of sex, instead of the demand. The claim on the lack of an exhaustive definition for sex trafficking at the national level is also supported by the interviews' summaries in Table 1 and Table 2 (Tompea, 2020). Here, the taxonomy on sex trafficking seems to vary beyond the national level, with difficulties identified at the cross-border and international levels (as understanding ranges from pimping to sexual exploitation, volitional prostitution, or sex commerce).

To harmonise efforts over national laws and consolidate cross-border action, the Palermo Protocol was adopted by the United Nations to supplement the 2000 Convention against Transnational Organized Crime. In brief, the Protocol stipulates the terms by which the Signatory Members can recognise, enact, and enhance international cooperation to tackle THB (UNODC, 2020). To be recognised as a form of THB, an activity must be associated with the recruitment, transport, or sale of individuals into a wide range of exploitative conditions. Specifically, it must include three constituent elements: the act (what is done) in the sense of recruitment, harbouring, or receipt; the means (how it is done) in terms of use of force, deception, abuse, coercion and so on; and the purpose (why it is done), which can range from sexual exploitation and prostitution to forced labour or the removal of organs. The only exception is in the case of children, where the activity does not have to comply with all of the three constituent elements (UN Human Rights, 2020). In turn, the OSCE defines sex trafficking as trafficking for the sole purpose of sexual exploitation (not prostitution), focusing on activity (recruitment, transport, transfer, harbouring, receipt), means (use of force, coercion, abduction, fraud, deception), and purpose (sexual exploitation, forced labour or services, slavery, removal of organs) (OSCE, 2019). The definition allows sex trafficking to be paired with the smuggling of migrants, with which the Organization has repeatedly acknowledged it was mistaken for (OSCE, 2020).

At the EU level, agencies such as Europol put THB under the modern slavery umbrella to stress its transnational, cross-gender, and cross-age character. Still, Europol does not discern between voluntary and forced prostitution. As THB is frequently hidden behind or combined with other criminal offences, the EU Agency admits that oftentimes, the identified sex victims are not appropriately recorded. It also acknowledged the existing discrepancies between national legal definitions of THB within the MS, which hinder comparison of performance and assessment of threats and patterns. While recent years have revealed a stark increase in intra-EU trafficking, there is a limited classification of which THB categories are on the rise (Europol, 2019). Even the EU's legislative framework attaches sex trafficking to the umbrella of THB, focusing on gender-specific and victim-centred legal and policy frameworks (the Directive 2011/36/EU). This further endorses an anti-trafficking approach based on the supply of sex, instead of its demand (European Commission, 2020).

A concrete example can be found in the joint intervention between Eurojust and Europol in December 2019. Whilst cooperating with national authorities, the two EU agencies dismantled a criminal network that trafficked women for sexual exploitation, pimping, and drug trafficking. The victims, solely women, were recruited from Romania (oftentimes drugged, threatened, or physically abused) and trafficked into other EU countries (where prostitution is legalized) to work as prostitutes. With criminal proceedings already taking place in Romania, a recurring shortcoming was that the officials involved in the judicial proceedings lacked training in dealing with transnational trafficking cases and cross-border victims, as well as agreement on the terminology related to sex trafficking (Eurojust, 2019).

These statements are also consistent with results from the mixed methods design (online, structured questionnaire on NGOs working on anti-trafficking intervention in Romania, and two online, unstructured interviews conducted with ANITP). Taken together, they underline that sex trafficking is generally conflated with the non-coerced sex industry, with many underreported sex trafficking cases, ever-shifting legal definitions on what qualifies as forced and voluntary prostitution, and conflicting views over sex commerce (Tompea, 2020).

Outside Romania, the top five identified countries of destination were Germany, the United Kingdom, Italy, Spain, and Denmark. In 2019, sexual exploitation was still the most common form of exploitation in Romania, both internally as well as externally (72% of the registered victims). As the ANITP (2019) records reveal, the enrollment of victims mainly took place through the direct approach of the recruiters (possibly the future traffickers) by either presenting favourable working conditions at home or abroad (24% of cases), by promising women work in prostitution or pornography (38% of cases), through the marriage of convenience, or by payment of tourist services abroad (38% of cases).

At the state level, as Table 1 reveals, the implementation of THB legislation varied in understanding and approaches. Anti-trafficking agencies have a hard time defining THB and discerning between its subdivisions, despite applying (either narrowly or integrally) the provisions of the Palermo Protocol (Tompea, 2020).

**Table 1**  
Summary of NGO answers on the understanding and interpretation of THB (translated from Romanian)

Respondents	How do you define "trafficking of persons / THB"?	How do you define "trafficking of living meat" ( <i>traficul de carne vie</i> )?
NGO 1	The exploitation and deprivation of fundamental human rights through physical/psychological abuse/coercion for gaining profit. The objectification of people	<i>Identical to the previous answer</i>
NGO 2	The recruitment, transport, transfer, accommodation or reception of persons, including the exchange or transfer of control over the concerned persons, carried out under threat or by use of force or other forms of coercion, abduction, fraud, deception, abuse of power or taking advantage of the state of vulnerability or by offering or receiving money or other benefits to obtain the consent of a person who has control over another, for the purpose of exploitation	<i>Identical to the previous answer</i>
NGO 3	The recruitment, enlist, sheltering, transportation and exploitation of oneself or another person through the use of violence or force	The exploitation of a person regardless of age or sex
NGO 4	An exploitation of another person, in order to obtain money / benefits, regardless of the form of the exploitation or the ways of attracting one towards it	The same answer as for THB (I think the correct term in Romanian is trafficking in human beings)
NGO 5	The recruitment, transport, transfer, receipt or accommodation for the purpose of exploitation, by coercion, abduction or by misleading or abusing a position of authority	Trafficking of persons for sexual exploitation

Online questionnaire, February – March 2020, *Chestionar privind situația traficului de persoane din România* (Tompea, 2020)

Between January-June 2019, 54% of the registered adult victims were women sexually exploited for external trafficking, with the destination being only EU states alone. The profile of the sexually exploited adult female victim was between 18-25 years old, with a middle school education (on average), unmarried, and originating from the counties of Moldova (Romania's poorest region) (Tompea, 2020). To increase general awareness, ANITP launched a strategic partnership with the Hotelier Industry in Romania, as well as the online dating application Sentimente.ro to raise awareness and train service providers in spotting and denouncing possible trafficking attempts (ANITP, 2019). In 2020, ANITP carried out over 2800 activities with over 180,000 direct beneficiaries and 1,500,000 indirect/tangential ones (ANITP, 2020).

Furthermore, the findings can also be employed to enforce the claim of *why* Romania is a country of origin for migrant THB. According to Table 2, women are perceived as the main target group for sex trafficking, with the three push-pull factors being the vulnerabilities related

to poverty, low education, and geographical distribution. Another interesting claim concerns the emergence of a new trend, known as the “*lover-boy*” technique (online dating that evolves into relationships), in which men scout for young women via social media, build their trust, and then force them into prostitution. Here, most of the identified victims were schoolgirls with poor economic backgrounds (with one or both parents working abroad) (Adevărul, 2019). This aspect alone pushes the discourse on Romanian sex trafficking even further in the shadow economy of sex labour, making it challenging to identify and assess the effectiveness of existing procedures and legislation to tackle the phenomenon (European Commission, 2020).

In the interviews with the Romanian anti-trafficking NGOs, when asked about the most effective means to combat THB, 60% of respondents believed anti-trafficking should target both the supply and demand for sex commerce, with 20% favouring policies related to the demand (20%) and 20% favouring policies related to the supply of sex. This implies that perceptions of the necessary steps against trafficking can be diverging and imprecise even amongst anti-trafficking agents at the national level (Tompea, 2020).

ANITP trimestral report from January-June 2019 also confirms the paper's argument on the socio-economic drivers for sex trafficking. In June 2019, 254 victims of THB had been identified (a downward trend), out of which 79% were female, with 55% coming from rural backgrounds. The data were extracted using ANITP's Integrated Victim Record System (which concentrates data from both judicial authorities and NGOs at the national level). Three out of the top five counties for the recruitment of victims were Iași, Bacău and Galați, making the region of Moldova (the poorest in Romania) the main target for traffickers in early 2019 (ANITP, 2019).

**Table 2**  
Summary of data on the understanding and interpretation of THB (translated from Romanian)

<b>Respondents</b>	<b>Overall, what programmes/projects do you run against THB (and sexual exploitation?)</b>	<b>Are women part of these activities /a main target group? Why?</b>	<b>What is the most common problem when it comes to victim identification?</b>
<b>NGO 1</b>	We offer residential assistance, psychological assistance, medical assistance, legal assistance and social assistance to victims of human trafficking	Yes. Because there is a demand	In rural areas, often at police stations, there is no formal registration of a complaint or the complaint is part of another crime (e.g. beatings and other forms of violence, domestic violence, disturbing public peace, etc.) - due to the lack of experience or the lack of necessary training for identifying a THB victim
<b>NGO 2</b>	Prevention, the Centre of Assistance for THB victims	Yes, women are generally more vulnerable, exposed to marginalisation, and social risks	The relationship between the trafficker and the victim
<b>NGO 3</b>	Shelter, victims' assistance, prevention education in schools, advocacy	Yes. The percentage of women in THB is much higher	The identification mechanism is very cumbersome and nonsensical
<b>NGO 4</b>	Prevention and training activities, aftercare activities, integrated assistance (social, educational, medical, vocational, professional assistance, life skills, shelter, pre-repatriation and repatriation counselling)	Yes, they are part of our target group because they largely represent the main category of victims of THB identified in Romania, regardless of whether they are minors or adults. We work with all categories of victims, regardless of the form of exploitation or the environment of exploitation	If we talk about sexual exploitation, but not only, we are talking about the <i>lover-boy</i> method (traumatic attachment); it becomes very difficult for these people to self-identify as victims, so it is very difficult for them to come and declare the crime. Also, there is no knowledge for identifying signs/clues/indicators among professionals/workers who may come into contact with a potential/alleged victim for a proactive detection of victims. Lack of specialised police officers on traffic issues/ limited number of staff
<b>NGO 5</b>	The National Strategy Against THB and related National Action Plans; the project Reducing the Amplitude of human trafficking through better information of citizens; local, regional, and national campaigns and educational projects about the prevention of trafficking; regular training with specialists who may come into contact with victims or potential victims of THB; partnerships with NGOs, the private sector, the public sector, all in order to prevent and detect possible cases of human trafficking	Yes, because the most common form of exploitation is sexual exploitation	The existence of a constraint/ misleading factor

Online questionnaire, February – March 2020, *Chestionar privind situația traficului de persoane din România* (Tompea, 2020)

### 3.1 Key findings and ways forward

Besides proposing a new theoretical spin to alleviate the burden national agencies face in curbing sex trafficking, the paper also aimed to include the economic dimension of migration (voluntary or not) in the existing scholarship (an aspect scarcely tackled in the existing literature on Romania) (Gerassi, 2015). The main theoretical approach, based on political economy, underlines that Romanian victims are involved in sex trafficking mainly because of financial and social reasons, underscoring another linkage between the state and the economy. As young women coming from precarious socio-economic backgrounds are more likely to use sex to survive, they are also more likely to become victims. Since it joined the EU, the Romanian Executive has achieved important legal reforms, yet they focus solely on the supply of sex, pushing this wicked phenomenon further into the shadow economy and turning Romania into a top country of origin for victims of sex trafficking in the EU. From the literature, three main issues were also identified within the Government's approach: there is a general and opaque comprehension of sex trafficking (with the absence of one all-encompassing definition), there is insufficient communication between the state and the civil society (leading to neglect and disparity when it comes to identifying and protecting sex victims), and unsynchronised efforts in EU cross-border initiatives.

In the past decades, MS executives have intervened on various accounts to discourage the commodity character of sex commerce and invest in the de-commodification of sex victims. Still, the process remains protracted and convoluted. The supply of prostitution cannot be reduced or expanded in line with its demand, as it is not consumed by its purchaser in the same way as other commodities. Moreover, the victims of sex trafficking can reutilise this "*commodity*", despite them being genuinely affected by the means by which both employers and clients treat the goods they sell or purchase (O'Connell Davidson, 2014). Migrant workers especially are particularly marginalised from the discourse on sex trafficking, as they do not possess the same "*social rights*" that are supposedly guaranteed by the welfare systems of the EU MS. Here, depending on varying categories of migrants, there are additional spheres of institutional protection and access to human rights. As a result, forced prostitution has nowhere been fully addressed in the formal, capitalist economy. The recruitment remains in the informal, shadow economy, beyond the regulation of official employment or labour protection, with decriminalisation efforts recording few, case-bound successes (due to constraints on employers, employees, imposed taxes, lack of anonymity). As a formal registration of the stakeholders from the sex industry would require visibility (which, for migrants can also mean a risk of detention or deportation, and for customers, social and legal repercussions), exclusions only multiply - partly because of a global shift towards a neoliberal order in which the "*market processes and corporate activities*" are increasingly disembodied from the social and political constraints that previously checked them (Tompea, 2020). This leads to increased illegal immigration and tandem migration laws that exclude more and more victims from human and protection rights. Only by drawing more parallels between prostitution, wage labour, and sex slavery, may the

existing discourse provide a better understanding and establish a common political approach toward all those who are compelled to commodify what is perceived to be integral to selfhood (O'Connell Davidson, 2014).

In the case of Romania, the Executive needs to increase the efforts to identify potential victims (especially among vulnerable populations such as migrants, asylum-seekers, children or individuals already involved in prostitution) as well as boost communication and cooperation efforts with the existing NGOs and transnational agencies (U.S. Embassy in Romania (2019). Another recommendation is for the Romanian staff at the OSCE (2020) to join projects on “*Combating Human Trafficking along Migration Routes*” which simulate arrests of migrant traffickers (with the trainees identifying perpetrators and assisting victims from large migration flows). Marked by the OSCE as a country of origin and transit of victims as early as 2009, Romania has been progressively invested in curbing THB and sex trafficking. In November 2019, the OSCE Special Representative and Co-ordinator for Combating THB commended the country for its progress in critical anti-trafficking efforts (comprehensive prevention campaigns and high rates of prosecution) (OSCE, 2019).

Lastly, a novel proposal supporting the findings of the paper is to employ advanced digital technologies, such as Artificial Narrow Intelligence (ANI). This supposition is linked to the axiom that the Internet has promptly become an important communications medium for different actors to design their technological infrastructure, expand outreach on global markets, and increasing interconnectivity (Tompea, 2020). Whilst equally considering the important challenges brought forth by the Internet and new digital tools, the overarching opportunities of the Internet make it a universal arena of economic, political, and social alteration. This versatility possesses the impetus to foster human rights, empower communities, raise awareness over the most pressing global issues (such as THB), and facilitate sustainable development (UNESCO, 2019). In 2019 alone, several initiatives have successfully made these pairings, with the Tech Against Trafficking (TAT) coalition mapping more than 260 technology tools to support anti-trafficking projects (Tompea, 2020). From reactionary mechanisms to preemptive approaches, coalitions between the private sector and government bodies can also be made to create an infrastructure that either designs or adapts existing ANI-based instruments to tackle sex trafficking (via facial, pattern and speech recognition, image classification, information analysis, and so on) (Russell, Dewey, and Tegmark, 2015). In programming language and type theory, this polymorphic quality of ANI makes it a versatile instrument that can be applied in multiple contexts with equal significance. In addition, the creation and sharing of theoretical frameworks, aligned with high processing power and large data sets, can yield outstanding case-bound successes in various fields, one of which can mostly be sex trafficking. The proposal is also supported by the 2020 interview with ANITP and the Romanian anti-trafficking NGOs, which embrace the opportunity to test ANI-based instruments that can become an integrative part of the Romanian anti-trafficking efforts (Tompea, 2020).



### 3.2 Limitations and implications for policy and practice

Trafficking is by default a complex illegality affecting individuals, institutions and state functions. Hence, it was vital to propose a combination of theories relevant to the study of the paper in order to appreciate what drives the demand for migrant sex trafficking across the EU. Frequently, THB research tends to select either qualitative or quantitative studies, missing out on the important connections between the two. As well, case studies can also tend to concentrate on domestic developments and the corrective measures taken by the state authorities. Such a path is symptomatic of the classical narrative fallacy (where ad hoc sequences or facts build the entire narrative on the commodification of sex). This makes the remedies for sex trafficking unequipped to solve the very cross-border feature of this type of crime. Therefore, the present research strove to contribute to the existing literature by pairing the case study with an international outlook (Tompea, 2020).

While the literature and legal framework on sex trafficking and THB are vast, only the hitherto aspects could be explored in the case study of this paper. Moreover, even though the research attempted to tackle only the sex trafficking dimension, it was laborious and often impossible to discern between the data available on sex trafficking and the one destined for THB. This makes the topic of sex trafficking underdeveloped and puts it under the THB umbrella and modern slavery (creating disproportionate responses amongst policies and official statistics).

On top of it, the difference in terminology and taxonomy throughout EU MS hinders the comparison of laws and policies and enhances knowledge gaps in the THB prosecution efforts. The paucity of current, reliable statistics and the unsynchronised laws (with varying definitions for what is considered sex trafficking and human trafficking) omit to integrate the socio-economic frameworks necessary to build appropriate responses. Hence, the central challenges for Romanian authorities remain widespread and case-specific. To propose appropriate legislative instruments for the case of Romania, further research needs to be made, firstly to propose an exhaustive definition of the sex trafficking phenomenon (in line with the existing EU demarcation), and then, to identify the beneficiaries of such activities (to systematically invest in the education and involvement of the civic society) in order to shift the paradigm from the supply of sex victims to combating the demand side.

To ensure that sex trafficking is steadily rooted out, public, private-sector entities must become more aware of the pervasiveness of this THB crime and included in the conversations about the anti-trafficking means and ways forward. A practical recommendation would be to design a system of multiple foci in which prosecution is not only seeking traffickers, but also sex customers or buyers (similar to the Nordic model). Hence, recruiters, traffickers, intermediaries, as well as clients can be convicted (reducing thus the demand for commercial sex). However, there is still a great paucity of conclusive research on the impact and consequences of such a strategy, especially when this initiative can drive the demand for sex commerce further in the shadow economy (Seideman 2015).

#### 4. Conclusion

The paper examined the debate on sex trafficking in a context of a growing market for migrant sex workers in Europe. By focusing on a critical approach supported by the theory of political economy, it underlined two major hurdles that both national authorities and European organizations face in their anti-trafficking efforts: inefficient policies which do not recognise the determinants that push women into sex trafficking (economic and social), and the lack of a one-size-fits-all definition towards the identification, classification, and protection of sex victims. Because of the two, policymakers treat women as victims of abuse on an individual basis, rather than a structural one, and fail to take into account the main drivers of the demand for migrant sex trafficking.

The paper also contributed to the existing literature on sex trafficking in general, and to the volitional and forced migrant trafficking in particular, as well as on the intersection between the two. It argued why migrants are a vulnerable segment when it comes to sexual exploitation and added grounding to prior theories by applying, validating, and extending a critical approach that responds to the complex breadth and depth of THB in the academic setting. The results show that while anti-trafficking agencies have recorded important case-specific achievements, there are far more parameters and transnational approaches needed to uproot the brokered art of sex trafficking.

As THB remains a dynamic, wicked phenomenon (driven by corrective and case-bound attempts focused on the supply of sex), the central challenges for Romanian authorities remain widespread. As a practical recommendation, the paper endorses a proactive approach at the policymaking level (via collaborations between ANITP and the civic society, national anti-trafficking NGOs, OSCE programmes, training of prosecutors, judges, and so on) and endorses a shift of paradigm to switch focus from the supply of sex trafficking towards the demand side.

#### Bibliography

- Adelman, M., 2004. The battering state: Towards a political economy of domestic violence. *Journal of Poverty*, 8(3), pp.45-64.
- ADEVĂRUL. (2019) *Metoda „lover boy“, principala formă de racolare a fetelor în rețelele de proxenetism. Ce pot face victimele agresiunii sexuale.* [Online] Available from: [https://adevarul.ro/news/societate/metoda-lover-boy-principala-forma-racolare-fetelor-retelele-proxenetism-victimele-agresiunii-sexuale\\_1\\_5d49416e892c0bb0c641431d/index.html](https://adevarul.ro/news/societate/metoda-lover-boy-principala-forma-racolare-fetelor-retelele-proxenetism-victimele-agresiunii-sexuale_1_5d49416e892c0bb0c641431d/index.html) [Accessed: 5<sup>th</sup> January 2020].
- Anderson, V.R., Kulig, T.C. and Sullivan, C.J., 2022. Integrating human trafficking data: A case study of conceptual and operational variation in Ohio. *Journal of Human Trafficking*, 8(3), pp.250-264.

- ANITP. (2018) *STRATEGIA NAȚIONALĂ*. [Online] Available from: <http://anitp.mai.gov.ro/strategia-nationala/> [Accessed: 8<sup>th</sup> January 2020]
- ANITP. (2019) *ANALIZA PRIVIND VICTIMELE IDENTIFICATE ÎN PRIMUL SEMESTRU – 2019*. [Online] Available from: <http://anitp.mai.gov.ro/> [Accessed: 1<sup>st</sup> January 2020].
- ANITP. (2019) *PARTENERIAT CU FEDERAȚIA INDUSTRIEI HOTELIERE DIN ROMÂNIA*. [Online] Available from: <http://anitp.mai.gov.ro/?s=hotel> [Accessed: 1<sup>st</sup> January 2020].
- ANITP. (2020) *ACTIVITĂȚI DE PREVENIRE 2019*. [Online] Available from: <http://anitp.mai.gov.ro/> [Accessed: 1<sup>st</sup> January 2020].
- Anthias, F., 2014. The intersections of class, gender, sexuality and 'race': The political economy of gendered violence. *International Journal of Politics, Culture, and Society*, 27(2), pp.153-171.
- Bales, K., 2005. *Understanding global slavery: A reader*. Univ of California Press.
- BUSINESS INSIDER. (2019) *Prostitution is legal in countries across Europe, but it's nothing like what you think*. [Online] Available from: <https://www.businessinsider.de/international/prostitution-is-legal-in-countries-across-europe-photos-2019-3/?r=US&IR=T> [Accessed: 23<sup>rd</sup> August 2022].
- Cavalieri, S., 2011. Between victim and agent: A third-way feminist account of trafficking for sex work. *Ind. LJ*, 86, p.1409.
- DIGI24. (2019) *România va avea un registru național al infracțiunilor de natură sexuală. Klaus Iohannis a promulgat legea*. [Online] Available from: <https://www.digi24.ro/stiri/actualitate/romania-va-avea-un-registru-national-al-infraciunilor-de-natura-sexuala-klaus-iohannis-a-promulgat-legea-1149227> [Accessed: 5<sup>th</sup> January 2020].
- DiRienzo, C.E., 2022. Human trafficking: what the new IOM dataset reveals. *Journal of human trafficking*, 8(3), pp.294-308.
- Dobash, R.E. and Dobash, R., 1979. *Violence against wives: A case against the patriarchy* (pp. 179-206). New York: Free Press.
- Elrod, J., 2015. Filling the gap: Refining sex trafficking legislation to address the problem of pimping. *Vand. L. Rev.*, 68, p.961

- EUROPEAN COMMISSION. (2020) *Migration and Home Affairs*. [Online] Available from: [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings_en) [Accessed: 11<sup>th</sup> January 2020].
- EUROJUST. (2019) *Eurojust Annual Report 2018*. [Online] Available from: [http://www.eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202018/AR2018\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202018/AR2018_EN.pdf) [Accessed: 1<sup>st</sup> January 2020].
- EUROJUST. (2019) *Victims of human trafficking in three countries brought to safety*. [Online] Available from: <http://www.eurojust.europa.eu/press/PressReleases/Pages/2019/2019-12-12c.aspx> [Accessed: 30<sup>th</sup> December 2019].
- EUROJUST. (2019) *World Day against Trafficking in Persons*. [Online] Available from: [http://www.eurojust.europa.eu/press/News/News/Pages/2019/2019-07-30\\_World-Day-against-THB.aspx](http://www.eurojust.europa.eu/press/News/News/Pages/2019/2019-07-30_World-Day-against-THB.aspx) [Accessed: 30<sup>th</sup> December 2019].
- EUROPEAN COMMISSION. (2020) *Migration and Home Affairs*. [Online] Available from: [https://ec.europa.eu/home-affairs/e-library/glossary/principle-non-punishment\\_en](https://ec.europa.eu/home-affairs/e-library/glossary/principle-non-punishment_en) [Accessed: 1<sup>st</sup> January 2020].
- EUROPEAN COMMISSION. (2020) *Romania*. [Online] Available from: [https://ec.europa.eu/anti-trafficking/member-states/romania\\_en](https://ec.europa.eu/anti-trafficking/member-states/romania_en) [Accessed: 3<sup>rd</sup> January 2020].
- EUROPEAN PARLIAMENT. (2017) *Human trafficking: nearly 16,000 victims in the EU*. [Online] Available from: <https://www.europarl.europa.eu/news/en/headlines/society/20171012STO85932/human-trafficking-nearly-16-000-victims-in-the-eu> [Accessed: 30<sup>th</sup> December 2019].
- EUROPEAN UNION. (2020) *Romania*. [Online] Available from: [https://europa.eu/european-union/about-eu/countries/member-countries/romania\\_en](https://europa.eu/european-union/about-eu/countries/member-countries/romania_en) [Accessed: 5<sup>th</sup> January 2020].
- EUROPOL. (2019) *TRAFFICKING IN HUMAN BEINGS*. [Online] Available from: [https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/trafficking-in-human-beings?ct\[\]=romania&ct\[\]=article&ct\[\]=event&ct\[\]=guide&ct\[\]=panel&ct\[\]=multimedia&ct\[\]=news&ct\[\]=operation&ct\[\]=page&ct\[\]=document](https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/trafficking-in-human-beings?ct[]=romania&ct[]=article&ct[]=event&ct[]=guide&ct[]=panel&ct[]=multimedia&ct[]=news&ct[]=operation&ct[]=page&ct[]=document) [Accessed: 1<sup>st</sup> January 2020].
- EUROSTAT. (2021) *One in five people in the EU at risk of poverty or social exclusion*. [Online] Available from: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20211015-1> [Accessed: 21<sup>st</sup> August 2022].

- Farley, M., Baral, I., Kiremire, M. and Sezgin, U., 1998. Prostitution in five countries: Violence and post-traumatic stress disorder. *Feminism & Psychology*, 8(4), pp.405-426.
- Francis, B., Walby, S., Pattinson, B., Elliott, A., Hoti-Llabjani, V., Phoenix, J., Verrall, R. and Peelo, M., 2018. *Data collection on trafficking in human beings in the EU*
- Gerassi, L., 2015. A heated debate: Theoretical perspectives of sexual exploitation and sex work. *Journal of sociology and social welfare*, 42(4), p.79.
- Hoang, K.K., 2015. *Dealing in desire: Asian ascendancy, Western decline, and the hidden currencies of global sex work*. Univ of California Press.
- Kara, S., 2009. *Sex trafficking: Inside the business of modern slavery*. Columbia University Press.
- Latham-Sprinkle, J., David, F., Bryant, K. and Larsen, J., 2019. Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour.
- Levy, J. and Jakobsson, P., 2013. Abolitionist feminism as patriarchal control: Swedish understandings of prostitution and trafficking. *Dialectical Anthropology*, 37(2), pp.333-340.
- Lutnick, A. and Cohan, D., 2009. Criminalization, legalization or decriminalization of sex work: what female sex workers say in San Francisco, USA. *Reproductive Health Matters*, 17(34), pp.38-46
- Monroe, J., 2005. Women in street prostitution: The result of poverty and the brunt of inequity. *Journal of poverty*, 9(3), pp.69-88.
- O'Connell Davidson, J., 2014. Let's go outside: bodies, prostitutes, slaves and worker citizens. *Citizenship Studies*, 18(5), pp.516-532.
- OSCE. (2014) *OSCE report praises Romania government for keeping human trafficking on the agenda*. [Online] Available from: <https://www.osce.org/secretariat/122645> [Accessed: 1<sup>st</sup> January 2020].
- OSCE. (2019) *OSCE Special Representative for Combating Trafficking in Human Beings visits Romania, praises progress, encourages further improvements*. [Online] Available from: <https://www.osce.org/secretariat/438119> [Accessed: 2<sup>nd</sup> January 2020].

- OSCE. (2019) *Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings: New Challenges and New Opportunities*. [Online] Available from: <https://www.osce.org/secretariat/439712?download=true> [Accessed: 2<sup>nd</sup> January 2020].
- OSCE. (2020) *Combating Human Trafficking along Migration Routes*. [Online] Available from: <https://www.osce.org/projects/cthblix> [Accessed: 2<sup>nd</sup> January 2020].
- OSCE. (2020) TRAFFICKING IN HUMAN BEINGS: IMPLICATIONS FOR THE OSCE. [Online] Available from: <https://www.osce.org/odhr/16709?download=true> [Accessed: 11<sup>th</sup> January 2020].
- Outshoorn, J., 2005. The political debates on prostitution and trafficking of women. *Social Politics: International Studies in Gender, State and Society*, 12(1), pp.141-155
- Rebut, D., 2014. *Droit pénal international*. Dalloz.
- REINSCHMIDT, L. (2016). Regulation of prostitution in Bulgaria, Romania and the Czech Republic. *Observatory for Sociopolitical Developments in Europe*. [Online] June 2016. Available from: <https://www.beobachtungsstelle-gesellschaftspolitik.de/f/958037694b.pdf> [Accessed: 28<sup>th</sup> August 2022].
- Romania-Insider. (2022) *GfK poll: nearly half of Romanians can't make ends meet*. [Online] Available from: <https://www.romania-insider.com/gfk-romanians-make-ends-meet> [Accessed: 21<sup>st</sup> August 2022].
- Russell, S., Dewey, D. and Tegmark, M., 2015. Research priorities for robust and beneficial artificial intelligence. *Ai Magazine*, 36(4), pp.105-114.
- Seideman, C.A., 2015. The Palermo Protocol: Why it has been ineffective in reducing human sex trafficking. *Global Tides*, 9(1), p.5
- The World Bank Group. (2022) *The World Bank in Romania*. [Online] Available from: <https://www.worldbank.org/en/country/romania/overview#1> [Accessed: 21<sup>st</sup> August 2022].
- Tiefenbrum, S., 2002. The Saga of Susannah-A US Remedy for Sex Trafficking in Women: The Victims of Trafficking and Violence Protection Act of 2000. *Utah L. Rev.*, p.107.

- TOMPEA, R. (2020). Migration, Agency, and the brokered art of Sex Trafficking - A case study of the EU's migrant THB. *Bibliotheken der Universität Wien*. [Online] 20<sup>th</sup> June. Available from: <https://theses.univie.ac.at/detail/56217> [Accessed: 25<sup>st</sup> August 2022].
- U.S. EMBASSY IN ROMANIA. (2019) 2019 Trafficking in Persons Report. [Online] Available from: <https://ro.usembassy.gov/2019-trafficking-in-persons-report/> [Accessed: 5<sup>th</sup> January 2020].
- UN HUMAN RIGHTS. (2020) *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*. [Online] Available from: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx> [Accessed: 20<sup>th</sup> August 2022].
- UNESCO. (2019) *UNESCO's Internet universality indicators: a framework for assessing Internet development*. [Online] Available from: <https://unesdoc.unesco.org/ark:/48223/pf0000367617> [Accessed: 10<sup>th</sup> August 2022].
- UNODC. (2020) *United Nations Convention against Transnational Organized Crime and the Protocols Thereto*. [Online] Available from: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> [Accessed: 17<sup>th</sup> August 2022].
- USA Department of State. (2020) *Trafficking in persons report 20<sup>th</sup> Edition*. [Online] Available from: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> [Accessed: 21<sup>st</sup> August 2022].
- Weitzer, R., 2015. Researching prostitution and sex trafficking comparatively. *Sexuality Research and Social Policy*, 12(2), pp.81-91.
- Zelleke, A., 2011. Feminist political theory and the argument for an unconditional basic income. *Policy & Politics*, 39(1), pp.27-42.

# What Has 20 Years of 'Freedom' Meant for Kamaiya Men in Kailali District, Nepal? Analysing Changing Patterns of Migration as a Marker of Freedom

**Matthew Maycock**

Monash University

## **Abstract**

Almost 20 years after being officially 'freed' from the Kamaiya system of bonded labour in July 2000, this paper considers the lived experience of freedom for male Kamaiya former bonded labourers in Nepal. The article considers the symbolic and material significance of migration in the post-bondage era within Kamaiya communities. The focus on migration for this group of young male former bonded-labourers who were previously unable to migrate, facilitates analysis of the ways in which migration between Nepal and India enables new performances of masculinity. Ultimately, this paper argues that migration, however precarious, has become an important marker of freedom for the Kamaiya.

**Keywords:** kamaiya system, migration, masculinity, nepal, modern slavery

## **Introduction**

Slavery takes many forms in the contemporary world (Bales 2004, 2007). Estimates of the number of contemporary slaves worldwide range from 12 (ILO) to 27 million (2004, 9). Despite the variability of these figures, there is little dispute that there is both diversity in the types of slavery throughout the world and that there are more slaves in South Asia than in any other region. Bonded-labour is one manifestation of contemporary slavery, in which people take on often unrepayable loans, that are paid back through their labour (Kara 2012). Such loans are frequently passed on through generations. Anti-Slavery International estimates that 20 million people are working as bonded labourers (Upadhyaya 2004, 118). This paper considers the experience of a system of bonded-labour and what freedom from this system has meant in relation to the Kamaiya in Nepal.

This paper uses qualitative data collected in far-west Nepal between 2009 – 2017, that was subsequently thematically analysed. Theoretically this paper uses theories of masculinity (R. Connell 1995; Maycock 2018) to analyse the gendered meanings of movement and migration and the extent to which movement has become a marker for freedom for the Kamaiya men in far-



west Nepal.<sup>1</sup> The specific experiences of one young Tharu man (Ram) are analysed in order to provide insights into the ways in which young Kamaiya men are moving and migrating having been freed from the Kamaiya system of bonded labour in 2000.

In South Asia slavery in its many forms is a significant and persistent factor, with 15 to 20 million bonded labourers in the region (Bales 2004). While in relation to Nepal, in 2004, Bales estimated that 2.5 million people were living in slavery in Nepal (2004, 98). There have been, and still are, many forms of slavery both in and between the various countries across the region, among which bonded labour takes specific local forms according to locally-specific interconnections between ethnicity, class, caste and, critically, gender structures. A small but emerging literature considers masculinity in the social relations integral to situations of both bondedness and post-bondedness, providing a basis for considering masculinity in this context. These are issues that this article foregrounds within the context of movement for work following freedom from a system of bonded labour – the Kamaiya system in Nepal.

### **The Kamaiya System**

Although most of modern Nepal was not formally under colonial control as India was, the area that is now Kailali district was under British rule until it was returned to the Nepali State by the British East India Company in 1816. Rankin suggests that the Nepali State's taxation and resettlement policies that created a new Pahari<sup>2</sup> landlord class which was responsible for the transformation of the Kamaiya system into one of oppression (Rankin 1999, 28). This is complemented by a Backward Society Education (BASE)<sup>3</sup> report, which states that the influx of Paharis following the eradication of malaria marginalised the Tharus already living in the Terai<sup>4</sup> (1995, 4). As the Tharus had no records of the land they were living on, Paharis were able to register land in their name with a State that was responsive and understood their needs. There was little or no Tharu representation in central government at this time, limiting the ability of Tharu communities to resist this change and the increasing oppression that came with it. McDonough outlines the extent of these changes below:

Whereas in 1912 revenue settlement most of the landlords were Tharus, by the late 1960s... the great majority of landlords were Pahari. In Dang by this date... around 80% of the land cultivated by Tharu tenants belonged to Paharis. (1997, 281)

---

<sup>1</sup> The focus on young men and masculinity is in no way meant to minimise the complexity and importance of Kamaiya women and girls gendered experiences of movement and freedom since 2000. There are important projects and research undertaken on women and children's experience of migration, undertaken by organizations such as AATWIN in Nepal and Terre des hommes.

<sup>2</sup> *Pahari* means a Bahun or Chettri (i.e. upper caste) migrant from the hills.

<sup>3</sup> BASE is a Tharu organisation in Nepal established in 1994

<sup>4</sup> The Terai is the region of the southern plains in Nepal.

This quote indicates that there were Tharu landlords with Kamaiya working on their land historically, and this remained true at the time of freedom in 2000. The mass movement of Paharis brought changes in the Terai that affected the Kamaiya system that existed largely amongst different Tharu communities previously. Following the eradication of malaria, the cultivated area of the Terai increased significantly as did the average size of farms, putting greater pressure on the Kamaiya to do an increasing amount of agricultural work.

While there were many systems of bonded labour in Nepal,<sup>5</sup> a number of factors made the Kamaiya system different from many of the other forms:

The landlord retains the right to sell his Kamaiya to another landlord. This makes the Kamaiya relationship in effect, a form of slavery. (Seddon and Subedi 2000, 10)<sup>6</sup>

This was not always the case in other forms of bonded labour, where labourers had more agency to change where they worked and for whom. Given the oral history of the Tharu (the wider ethnic group from which the Kamaiya originate),<sup>7</sup> the historical perspective on the Kamaiya system is fluid. During my fieldwork some Kamaiya, usually the of older generations, had difficulty recalling aspects of the system. Some would simply not discuss it, while others, usually younger men, were more comfortable doing so. Generational differences seemed influential in these discussions and the recollections of the violence implicit within the Kamaiya system. The Kamaiya system was a system of bonded labour, in agricultural areas of west and far-west Nepal mediated by debt. During all my periods of fieldwork over eight years, the Kamaiya were widely considered formerly bonded agricultural labourers from the Tharu ethnic community. It is important to recognise that while the Kamaiya system restricted the movement of the Kamaiya within the system, it was and remains today quite common for Kamaiya children to move to urban areas of Nepal to work as domestic labourers.

---

<sup>5</sup> Other forms of bonded labour and slavery in Nepal include Badi, Deuki, Haliya Kamlari, Kumari, Jhuma, and Chhaupadi.

<sup>6</sup> For more on the differences between Kamaiya and other systems of permanent wage labour please see GEFONT (2001).

<sup>7</sup> For more on Tharu oral tradition please see Muller-Böker (1999a).

## The Movement towards Freedom

At various stages in Nepal's history bonded labour has been made illegal.<sup>8</sup> Efforts to end the Kamaiya system changed after 1990<sup>9</sup> when they coalesced into a highly visible movement leading up to July 2000, led particularly by the NGO BASE. According to Guneratne (2002, 104), the movement towards freedom crystallised in May 2000 with the protest of nineteen Kamaiya from Geti VDC in Kailali, who demanded both their freedom and payment for their work. Arjun Karki's (2001) PhD book has an illuminating article exploring how the movement gained momentum during this period, and some of its shortcomings. The International Non-Governmental Organisations (INGOs) and NGOs involved with the Kamaiya freedom movement, including BASE, Anti-Slavery International, MS-Nepal, INSEC and ActionAid-Nepal, highlighted Kamaiya issues in various national and international contexts.<sup>10</sup>

The Kamaiya system and the efforts to end it gradually increased in prominence when democracy was re-established in Nepal in 1990, resulting in a broad movement towards freedom that is the focus of the next section. The implications of this movement, and of the end of the Kamaiya system which it brought about, is the focus of much of rest of the article. Having presented a historical account of the Kamaiya system, I now discuss freedom and some of its implications for Kamaiya communities below.

## Post-'Freedom' Kamaiya experiences

A broad range of Kamaiya experiences were recounted to me during my research, beginning from July 17<sup>th</sup> 2000 when forced evictions of Kamaiya by landlords were reported in the media (Bales 2007, 105). A key factor in the experiences of post-freedom, now *mutki*, Kamaiya, is whether or not they have received land from the state. Land and Tharu identities are inextricably linked (Guneratne 2002, Chapter 4). Prior to their freedom, the vast majority of Kamaiya were landless. According to Anti-Slavery International, in 2007 40 percent of freed Kamaiya had still not received their full entitlement from the state.<sup>11</sup> A significant number of certain types of classified Kamaiya, have received five *kuttha* (0.17 hectares), and many have yet to receive land. Land remains an issue for both resettled Kamaiya who have received land and,

---

<sup>8</sup> It should be noted that 2000 was not the first time slavery was banned in Nepal, although it was the first time the Kamaiya system was specifically banned. Bonded labour was banned in 1926 to little effect. This has resulted in cynicism amongst Kamaiya leaders about the state's commitment to ending the Kamaiya system.

<sup>9</sup> 1990 is a significant year in Nepal's history as it was the year of the Jana Andolan (People's Movement) that brought a type of democracy to Nepal.

<sup>10</sup> During more recent field visits, there seems to be increasing levels of resentment in the two bastions of NGO and development efforts in the name of the Kamaiya. It seems that many Kamaiya long ago gave up hope of meaningful support from NGOs or INGOs.

<sup>11</sup> Summer 2007 Feature -- Nepal bonded labour [http://old.antislavery.org/archive/reporter/reporter\\_summer\\_2007\\_articles.htm](http://old.antislavery.org/archive/reporter/reporter_summer_2007_articles.htm) (accessed 24th August 2011).

more urgently, for the landless such as those in the Dhangadhi *basti* discussed elsewhere in more detail (Maycock 2018). Kamaiya families given an allocation of 5 *kuttah* of land told me this was far from sufficient for their subsistence; the Freed Kamaiya Society (FKS) demands at least 10 *kuttah* per ex-Kamaiya family. Without meaningful land reform in Nepal, one could argue that the Kamaiya, and many other landless groups like them will not be able to transcend their current situation, which are largely defined by their previous status as bonded labourers.

While the Kamaiya were freed in 2000 there was no meaningful state or NGO/INGO rehabilitation programme. Lack of support and planning consistently emerged from my interviews with Kamaiya and NGO workers who work with them. Some were simply forced off the land where they had been bonded labourers. In 2007, about 40,000 – two thirds of freed Kamaiya – had received no support from the state and one third of the total were still living in refugee camps (Bales 2007, 106). Bales draws a clear analogy between the emancipation of American slaves in 1865 and the freeing of the Kamaiya, in that both were botched by lack of state planning (ibid. 107). While they are very different situations, the Nepali state seemed to free the Kamaiya begrudgingly and accordingly had not planned for what might happen afterwards.

### **Continuity of the Kamaiya system**

With the signing of the Comprehensive Peace Agreement (CPA) in 2006 and the establishment of the Constituent Assembly (CA) in 2008, a parliamentary sub-committee was formed to explore the Kamaiya situation and found that due to a lack of livelihood alternatives many Kamaiya remain bonded or are in marginal and temporary work. The sub-committee identified a number of issues, not least local community resistance to the establishment of a Kamaiya *basti* close to their village. In 2011, Pashupati Chaudhari (a local Kamaiya activist and leader of the Freed Kamaiya Society (FKS)) reported that over 1,800 freed Kamaiyas were yet to be provided with identity cards in Kailali alone, which means that they cannot even begin to apply to the state for land.

Various cases of continuation of the Kamaiya system have emerged since 2000. For example, in July 2011 a story (later shown to be untrue), was published across various media outlets relating to a Tharu CA member from Dhangadhi, Malamati Rana Tharu, who had Kamaiya working on her land. The fact that the story was so prominent illustrates how despite being freed, the Kamaiya remain heavily associated with exploitation and poverty. A significant proportion of the agricultural workforce in a number of districts are still working on their previous owners' land, where the Kamaiya system has evolved and in some instances been replaced by a form of share-cropping (Upadhyaya 2004, 126). However, some sources associate the Kamaiya liberation movement with considerable successes:

Literacy rates have doubled. Interest rates have plummeted. Over two thirds work on their own land. Almost all ex-Kamaiya have got their identification cards. Over 95% have

land registration certificates. 70% have five *kuttha* of land. Over 80% of the red card holders have received housing support. All have drinking water. (Vice-chairwoman Moti Devi, Central Committee, FKS quoted in Cheria (2005, 199)

These changes were not so apparent at my fieldwork sites in Kailali, so may be exaggerated by someone heavily involved in the liberation movement. Despite some of the achievements of the freedom movement, Karki (2001, 125) finds that it has failed to address the structural issues of exploitation related to the Kamaiya system, enabling it to evolve and continue in alternative forms. The lack of state, INGO and NGO input into rehabilitation sustains this. This relates more broadly to consistent lack of engagement with issues of land and class in rural Nepal, other than by the Maoists. Interestingly, Cheria considers the success of the Kamaiya Liberation Movement to be associated with ex-Kamaiya becoming Tharu once more (Cheria 2005, Chapter 8). This is an interesting proposition in relation to identity and class hierarchies in the Tharu community, but does not accord with my findings, where the divisions between various Tharu sub-groups remained considerable (Maycock 2018).

Having discussed the relevant literature on the Kamaiya system, the movement towards freedom and outlined post-freedom experiences, I now outline my methods before considering Kamaiya experiences of movement following freedom.

### **Methods, ethics and fieldsites**

Methodologically this article is based initially on a PhD project (Maycock 2012, 2018), complemented by a number of subsequent visits to the same fieldsites. Methodologically this article is based initially on a PhD project (Maycock 2012, 2018), complemented by a number of subsequent visits to the same fieldsites. Fieldwork was focused on generating the material for analysis through ethnographic methods, principally multiple and consecutive semi-structured interviews, life history interviews and participant observation; alongside a household survey. These methods were focused on Kamaiya men's experience and testimony of the Kamaiya system, the transition to freedom and post-freedom experiences. While I did interview and spend time with Kamaiya women and girls, this data is not included in the analysis underpinning this paper. Adopting ethnographic methods situates this paper within the 'ethnographic moment' in masculinities studies (R. Connell 2012).

Ethical approval was attained from the University of East Anglia, International Development Ethics Committee ethics committee, and approval for the study given by the Ministry of Education in Nepal. When entering both fieldsites, prior to undertaking any fieldwork I visited all households in each *basti* and discussed my research and undertook a verbal consent process given that most villagers with illiterate.

I spent my time between the two fieldwork sites (*bastis* or settlements) in Dhangadhi, the district HQ for Kailali District in far-west Nepal, and Kampur *basti* (*a rural fieldsite within a*

*local forest*)). I spent ten months in 2009 and one month in 2012, cycling<sup>12</sup> between the two sites. My visits in 2014 and 2017<sup>13</sup> were much shorter (less than a week each time). This longer term perspective of eight years, has a number of important benefits, and has allowed the changes identified in 2009 to be better contextualised and understood. The evolution of some of the key areas is striking during this period. For example, in 2009 it was inconceivable that anyone from either fieldsite would be able to migrate to undertake work as labourer to the Gulf or South East Asia. However, in 2017, there were three households in my main fieldsite who had a family male member who had migrated to either Dubai or Malaysia, representing a significant development in opportunity to move further afield. These changing patterns of migration are considered in more detail below.

### **What are the implications of mobility for Kamaiya communities and masculinities?**

In this final section of this article I focus on how new forms of work are leading to various forms of mobility that are changing Kamaiya communities. Mobility is one way of achieving certain types of work, this emerges as conferring an advantage for those who are able to be mobile i.e. certain men. This section considers the ways in which movement is an important component of modernity (Appadurai 1996). Furthermore, this section reflects Sharma's (2007a, 22-25) discussion of mobility, as opposed to migration, exploring various aspects of mobility and how these relate to certain masculinities at particular times in the life-cycle.<sup>14</sup> Where the word 'migration' is mentioned it is the word the author cited for mobility in this sense. Mobility and masculinity in South Asia have been explored in Nepal (J.R. Sharma 2007a; J. Sharma 2007b), South India (F Osella and Osella 2000, 2006; Filippo Osella and Gardner 2004), North India (McDuie-Ra 2011) and Pakistan (Charsley 2005). These studies cumulatively find that migration and mobility are important factors influencing masculinity across the region.

The Kamaiya have a specific history of very limited mobility, due to the constraints inherent in the Kamaiya system of bonded labour. While the system dictated that Kamaiya were not free to move when and where they liked (a central marker of bonded labour), sometimes Kamaiya children particularly girls moved as a consequence of demand for domestic labour in urban areas if their owner permitted this (Giri 2004). This section presents a new perspective on how mobility is becoming an emerging part of Kamaiya masculinities. Following the abolition of bonded labour, certain types of mobility have become becoming closely associated with certain

---

<sup>12</sup> Cycling was particularly useful, as it was not included in the many *bandh* (strikes) that restricted all other forms of transport.

<sup>13</sup> I have been able to stay in touch with a number of key contacts from one of the bastis (Kampur) through an intermediary, which has enabled me to stay informed as to significant events that have taken place between fieldwork visits.

<sup>14</sup> The notion of mobility I use here doesn't take into account other influential forms of mobility, such as women moving from their natal to marital home.

new masculinities and stages in the male life course in Kamaiya communities. Kamaiya men are following mainstream pathways to becoming adult that have existed in other Nepalese communities for many years (Hausner 2007; J. Sharma 2007b; 2007a). Their increasing mobility illustrates their acceptance of broader, more mainstream currents of masculinity; this is relevant not only for the men who move but also for the *bastis* to which they return.

Opportunities for mobility correspond to both places in the wider geographical horizon, which were limited to Nepal and India in 2009, but had become significantly broader in 2017 as Kamaiya men were migrating to Malaysia and Dubai. This relates to types of work resulting from higher levels of industrialisation in both economies of these countries. Consequently, mobility can involve exposure to specific configurations of economic and gendered relations. These processes of mobility to places in which certain gendered relations exist are complicating Kamaiya masculinities in formative ways. I discuss the consequences of such mobility below.

### **Mobility in Nepal**

In the Nepali context, mobility is conventionally understood in relation to poverty (Peralta 2007; Donaldson 1991). Shrestha's (1991) research explicitly focuses on landlessness as a cause of migration, additionally Bhandari points out the importance of land in patterns of migration:

My findings support the hypothesis that individuals from households with relatively less access to cultivated land are more likely to migrate in search of work compared to those from a relatively well-off household with more land holdings. (Bhandari 2004, 475)

While this analysis relating to data collected in 1996 is important for this paper in so far as Bhandari here links access to land to migration. More recent research indicates that access to finance facilitates varying types of migration from Nepal. Those with more limited resources move to urban areas of Nepal and India (such as the Kamaiya in my fieldsites in 2009), those with access to more capital might migrate to the Gulf or Malaysia (a change that had happened in my fieldsites by 2017). There are also important flows of young men to more lucrative countries such as the US, UK, Japan, Korea and Australia (Bhattarai 2009; Seo 2019; Yamanaka 2000). These countries entail higher costs of migration, but higher potential returns.

Gender and in particular masculinity emerges as critical across these diverse destinations of migration as according to the latest Government of Nepal statistics, men account for just under 95% of all those who migrated between 2008/2009- 2018/2019 (CBS 2020). However, there is emerging evidence of a significant increase in the proportion of women migrating from Nepal (Shrestha, Mak, and Zimmerman 2020). Masculinity was also a critical factor in in both fieldwork sites, as only men moved for labouring work. More broadly, the studies mentioned above do not consider gender or other forms of identity and how these might be important to understanding various forms of mobility. Sharma's (2007a, 193) research on masculinity and

mobility in Nepal indicates that such studies cannot account for the fact that around 90 per cent of those who migrate outside of Nepal are men. Sharma's research highlights the importance of masculinity in explaining mobility and what it means for local communities.

There are multiple interlinked forms of mobility, some of which are not new, as mobility has been a feature of Nepali life for many years (cf. Hausner 2005; J.R. Sharma 2007a). Following the end of the Kamaiya system in 2000, many new opportunities for work and movement have emerged for the Kamaiya. There are many forms and destinations of mobility, including locally in Nepal mainly to Dhangadhi (in a form of urbanisation), regionally to India (an often temporary, circular form of migration) and more recently international migration to Malaysia. While there is varying mobility from and to Nepal, mobility to India is critically important in the Nepali context, and particularly in the Terai. Precise figures are very unreliable in this area, partly due to the open border between India and Nepal and compounded by poor data collection. In 2001, 760,000 people had officially migrated out of Nepal, 77 per cent of whom had gone to India (McDonald 1994). Seddon et al (2000) estimate that between 0.5-1.3 million Nepalis temporarily migrate to India. In the subsequent section of the article, I consider Ram's experiences of migration to India for work.

### **Ram, mobile Kamaiya masculinities, and working in India**

To explore some of the implications of mobility to India for Kamaiya masculinities I now consider Ram, a Kamaiya man whom I met on several occasions (in 2009 and 2012) when he returned to Kampur basti. There are a number of reasons why he is the focus of this part of this article, principal among which is that of all the young men I met in Kampur he was one of the most challenging, and his moving to India was a critical part of this. He was a transitory presence during my time in the *basti*, which made him interesting, partly due to the fleeting nature of his presence in the *basti* as he was a migrant worker and was only intermittently there. Importantly, Ram's story and experiences are not assumed to be representative of all Tharu men and their experiences of migration.

Ram was about 20 years old in 2009, neither he nor his mother were sure of his exact age. My research assistant and I both thought he looked much older. He had six brothers and sisters, one older sister and the rest younger. He was dismissive of his siblings and had little time for them, despite their obvious affection and high regard for him. One of his younger brothers told me that this was because he travelled and was away in India so much. His family were largely unaware of the hardships of Ram's working life in India; he worked as a labourer in various places, mostly in Uttar Pradesh (UP), a state that shares a border with Kailali; hence he was able to return home relatively easily. Despite going to India on a frequent basis he was consistently critical about it, although he had found certain income-generating opportunities there that he felt were not available to the same extent in Nepal.

Like most men in the Kampur *basti*, Ram was illiterate. While he was not proud of this, he was assertive about it. Education and the path that his younger brother had chosen had no



appeal for Ram, as this was not generally seen as a valid route to making a living or, more importantly, to being a man. For Ram, being a man was closely connected to hard and unrelenting physically demanding forms of manual labour and the associated income that it generated (reflecting Chopra's (2004) point mentioned previously that hard work is important for manliness). Bennett adds a nuance to the perspective on hard physical labour and how this interacts with the caste system in Nepal, in opposition to Bahun<sup>15</sup> notions of work and masculinity:

Any [Bahun] man who can afford to pay someone else to do the heavy farm labour for him. None of Narikot's respected elders, nor indeed any of the younger generation of men who have gone to school, would demean themselves by doing physical labour. (Bennett 2002, 24)

Ram is illustrative of this point, it was evident that Ram performed a type of subaltern masculinity that is positioned in opposition to less physically demanding masculinities (such as Bahun and some emerging Kamaiya masculinities). From this subaltern position he is able to generate a sense of pride and confidence as a man, despite this being work of low paid and status. Ram did not seem to understand the point of education, which was not common in the *basti* (at least in 2009); Ram considered that it was not how Kamaiya men should make a living. According to Ram, being more literate had nothing to do with the Kamaiya being freed; many of those who had kept the Kamaiya in situations of bondedness were highly educated and despite working all the days and hours they could, many Kamaiya remained extremely poor while many Bahun were 'lazy' yet still rich. He was sceptical, too, of office-related work, of which politicians were the most obvious example, there was widespread disdain for politicians, irrespective of political allegiance. Ram's views resonated with the majority of the older men in Kampur *basti* is views about the associations between hard work and masculinity.

Ram's father was not in the *basti* but I could not discover whether he had died or left the *basti* for some reason although Ram's family and other people in the *basti* would not talk to me about this. In his father's absence it was clear that Ram's mother was the head of their household. While this is not uncommon in the *basti* due to the significant levels of outmigration by men, the fact that it was permanent in Ram's household was unique in 2009 (the number of female headed households increased during subsequent field visits). As Ram was the oldest son, one would assume that he would take on responsibility in his father's absence and more of a leadership role in the household. However, this did not appear to be the case. When he was in the *basti* his mother retained her position of authority and responsibility in the household and, more widely, in the *basti*. In other houses, where men migrated, even when their father was present the sons often took on dominant leadership roles in the family, due in part to their higher income and ability to work for longer hours. The younger and more economically active generation adhered closely to

---

<sup>15</sup> Bahun is the colloquial term for the Brahmin caste.

the most highly valued ways of being a man, which were evolving from the sorts of masculinities predominant in the Kamaiya system.

Knowing Ram's family background is important, as it helps to contextualise his mobility. As the eldest son, there were certain expectations of him regarding providing and leadership in the household, which he seemed to find difficult to meet. His mother had given him a small amount of money to enable him to move to India initially in the winter of 2005, in the winter), and she had encouraged him to go there. From his family's perspective, Ram moving to India might have been a diversification strategy like that of other Kamaiya families and their investment more in the education of their sons. Similar impetus behind mobility has been explored in other contexts (cf. Herzfeld 1985), and this might help to explain why his mother was so keen that Ram go to India.

On several occasions I had the impression that being away from his family, particularly his mother, was also an important reason behind Ram's moving to work to India. This does not mean that he did not fulfill some of the expectations to provide materially for his family, or that this was unimportant to him. Ram provides an interesting example of a man adapting to a certain set of life events, and of how this in turn has become an important part of his masculinity. Most Kamaiya men have no experience or wider history of mobility, making migration difficult and potentially dangerous. Sharma (2007a, Chapter 6) illustrates the importance of knowing someone at the destination point who can help to find work, show one around and provide an entry into the social networks associated with certain diasporas. These diasporas in some ways recreate the social worlds of home (Marschall 2017). Marius-Gnanou also makes this point in relation to seasonal migration in Tamil Nadu:

Without social networks, migrants are more vulnerable to intimidation or non-payment of wages, and are unable to get out of debt or overcome a crisis. (Marius-Gnanou 2008, 133)

Ram's experience provides an insight into the wider experiences of Kamaiya men who often move without an established social network although a stronger diasporic network was evident in 2017. Ram told me that he always migrated alone, and often only met other Tharu while travelling but had never met another Kamaiya on his journeys, and appeared not to want to. However, the isolation and vulnerability that this led to was sometimes challenging. This reflects what Breman identifies as part of the motivation for Dalit men from Gujarat to move:

Their motivation for migrating is the anonymity which accompanies them in the outside world... they are not immediately identified and stigmatized [as Dalit]. (Breman 1996, 238).

Mobility relates not simply to material considerations (which in some instances may be negligible anyway due to low wages) but also to the range of male behaviours that mobility facilitates. While mobility was not a wholly positive experience for Ram, there were benefits.

For example, he told me that when he was in India he was neither Kamaiya nor Tharu, he was simply a poor Nepali like the many other Nepali men in India searching for work. Ram seemed to be constantly striving to transcend or escape the *basti* and to become associated with parts of India, as he felt this gave him more freedom. While I was in Kampur, Ram was rarely in the *basti*, on a number of field visits he wasn't there at all, but I got information from his mother. His absence from the *basti* enabled him to give the impression that in this way he was different from most men in Kampur, despite doing similar work to most of them but in a different location. This suggests that the location, and not the type of employment that Ram was engaged in and aspired to, is central to the image he wanted to present. This was an image of a man different to the other male inhabitants of Kampur *basti*, this difference was accentuated by mobility.

Ram opted out of many social activities when in the *basti* and did not attempt to behave like the popular and 'successful' men of his age. The time he spent in India and the work he did there formed his sense of masculinity, and he brought the way he experienced his ethnic identity in India back to the *basti*. He was not overly engaged with any of the political manifestations of Tharu identity such as the Tharuhat. He found little, if any, economic benefit in participating in politics of any kind; nor, due to the pressures he was already under, did he have time for it. When in the *basti* he was not at all interested in Kamaiya or Tharu festivals or religious practices. This again implies that he wanted to distance himself from these aspects of Kamaiya identity and ritual in Kampur, and preferred the kind of anonymity he experienced while in India.

While many Kamaiya men such as Ram have always lived close to the Indian border, they and a small number of women have only been able to cross the border since the abolishment of the Kamaiya system in 2000. The Indian border is only 3 km from Dhangadhi and about 12 km from Kampur *basti*, making it very easy to go to India and back in a day if required. This created a different sense of being 'away' and being 'at home' for Ram. On average he stayed away for three or four months at a time. Breman (1996, 53) calls such mobility 'circulation', to describe the brief nature of these movements, the lack of consistency in the location of mobility and the type of work undertaken. One positive implication of this type of circulatory migration that Ram's movement reflects, relates to his inheritance. This type of movement didn't question his inheritance and in fact strengthened his position, as it was assumed that when he did inherit the family's land financially, he would be in a strong position as a consequence of moving to India. This would then allow him to improve the land his family had, as well as potentially buying more.

Ram travelled by the cheapest and therefore slowest means possible, often taking several days to reach the *basti* and then return to India for his next period of work. If something went wrong, such as losing his job or was robbed or cheated he could quickly and easily get back to Kampur, which was both an advantage and a disadvantage given that part of the reason for his mobility was to get away from the *basti* and his family. This reflects wider changes in transport and communication that facilitate mobility (Almeida 1996). Ram usually moved to urban areas in India, often in and around Delhi, where he told me most work was found. One result of his moving frequently and erratically back and forth from Kampur to various urban areas of India, is

the blurring of the boundaries of 'urban' and 'rural' masculinities; Campbell and Bell (2000) call for caution in making distinctions between these two located masculinities.

I had the impression that Ram would rather not return to Kampur, although he told me that things might change when he got a wife. He was unmarried and had no girlfriend; he appeared to have little interest in women, or at least he didn't want to discuss this with me. In 2009 he assumed that when he had made enough money he would come back to the *basti* with some savings, and his family would arrange a marriage for him. As he was towards the upper end of the average age range at which men get married, there were growing expectations that he would be married. Some eight years later, his mother told me that he still hadn't married.

### ***The Lived Experience of Migration and continued exploitation***

Having discussed how mobility provided a means by which Ram has been able to construct a different masculine identity to those that predominate in Kampur, I now consider his lived experiences of mobility. Ram engaged in a broad range of unskilled labouring work in India. He essentially did whatever work was available, most of the time working as a road cutter. This entailed very long hours of physically demanding labour. He had no protective clothing, and his chronic cough was the result of all the smoke and tar he had inhaled while working on road-building projects over the years, and seemed to take risks while doing his work that can be a central aspects of the performance of masculinity in the workplace (Stergiou-Kita et al. 2015) His manual work had made his hands some of the roughest I have ever shaken. His appearance seemed infused with the dust and dirt of his work, even though the dust itself had long gone. The work drained him completely; his mother told me that when he came home he often said very little for days, as he was so exhausted and completely spent physically. Breman's (1996) research in Gujarat found that migrant workers had limited scope to influence their situation whether they migrated or not, as migration can create new types of bondage. This resonates with Ram's experience: as he had very few options in relation to what sort of work he did (not least as he rejected all forms of formal education). He was one of many other men moving around India in search of work and providing a pool of cheap, disposable labour for various employers (Breman 1996).

Ram took an evident pride in his work-related endeavours and the fact that he rarely took time off, as he would not be paid if he did. He was proud to work as hard as he did, but there were negative consequences. When he returned to the *basti*, as he did every couple of months on average, he was distant and almost vacant until he readjusted to being back and recovered from his most recent period of work. There was a kind of mental and physical emptiness for a few days after he returned from India. He was there when I first went to the *basti* but he left soon afterwards, so I was able to spend limited time with him. I saw him about three months later and on subsequent field visits, when he returned for a short period before he left again to work in India.

Mobility can be explained partly in reference to the economic opportunities that it represents. It facilitates the sending back of remittances which enables men to fulfil an important aspect of their masculinity, providing for their household: In one sense mobility can facilitate meeting expectations associated with 'breadwinner' masculinities in Kamaiya communities. This has been explored elsewhere, with migration making an important contribution to men's ability to maintain their gendered, breadwinner roles (cf. West 2001). However, this may not be the case for all men who migrate:

Migration to Delhi challenges tribal masculinity. It moves tribal men away from the environment where their masculinity is produced and also gives tribal women new opportunities for independence and mobility. (McDuie-Ra 2011, 8).

Critically, McDuie-Ra studied men and women migrating together, as a consequence remittances were less important in this situation. This resulted in a greater disconnect from the places that these men and women migrated from. In my (and Sharma's (2007a; 2007b)) research only men migrate, thus links to home are more important and sending money back is a way of proving one's success as a man who has migrated. Like many men I met during my research, Ram's future plans revolved around seeking better-paid work simply in order to make more money. While I was in Kampur he was not able to send much back to his family by way of remittances due to his very low wages.<sup>16</sup> This gave him a relatively low status in the *basti*. Ram seemed to feel it necessary to come back if only to keep up the impression that he was supporting his family – not just financially, but also emotionally and in relation to security. Therefore, appeal of mobility for Ram was broader than the fact that it enabled him to provide economically for his family (as he was not very successful in this). For him mobility was partly to do with the ways in which mobility itself was becoming a significant marker of adult masculinities. Ultimately, for some Kamaiya men moving is not just a marker of being free, but is also becoming a marker of proving one's masculinity as a Kamaiya man.

Srivastava (1984) suggests that migrants often receive both delayed payment and extremely low wages, raising the question of why people migrate if it brings such hardship. Ram told me how various factory and road construction company owners had cheated him on multiple occasions during his time working in India, not paying properly and treating him with disdain and sometimes violence. As these owners are closely linked to various branches of the Indian government, including the police, Ram had no recourse to justice and was forced to leave in some cases without his pay. These experiences of exploitation were consolidated with both the threat and the reality of violence from the police and private security staff. In several respects there were many more powerful men than him in these settings, with Ram at the lower ends of multiple forms of stratification in particular, class, caste and ethnicity. These experiences compromised and challenged his personal security and his masculinity, which was becoming

---

<sup>16</sup> For more on gender differences relating to remittances see Orozco, Lowell and Schneider (2006) and Carling (2008).

increasingly dependent on his mobility. Despite these challenges, which included being confronted by various forms of violence combined with alternative masculinities that he had not encountered previously, he remained committed to his status and position as a man who moved. The *basti* presented less obvious threats, although his low income subverted his status there.

I now turn to notions of 'success' in relation to mobility. As has been stated previously, the idea of competency in masculine practices helps to explain certain masculine behaviours (cf. R.W. Connell 2009, 58). It is not enough to simply move; it is also important to be considered successful as a result. Ram showed no obvious signs of success, perhaps because he had had limited success in his working life in India. Ram moved not just for economic reasons but also to fulfil the expectations of his family as the eldest son in a context of limited economic opportunities. Consequently, disposable income was in short supply for both him and his family. Like all the other people I spoke to who had moved to India, he felt significant pressure to send as much money home as possible.

The more money sent back to the *basti* the more successful the sender was seen to be, giving him good standing in the *basti* relative to other men. How the money was made did not seem to matter. This helps to explain the disconnection between the often harsh and sometimes brutal working conditions experienced by Kamaiya men like Ram, and perceptions of these conditions amongst the men's families in Kampur. Success in relation to mobility and masculinity also relies on the consumption that it facilitates, as Osella and Osella discuss:

Migration helps maintain one's prestige by concealing one's occupation and by splitting the moment and site of wealth accumulation from its moment of consumption, enabling and encouraging a focus upon the result, cash earned. (F Osella and Osella 2000, 121)

This is significant for men such as Ram, as the work he did was difficult and earned him little status either in the *basti* or in India. His relatively low wages limited his potential to consume in ways that would accord him status. He had bought some clothes in India of which he was proud: while he was not able to consume in the same ways as some of the other young men in Kampur. However, what he was able to buy had a certain kudos as it came from India. Being able to consume in these ways was important aspect of the way Ram tried to portray the appearance of successful masculinity, despite the many challenges such as his low income that made this difficult.

## Conclusion

Ram's work in India has led to a new type of masculinity that depends on various aspects of mobility to create an image of success. This article has illustrated that mobility represents a range of opportunities not solely economic ones and conversely, constraints, particularly in relation to Ram's experience of exploitation and violence associated with the types and locations of his work in India. Ultimately, this paper has shown that mobility is leading to types of

masculinity in Kamaiya communities that were non-existent prior to the abolition of the Kamaiya system.

The changes in movement outlined in this article, are specific to the post-bondage era for the Kamaiya (although some forms of movement such as to urban areas for domestic labour existed before and after freedom in 2000). This article has examined the changing expectations that Kamaiya men are negotiating and how providing for the family is becoming a critical component of Kamaiya masculinity: of proving one's worth and success as a free man. Partly as a result of the increasing complexity and diversity of the links between masculinity and work in Kamaiya communities, successfully providing is difficult for many Kamaiya men even if they migrate. More generally, for them to be seen as successful is now more difficult than previously within the Kamaiya system with a greater range of pressures and expectations than before. Meeting the range of new expectations and competencies associated with these changing masculinities such as the breadwinner, is becoming part of the transition to adulthood for Kamaiya men. Ultimately, the transition to freedom is multiplying and diversifying the possible ways of being a Kamaiya man, but this also multiplies the possible ways to fail.

## Bibliography

- Almeida, M. 1996. *The Hegemonic Male: Masculinity in a Portuguese Town*. London: Berghahn.
- Appadurai, Arjun. 1996. *Modernity at Large: Cultural Dimensions of Globalization*. Minneapolis: University of Minnesota Press.
- Bales, Kevin. 2004. *Disposable people : new slavery in the global economy*. Rev. ed. ed. Berkeley, Calif. ; London: University of California Press.
- . 2007. *Ending slavery : how we free today's slaves*. Berkeley, Calif. ; London: University of California Press.
- Bennett, Lynn. 2002. *Dangerous wives and sacred sisters : social and symbolic roles of high-caste women in Nepal*. Kathmandu: Mandala Book Point.
- Bhandari, P. 2004. "Relative Deprivation and Migration in an Agricultural Setting of Nepal." *Population and Environment* 25 (5).
- Bhattarai, Keshab. 2009. "Problems and prospects of Nepalese students in UK: Brain drain, immigration or global network." *Business School, University of Hull Cottingham Road, HU6 7RX*.
- Bourdieu, P. 1984. *Distinction: A Social Critique of the Judgement of Taste*. London: Routledge.

- Breman, Jan. 1996. *Footloose labour : working in India's informal economy*. Cambridge: Cambridge University Press.
- Campbell, H, and M M Bell. 2000. "The question of rural masculinities." *Rural Sociology* 64 (4): 532-46.
- Campbell, Hugh. 2000. "The Glass Phallus: Pub(lic) Masculinity and Drinking in Rural New Zealand." *Rural Sociology* 65 (4): 562-581. <https://doi.org/10.1111/j.1549-0831.2000.tb00044.x>.
- CBS. 2020. Nepal Labour Migration Report 2020. Kathmandu: Government of Nepal.
- Charsley, K. 2005. "Unhappy Husbands: Masculinity and Migration in Transnational Pakistani Marriages." *Journal of Royal Anthropological Institute* 11: 85-105.
- Cheria, Anita. 2005. *Liberation is not enough: the kamaiya movement in Nepal*. 1st ed. Kathmandu: ActionAid, Nepal.
- Chopra, Radhika, Caroline Osella, and Filippo Osella. 2004. *South Asian masculinities : context of change, sites of continuity*. New Delhi: Women Unlimited an associate of Kali for Women.
- Connell, R.W. 2009. *Gender*. Cambridge: Polity Press.
- Connell, Raewyn. 1995. *Masculinities*. Cambridge: Polity.
- . 2012. "Masculinity research and global change." *Masculinities & Social Change* 1 (1): 4-18. <https://doi.org/10.4471/mcs.2012.01>. <https://www.hipatiapress.com/hpjournals/index.php/mcs/article/view/157>.
- Donaldson, M. 1991. *Time of our Lives: Labour and Love in the Working Class*. London: Allen & Unwin.
- GEFONT. 2001. *Impacts of Interventions on Kamaiya*.
- Giri, B.R. 2004. South Asian Bonded Labour System: A Comparative Perspective on Institutional Arrangements. Unpublished manuscript. University of Amsterdam.
- Guneratne, Arjun. 2002. "Many tongues, one people : the making of Tharu identity in Nepal."



- Hausner, S L. 2005. *The Movement of Women: Migration, Trafficking, and Prostitution in the Context of Nepal's Armed Conflict*. Kathmandu: Save the Children-US.
- . 2007. "Border Town in The Taral: Sites of Migration." *Occasional Papers in Sociology and Anthropology* 10.
- Herzfeld, M. 1985. *The Poetics of Manhood: Contest and Identity in a Cretan Mountain Village*. Princeton: Princeton University Press.
- Kara, Siddharth. 2012. *Bonded labor : tackling the system of slavery in South Asia*. New York ; Chichester: Columbia University Press.
- Karki, A K. 2001. "The Politics of Poverty and Movement from Below in Nepal." PhD, School of Development Studies, University of East Anglia.
- Marius-Gnanou, K. 2008. "Debt bondage, seasonal migration and alternative issues: lessons from Tamil Nadu (India)." *Autrepart* 46: 127-142.
- Marschall, S. 2017. *Tourism and memories of home: migrants, displaced people, exiles and diasporic communities*. Channel View Publications.
- Maycock, M. 2012. "Masculinity, Modernity and Bonded Labour: Continuity and Change amongst the Kamaiya of Kailali District, far-west Nepal." Doctor of Philosophy, School of International Development, University of East Anglia.
- . 2018. *Masculinity and Modern Slavery in Nepal*. London: Routledge.
- McDonald, M. 1994. *Gender, drink, and drugs*. London: Berg.
- McDuie-Ra, D. 2011. "Leaving the Militarized Frontier: Migration and Tribal Masculinity in Delhi." *Men and Masculinities* (December).
- Muller-Boker, U. 1999. "The voice from chitwan: some examples of the Tharu's oral tradition." *Himalayan Research Bulletin* 19 (2): 45-48.
- Osella, F, and C Osella. 2000. "Migration, Money and Masculinity in Kerala." *Journal of Royal Anthropological Institute* 6: 117-133.
- . 2006. *Men and Masculinities in South India*. London: Anthem Press.

- Osella, Filippo, and Katy Gardner. 2004. *Migration, modernity, and social transformation in South Asia. Contributions to Indian sociology. Occasional studies 11*. New Delhi ; Thousand Oaks, Calif.: Sage.
- Peralta, Robert. 2007. "College Alcohol Use and the Embodiment of Hegemonic Masculinity among European American Men." *Sex Roles* 56 (11): 741-756. <https://doi.org/10.1007/s11199-007-9233-1>.
- Rankin, Katharine. 1999. "Kamaiya Practices in Western Nepal: Perspectives on Debt Bondage." In *Nepal: Tharu all'd Tarai Neighbours*, edited by H O Skar, 27-46. Kathmandu: EMR.
- Seddon, D., and B P. Subedi. 2000. *Labour Markets and the Poor*. ODG - A Report to DFID Nepal (Norwich).
- Seo, Seonyoung. 2019. "Temporalities of class in Nepalese labour migration to South Korea." *Current Sociology* 67 (2): 186-205. <https://doi.org/10.1177/0011392118792925>. <https://journals.sagepub.com/doi/abs/10.1177/0011392118792925>.
- Sharma, J R. 2007a. "Mobility, Pathology and Livelihoods: An Ethnography of Forms of Human Mobility in/from Nepal." PhD, Centre for South Asian Studies, The University of Edinburgh.
- Sharma, Jeevan. 2007b. "Movement and masculinity: The case of Nepali male labour migrants to the Indian city of Mumbai." Himalayan Conference, Edinburgh, 10-11 January.
- Shrestha, Niva, Joelle Mak, and Cathy Zimmerman. 2020. *Stigma and empowerment: A qualitative study on Nepalese women and labour migration*. International Organization for Migration.
- Stergiou-Kita, Mary, Elizabeth Mansfield, Randy Bezo, Angela Colantonio, Enzo Garritano, Marc Lafrance, John Lewko, Steve Mantis, Joel Moody, and Nicole Power. 2015. "Danger zone: Men, masculinity and occupational health and safety in high risk occupations." *Safety science* 80: 213-220.
- Upadhyaya, Krishna. 2004. "Bonded Labour in South Asia: India, Nepal and Pakistan." In *The political economy of new slavery*, edited by Christien van den Anker, xvi, 272 p. Houndmills: Palgrave Macmillan.
- West, L.A. 2001. "Negotiating masculinities in American drinking subcultures." *Journal of Mens Studies* 9 (3): 371-392.

What Has 20 Years of 'Freedom' Meant for Kamaiya Men in Kailali District, Nepal?  
Analysing Changing Patterns of Migration as a Marker of Freedom. Maycock.

Yamanaka, Keiko. 2000. "Nepalese labour migration to Japan: From global warriors to global workers." *Ethnic and racial studies* 23 (1): 62-93.

# RE-(B)ORDERING: THE IMPACT OF THE EUROPEAN UNION'S EXTERNALISATION OF MIGRATION ON THE HUMAN RIGHTS OF MIGRANTS IN LIBYA

**Lauren Jackson**

The University of Western Australia

## ABSTRACT

The European Union (EU) maintains a policy of externalisation towards migration, with specific reference to Libya. What has resulted is the transformation of the European border through extra-territoriality, which consequently silences migrant voices and leads to a violation of human rights. The EU not only tolerates human rights violations occurring in Libya as a result of its policies, but proactively enables these abuses to occur. Consequently, migrants who attempt to reach Libya and then cross the Mediterranean into Italy and beyond, risk being condensed to exceptional human beings, wholly because they fall within the gaps of the global system.

**Keywords:** Libya, European Union, Migration, Externalisation, Human Rights.

In 2017, video surfaced of African migrants in Libya allegedly being sold in an open market as slaves.<sup>1</sup> The video was shocking, and thousands protested outside of Libyan embassies calling for action to end the practice.<sup>2</sup> In addition, almost monthly were news outlets being inundated with stories of migrant drownings at sea whilst trying to reach Europe from Libya,<sup>3</sup> and in a nation continuing to overcome Civil War, migrants too, have borne the brunt of alleged

---

<sup>1</sup> Nima Elbagir, Raja Razek, Alex Platt, and Bryony Jones, "People for sale: Where lives are auctioned for \$400", *CNN*, 14 November, 2017, <https://edition.cnn.com/2017/11/14/africa/libya-migrant-auctions/index.html>.

<sup>2</sup> Casey Quackenbush, "The Libyan Slave Trade Has Shocked the World. Here's What You Should Know", *Time*, 1 December, 2017, <http://time.com/5042560/libya-slave-trade/>; Cristina Matamoros, "Anti-slavery march calls on Libya to end 'crime against African humanity'", *Euronews*, 09 December, 2017, <https://www.euronews.com/2017/12/09/anti-slavery-march-calls-on-libya-to-end-crime-against-african-humanity->.

<sup>3</sup> Samy Magdy, "UN Says 40 Migrants Feared Dead In Capsizing Off Libya", *PBS Newshour*, 27 August, 2019, <https://www.pbs.org/newshour/world/un-says-40-migrants-feared-dead-in-capsizing-off-libya>; ABC News, "Up To 115 Feared Dead In 'Worst Mediterranean Tragedy' So Far This Year", *ABC News*, 26 July, 2019, <https://www.abc.net.au/news/2019-07-26/up-to-150-migrants-feared-dead-as-boat-capsizes-off-libya/11348570>; ABC News, "More Than 100 People Missing After Boat Sinks Off The Coast Of Libya", *ABC News*, 20 January, 2019, <https://www.abc.net.au/news/2019-01-20/up-to-117-missing-after-boat-sinks-off-coast-of-libya/10730104>; Michael Levenson, "At Least 74 Drown in Wreck off Lybia, U.N. Agency Says", *The New York Times*, 12 November, 2020, <https://www.nytimes.com/2020/11/12/world/middleeast/libya-shipwreck-migrants.html>.

war crimes.<sup>4</sup> Despite indignation towards Libyan authorities, Europe's role in these horrific conditions had largely gone uncriticised by popular media.<sup>5</sup> Although people have been crossing the Mediterranean by boat since at least the late 1980s,<sup>6</sup> the central Mediterranean migration route via Libya, is now the principal route for mixed flows into Europe.<sup>7</sup> Yet, the European Union (EU) maintains an 'externalisation' of migration policies, preventing migrants (including asylum seekers) from even reaching the jurisdiction of EU Member States,<sup>8</sup> and consequently increasing their risk of these violations of life, liberty, and freedom. Externalisation of migration has been referred to as 'policing at a distance',<sup>9</sup> and a 'remote control',<sup>10</sup> and refers to processes of transferring a nation's border management to third countries.<sup>11</sup> A discourse of securitisation regarding migration has resulted in the adoption of these externalising practices within the European Union.<sup>12</sup> The impact of this practice is three-fold. Firstly, the externalisation process has manifested itself in the EU providing funding to, and political agreements with, Libyan authorities to run detention facilities, conduct sea patrols and ultimately ensure migrants do not reach Europe.<sup>13</sup> Secondly, what is meant by 'border' is transformed by this display of extra-territoriality, and hence allows for the silencing of migrant voices.<sup>14</sup> Lastly, an individual's right to asylum is subsequently undermined. Migrants become legally inadmissible without a state

---

<sup>4</sup> Patrick Wintour, "UN Calls For Inquiry Into Libya Detention Centre Bombing", *The Guardian*, 03 July, 2019, <https://www.theguardian.com/world/2019/jul/03/air-strike-kill-libya-tripoli-migrant-detention-centre>.

<sup>5</sup> BBC News, "'Used as a slave' in a Libyan detention centre", *BBC News*, 2 January, 2018, <https://www.bbc.com/news/world-africa-42492687>.

<sup>6</sup> Martin Baldwin-Edwards "Between a Rock & a Hard Place: North Africa as a Region of Emigration, Immigration and Transit Migration." *Review of African Political Economy* 108 (2006): 311–324.

<sup>7</sup> Nina Perkowski and Vicki Squire (2019) "The anti-policy of European anti-smuggling as a site of contestation in the Mediterranean migration 'crisis'", *Journal of Ethnic and Migration Studies* 45 no. 12 (2019): 2167-2184.

<sup>8</sup> Bill Frelick, Ian Kysel, and Jennifer Podkul, "The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrant," *Journal on Migration and Human Security* 4, no.4 (2016): 190.

<sup>9</sup> Elspeth Guild and Didier Bigo, "Le visa Schengen: expression d'une stratégie de "police" à distance," *Cultures & Conflicts* 49, no. 1 (2003): 22, 30.

<sup>10</sup> Andreas Fahrmeir, Olivier Faron, and Patrick Weil, *Migration Control in the North Atlantic World: The Evolution of State Practices in Europe and the United States from the French Revolution to the Inter-War Period* (Berghahn Books, 2005), 86.

<sup>11</sup> Clint Betkey, "A Lottery of Asylum: Cooperative Challenges in the European Union During the 2015-2016 Asylum-Seeker Surge" (Master Thesis, The University of California, 2017); Michael Flynn, "There and Back Again: On the Diffusion of Immigration Detention," *Journal on Migration and Human Security* 2, no.3. (2014): 165.

<sup>12</sup> Flynn, "There and Back Again."; Asher Hirsch and Nathan Bell, "The Right to Have Rights as a Right to Enter: Addressing a Lacuna in the International Refugee Protection Regime," *Human Rights Review* 18, no. 1 (2017): 417-418.

<sup>13</sup> Frelick, Kysel, and Podkul, "The Impact of Externalization of Migration Controls."

<sup>14</sup> Lorenzo Rinelli, *African migrants and Europe* (Great Britain: Routledge, 2015).

considering their claim for asylum,<sup>15</sup> and non-refoulement principles are violated which result in exposure to human rights abuses in Libya.<sup>16</sup> Thus, migrants who attempt to reach Libya and then cross the Mediterranean into Europe risk being condensed to exceptional human beings who are subject to human rights violations enabled by the EU, all because they fall within the gaps of the global system.<sup>17</sup>

### EXTERNALISATION IN THE EU

A discourse of securitisation has motivated the implementation of the externalisation of migration within the European Union. Externalisation of migration is the process by which destination countries enhance, promote, outsource, impose, or directly carry out migration and border management activities outside of their borders (i.e., in the territories of transit and origin countries or in international waters) in order to deter unwanted arrivals at their borders.<sup>18</sup> In recent years, migration policy has become an increasingly politicised issue.<sup>19</sup> Irregular migration (migration that takes place external to regulatory norms) challenges a nation's ability to decide whom it allows in, thereby defying national sovereignty.<sup>20</sup> This has resulted in anxiety affixed to the fear of losing control over territorial boundaries,<sup>21</sup> and is related to xenophobia in which it is believed increasing migration will lead to a lessening of cultural integration and escalation of security risks.<sup>22</sup> Irregular migration from a European standpoint is therefore perceived as an issue of safeguarding borders.<sup>23</sup> Migrants are considered 'potential hostiles rather than those fleeing

---

<sup>15</sup> Amnesty International, "Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants" (2017), <https://www.amnesty.org/download/Documents/MDE1975612017ENGLISH.PDF>.

<sup>16</sup> Ibid; Rinelli, "African migrants and Europe," 12.

<sup>17</sup> Rinelli, "African migrants and Europe." Arendt, "The Origins of Totalitarianism".

<sup>18</sup> Luiza Bialasiewicz, "Off-shoring and out-sourcing the borders of Europe: Libya and EU border work in the Mediterranean", *Geopolitics* 17, no. 4 (2012): 843–866.

<sup>19</sup> Stephen Castles, "Migration policies are problematic – because they are about migration," *Ethnic and Racial Studies* 40, no. 9 (2017): 1538.

<sup>20</sup> Hirsch and Bell, "The Right to Have Rights," 422.

<sup>21</sup> Didier Bigo, "Security and immigration: toward a critique of the governmentality of unease," *Alternatives* 27, no. 1 (2002): 65.

<sup>22</sup> Ibid.

<sup>23</sup> Rinelli, "African migrants and Europe," 12.; Nina Perkowski and Vicki Squire (2019) "The anti-policy of European anti-smuggling as a site of contestation in the Mediterranean migration 'crisis'", *Journal of Ethnic and Migration Studies* 45 no. 12 (2019): 2167-2184.

hostilities.<sup>24</sup> Highlighting this point, at the launch of the European Union Agency's border security agency, Frontex, it was stated that border policing was necessary to address security issues such as international terrorism, thereby linking migrants with insecurity.<sup>25</sup> This architecture of securitisation has resulted in the predominance of a discourse of fear regarding 'invasions' of migrants.<sup>26</sup> The President of the Czech Republic, for example, labelled migrants as orchestrating an 'organised invasion' of Europe.<sup>27</sup> Moreover, 'irregular' is often replaced with 'illegal'.<sup>28</sup> The semantics of these terms should not be overlooked.<sup>29</sup> Although the EU effectively makes irregular migration illegal through the criminalisation of unauthorised entry, transit, and residence of irregular migrants,<sup>30</sup> this indiscriminately affects a heterogeneous migrant population. In this context, particular concerns have been raised about the rising interaction between criminal law and migration management across Europe, such that it represents an all-encompassing "illegalisation" of migration with significant implications for the protection of individual human rights.<sup>31</sup> Irregular migration is legal under multiple human rights covenants and the use of the word 'illegal' instead demonises and politicises migration, and so allows for punitive action as an acceptable response to its perceived illegality.<sup>32</sup> This further 'naturalizes

---

<sup>24</sup> Hirsch and Bell, "The Right to Have Rights," 422; A securitisation discourse instead simplifies complex population movements and ignores root causes for migratory flows see e.g. Rinelli, "African migrants and Europe."; Leonie Ansems de Vries and Elspeth Guild "Seeking Refuge in Europe: Spaces of Transit and the Violence of Migration Management." *Journal of Ethnic and Migration Studies* 45 no. 12 (2019): 2156–2166

<sup>25</sup> Franco Frattini, "Inauguration speech of the Frontex Agency," Speech, Management Board of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States, presented June 30, 2005.

<sup>26</sup> Paolo Biondi, "The Case for Italy's Complicity in Libya Push-Backs," *News Deeply*, 24 November, 2017, <https://www.newsdeeply.com/refugees/community/2017/11/24/the-case-for-italys-complicity-in-libya-push-backs>.

<sup>27</sup> Shehab Khan, "Refugees coming to Europe an 'organised invasion', says Czech President Milos Zeman," *The Independent*, 27 December, 2015, <https://www.independent.co.uk/news/world/europe/refugees-coming-to-europe-an-organised-invasion-says-czech-president-a6787286.html>.

<sup>28</sup> Joseph Nevins, *Operation Gatekeeper and Beyond: The War on "Illegals" and the Remaking of the US-Mexico Boundary* (Routledge, 2010), 15.

<sup>29</sup> Jaime Pinos, "The Conflicting Aims of the European Neighborhood Policy and its Secondary Effects," *Journal of Borderlands Studies* 29, no. 2 (2014), 133.

<sup>30</sup> European Union Agency for Fundamental Rights, "Fundamental Rights of migrants in an irregular situation in the European Union: Comparative Report", *European Union Agency for Fundamental Rights* (2011): p. 42, <https://fra.europa.eu/en/publication/2012/fundamental-rights-migrants-irregular-situation-european-union>.

<sup>31</sup> Catherine Dauvergne, *Making People Illegal: What Globalisation Means for Migration and Law* (Cambridge University Press, 2012).

<sup>32</sup> Nevins, "Operation Gatekeeper and Beyond."

and renders reasonable the sealing of borders against applications for asylum'.<sup>33</sup> The effect is then an emphasis on governmentality founded on distrust of the uninvited other.<sup>34</sup> For this reason, externalisation is often disingenuously framed as a security necessity, rather than purely a strategy of migration control.

Although externalisation has become the *prima facie* favoured migratory response of the EU, it would be erroneous to consider the European Union as being homogenous in its migratory decision making. There are currently 27 Member States and so exists variation between state-based attitudes.<sup>35</sup> EU Member States can advise on policy through their representatives in the European Parliament and Council.<sup>36</sup> Externalisation of migration is an issue that has been contentiously debated, with specific reference to ethics and effectiveness. In 2003, Germany labelled proposed detention centres in Libya as “concentration camps” and refused to support the policy.<sup>37</sup> This inability to previously institute an EU-wide externalisation policy has been explained, in part, as the effect of the ‘self-constructed normative image of the EU’ in which it upholds liberal ideals of migration protection.<sup>38</sup> This is in addition to links with particular national histories and culture (as seen above with Germany with the Holocaust and persecution of Jewish people).<sup>39</sup> However, this normative image has begun to shift as a result of migration patterns, and what follows is a shift in policy decisions.<sup>40</sup> An increase in the number of crossings on the Mediterranean since 2013 consequently meant an increased chance of boats becoming capsized, resulting in the loss of thousands of migrant lives each year.<sup>41</sup> The Mediterranean Sea was dubbed a “mass grave” due to the number of migrant drownings.<sup>42</sup> With the deaths of so

---

<sup>33</sup> Liisa Malkki, “Refugees and Exile: From 'Refugee Studies' to the National Order of Things,” *Annual Review of Anthropology* 24, no. 1 (1995), 508.; Martin Baldwin-Edwards and Derek Lutterbeck “Coping With the Libyan Migration Crisis,” *Journal of Ethnic and Migration Studies* 45 no. 12 (2019), 2241–2257.

<sup>34</sup> Bigo, “Security and immigration.”

<sup>35</sup> The Royal Society, *UK research and the European Union: The role of EU regulation and policy in governing UK research* (2016), <https://royalsociety.org/~media/policy/projects/eu-uk-funding/phase-3/EU-regulation-and-policy-in-governing-UK-research.pdf>.

<sup>36</sup> “Official Website of the European Union,” The European Union, accessed 14 December 2020, [https://europa.eu/european-union/index\\_en](https://europa.eu/european-union/index_en).

<sup>37</sup> Flynn, “There and Back Again,” 189.

<sup>38</sup> Carl Levy, “Refugees, Europe, Camps/State of Exception: ‘Into the Zone,’ the European Union and Extraterritorial Processing of Migrants, Refugees, and Asylum-Seekers (Theories and Practice),” *Refugee Survey Quarterly* 29, no. 1 (2010): 96.

<sup>39</sup> Rinelli, “African migrants and Europe.”

<sup>40</sup> Ibid.

<sup>41</sup> International Organization for Migration, “Missing Migrants database, Mediterranean region”, *Missing Migrants* (Interactive Web Page), accessed 20 September 2019, <http://www.missingmigrants.iom.int/region/Mediterranean>.

<sup>42</sup> Vice News, "Italy's Mediterranean Mass Grave: Europe Or Die," <https://www.youtube.com/watch?v=opbSFGIAefQ>.



many individuals – many of them asylum seekers – the situation resulted in a humanitarian crisis that European governments were obliged to address in compliance with various international laws.<sup>43</sup> Many EU Member States chose to respond by prioritising a reduction in the arrival of migrants as a way to bypass these normative constraints.<sup>44</sup> This included constructing border fences between Spain and Morocco, cooperation between governments as between Greece and Turkey, and strict visa requirements.<sup>45</sup>

However, some went against the grain. Germany instead claimed to accept 800,000 refugees in 2015 and criticised the militarised-response of other European nations.<sup>46</sup> Despite initial intentions, the influx of refugees into Germany had contributed to a political crisis, with claims that the country was shouldering an undue proportion of refugees, thereby placing undue strain on its resources.<sup>47</sup> Consequently, Germany began to wind back its acceptance of migrants, and head towards a more hard-line approach that included creating 'transit centres' along the Austrian border.<sup>48</sup> It is evident then, that many European nations are responding to migration with externalisation tactics.<sup>49</sup> Undoubtedly, there is still an intensely complex democratic situation on two levels – both between and within Member States.<sup>50</sup> However, as can be seen, there has been an increasing shift by Member States towards externalising migration controls.

Specifically, the EU has developed externalisation policies with specific reference to Libya. There were estimated to be more than 680,000 migrants in Libya between September to October 2022.<sup>51</sup> Although experiencing a lull during the peak of the COVID-19 pandemic, the number of migrants in Libya is currently higher than the number of migrants for the corresponding period in 2019.<sup>52</sup> These individuals do not represent a particular migration crisis

---

<sup>43</sup> Ibid; Amnesty International, "Libya's Dark Web of Collusion.," As an initial response, Italy launched "Operation Mare Nostrum" in 2013 with the aim of ensuring the rescue of migrants in danger at sea. However, it was argued that it acted as a "pull factor" for migrants by encouraging them to journey to Europe, and so was consequently terminated in 2015 see Rinelli, "African migrants and Europe."

<sup>44</sup> Maribel Casas-Cortes, Sebastian Cobarrubias, and John Pickles, "Riding Routes and Itinerant Borders: Autonomy of Migration and Border Externalization," *Antipode* 47, no. 4 (2015): 894.

<sup>45</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>46</sup> Heather Horn, "The Staggering Scale of Germany's Refugee Project," *The Atlantic*, 12 September, 2015, <https://www.theatlantic.com/international/archive/2015/09/germany-merkel-refugee-asylum/405058/>.

<sup>47</sup> Max Fisher and Katrin Bennhold, "Germany's Europe-Shaking Political Crisis Over Migrants, Explained," *The New York Times*, 03 July, 2018, <https://www.nytimes.com/2018/07/03/world/europe/germany-political-crisis.html>.

<sup>48</sup> Ibid.

<sup>49</sup> Hirsch and Bell, "The Right to Have Rights," 423.

<sup>50</sup> Betkey, "A Lottery of Asylum."

<sup>51</sup> "IOM Libya Update October", *IOM UN Migration* (2019), accessed 01 December 2020, <https://libya.iom.int/sites/default/files/news/October%202020%20Monthly%20Update.pdf>.

<sup>52</sup> Ibid.

but the amalgamation of many.<sup>53</sup> Half of all migrants are from sub-Saharan Africa, fleeing persecution from terrorist groups in countries like Nigeria and Somalia, or simply wishing to seek a better life in Europe.<sup>54</sup> Libya is perceived to provide the easiest place for migrants to cross over the ocean and onto the shores of Italy.<sup>55</sup> The European Union – with a particular focus on Italy – have employed a number of externalisation measures intended to close the migratory path into Libya and across the Mediterranean.<sup>56</sup> This can be generalised into three broad approaches: Italian joint patrols with, and enabling of, the Libyan Coast Guard on the Mediterranean to intercept people at sea; the EU providing technical and financial support to assist in the operation of Libyan detention centres where migrants are held; and political agreements between the EU and authorities within Libya (including the UN-backed Government, as well as armed militia groups) to persuade them to terminate people smuggling and increase border controls.<sup>57</sup> Migrants are now being intercepted at sea, both in Libyan and international waters, and returned to Libya, where they are transferred to detention centres.<sup>58</sup> In October 2022 alone, a total of 19,308 migrants who attempted the Central Mediterranean sea crossing were returned to Libyan shores.<sup>59</sup> Over 1,000 individuals have been reported as ‘rescued or intercepted’ by the Libyan authorities in the first two weeks of 2023 alone.<sup>60</sup> These policies are part of the greater externalisation of migration within Europe that has resulted in the creation of what some scholars have dubbed ‘Fortress Europe’,<sup>61</sup> in which all attempts are made to keep migrants out.

### **BORDER TRANSFORMATION AND SILENCING VOICES**

As a result of this externalisation, what is meant by ‘border’ is transformed and has allowed for extra-territoriality. Extra-territoriality refers to the ability of a state to exercise authority beyond the limits of its territory.<sup>62</sup> Sovereignty is no longer defined by the Westphalian

---

<sup>53</sup> Ibid.

<sup>54</sup> Amnesty International, “Libya’s Dark Web of Collusion.”

<sup>55</sup> Frelick, Kysel, and Podkul “The Impact of Externalization of Migration Controls.”

<sup>56</sup> Betkey, “A Lottery of Asylum”

<sup>57</sup> Amnesty International, “Libya’s Dark Web of Collusion.”

<sup>58</sup> Amnesty International, “Libya’s Dark Web of Collusion”; IOM, “Libya’s Migrant Report: Round 44.”

<sup>59</sup> IOM, “Libya’s Migrant Report: Round 44.”

<sup>60</sup> UNHCR, “UNHCR Update Libya 17 January 2023” (2023), accessed 23 January 2023, <https://reporting.unhcr.org/document/4002>.

<sup>61</sup> Flynn, “There and Back Again.”

<sup>62</sup> Anneliese Baldaccini, “Extraterritorial Border Controls in the EU: The Role of Frontex in Operations at Sea” in *Extraterritorial Immigration Control Legal Challenges*, eds. Valsamis Mitsilegas and Bernanrd Ryan (Martinus Nijhoff Publishers, 2010), 229.

state model in which there is control over a distinct territory, but as is evident with the EU and Libya, is increasingly linked with movements of people transpiring outside of territorial confines.<sup>63</sup> Barriers for migration are instead set beyond Europe. The externalisation of migration processes in Libya, therefore, are extra-territorial behaviours of the EU focused on controlling mobility.<sup>64</sup> This includes the creation of EU-backed detention centres and conditional political agreements with Libyan authorities.<sup>65</sup> This blurs the boundaries of a set territory, and the former static and quantifiable borders of Europe become itinerant and theoretical.<sup>66</sup> This European bordering generates places to amend the geopolitical meaning of EU territory,<sup>67</sup> 'for the border is not a thing but a materialization of authority'.<sup>68</sup> Ultimately, it is evident that what is meant by the EU border is transformed by externalisation, to instead represent an extra-territoriality of authority in order to control the migration of people.

This transformation of the territorial border has stopped migrant paths and allowed for human rights violations to occur – including forced labour, torture and other ill-treatment, extortion, and sexual assault – without widespread publicised attention from the international community.<sup>69</sup> Rinelli claims that the aim of externalising migration by the EU, particularly through detention centres in Libya, is to treat migrants as if they were out of sight and out of mind, as 'if they were invisible, or visible yet non-existent, like ghosts'.<sup>70</sup> By arbitrarily and indefinitely detaining migrants in a geographically isolated location, the externalisation of European migration control diminishes their ability to be political subjects, and thus makes them

---

<sup>63</sup> Maribel Casas-Cortes, Sebastian Cobarrubias, and John Pickles "'Good neighbours make good fences': Seahorse operations, border externalization and extra-territoriality," *European Urban and Regional Studies* 23, no. 3 (2014): 231.

<sup>64</sup> Rinelli, "African migrants and Europe."

<sup>65</sup> Ibid.

<sup>66</sup> Ibid 40; Maribel Casas-Cortes, Sebastian Cobarrubias and John Pickles, "Re-bordering the neighbourhood: Europe's emerging geographies of non-accession integration", *European Urban and Regional Studies* 23, no. 1 (2012): 37; Instead, boundaries other than territorial have become increasingly pertinent. This includes creating distinction between individuals on a non-territorial basis through class and race. By presenting a set difference between "us" and "them" the state can establish its identity, See Audrey Macklin, "Who Is the Citizen's Other? Considering the Heft of Citizenship" *Theoretical Inquiries in Law* 8, no. 2 (2007): 333; Ivan Ruxandra "Borders, migration, and the changing nature of sovereignty," *Studia Europaea* 57, no. 4 (2012): 75.

<sup>67</sup> Jennifer Hyndman, "The Geopolitics of Migration and Mobility," *Geopolitics* 17, no. 2 (2012): 246.

<sup>68</sup> Iain Chambers, *Mediterranean Crossings: The Politics of an Interrupted Modernity* (Duke University Press, 2008), 6.

<sup>69</sup> Rinelli, "African migrants and Europe."; Human Rights Watch *Libya Events of 2020* (2021) <https://www.hrw.org/world-report/2021/country-chapters/libya>; Ian Urbina, "The Secretive Prisons That Keep Migrants Out of Europe," *The New Yorker*, 28 November, 2021, <https://www.newyorker.com/magazine/2021/12/06/the-secretive-libyan-prisons-that-keep-migrants-out-of-europe>.

<sup>70</sup> Rinelli, "African migrants and Europe," 79.

discursively absent.<sup>71</sup> By design, their existence will be concealed and inaudible which facilitates the internationally imperceptible human rights abuses that occur.<sup>72</sup> Scathingly, this is what journalist Rahawa Haile describes as Western countries' attempt to force asylum seekers and migrants to 'find a quieter place to die'.<sup>73</sup> It has been known by the EU for a decade that human rights abuses have been occurring to migrants in Libya, such as torture and extortion, however, because of the inability of migrants to speak out, it is only in recent years with the advancement of technology that the international community has become aware of the extent of these abuses.<sup>74</sup> European politics of migration control in Libya reveal how externalisation can remove the ability of migrants to be political subjects and thus allow for human rights abuses without attention from the international community.

### HUMAN RIGHTS VIOLATIONS

Migrants existing in Libya are subject to human rights violations, including forced labour, torture, and sexual exploitation, through a lack of legal protections. Arendt exclaims that 'The world found nothing sacred in the abstract nakedness of being human'.<sup>75</sup> The contradiction is that without the membership to a state, human beings lack the protection of human rights.<sup>76</sup> This concept of 'the right to have rights' denotes that rights can only be secured by states, and so in theory, to be stateless also implies being rightless.<sup>77</sup> What exists is a state of exception.<sup>78</sup> In essence, for individuals to have their humanity acknowledged necessitates political membership and belonging.<sup>79</sup> On one pole exists a distinct collection of citizens and on the other lies the discarded and 'wretched of the Earth'.<sup>80</sup> Those migrants existing in Libya who lack this political membership, arguably then, do not have rights. This is what the 1951 Refugee Convention seeks

---

<sup>71</sup> Rinelli, "African migrants and Europe."

<sup>72</sup> Ibid.

<sup>73</sup> Rahawa Haile, "Libya's Slave Trade Didn't Appear Out of Thin Air", *Social Justice Foundation*, 06 December, 2018, <https://psmag.com/social-justice/understanding-libyas-slave-trade>.

<sup>74</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>75</sup> Hannah Arendt, *The Origins of Totalitarianism* (Harcourt Brace Jovanovich, 1973), 299.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid; Rhoda Howard-Hassmann, 'Introduction: The Human Right to Citizenship', in *The Human Right to Citizenship: A Slippery Concept*, eds. Rhoda Howard-Hassmann and Margaret Roberts, (University of Pennsylvania Press, 2015), 1.

<sup>78</sup> Giorgio Agamben, *State of Exception* (University of Chicago Press, 2005).

<sup>79</sup> Hirsch and Bell, "The Right to Have Rights," 420.

<sup>80</sup> Rinelli, "African migrants and Europe."; "Wretched of the Earth" is a 1961 book by Franz Fanon in which he analyses the dehumanizing effects of colonisation upon the individual and nation.

to offer protection from.<sup>81</sup> States which have signed the Refugee Convention owe refugees under their jurisdiction particular rights which are guaranteed under international law.<sup>82</sup> The problem arises when Libya has not signed the Refugee Convention,<sup>83</sup> and thus are not bound to protect refugees in their jurisdiction. Refugees are often deprived of citizenship rights and with feeble implementation of international law, they are frequently incapable of acquiring their human rights including right to life, liberty and security of a person.<sup>84</sup> Further, not all migrants existing in Libya are refugees, and even fewer rights are afforded to these individuals.<sup>85</sup> Thus, the externalisation of migration policies with Libya has exploited an 'implementation gap' in international law in which no nation is explicitly responsible for the protection of migrants.<sup>86</sup> What exists then, are those who live 'smack in the fissure' without the dignity of protection for sake of being human.<sup>87</sup>

Without the 'right to have rights', the externalisation of migration within the context of the EU and Libya leads to undermining an individual's right to asylum. The EU's border externalisation prevents migrants from even falling under the jurisdiction of destination countries within Europe in an attempt to limit formal legal obligations, including the right to seek asylum.<sup>88</sup> This renders migrants legally inadmissible. Further, Libyan law criminalises irregular migration with penalties such as deportation or detention.<sup>89</sup> With an extremely weak rule of law in Libya, in addition to the absence of a legal framework for asylum, migrants who remain in Libya are therefore denied rights relating to asylum, in addition to other humanitarian protections.<sup>90</sup>

---

<sup>81</sup> *Convention Relating to the Status of Refugees*, open for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

<sup>82</sup> *Ibid.*

<sup>83</sup> Although Libya did sign the "Convention on Refugee Problems in Africa" by the Organisation of African Unity, which implicitly recognises the 1951 Convention; Kim Rygiel, "Governing mobility and rights to movement post 9/11: managing irregular and refugee migration through detention," *Review of Constitutional Studies* 16, no. 2 (2012): 211.

<sup>84</sup> Arendt, "The Origins of Totalitarianism," 276.

<sup>85</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>86</sup> Volker Türk and Rebecca Dowd, "Protection Gaps" in *The Oxford Handbook of Refugee and Forced Migration Studies*, eds. Elena Fiddian-Qasimiyeh, Gil Loescher, Katy Long, and Nando Sigona, (Oxford University Press, 2014), 282; Heaven Crawley and Brad Blitz "Common Agenda or Europe's Agenda? International Protection, Human Rights and Migration From the Horn of Africa." *Journal of Ethnic and Migration Studies* (2019) 45 no.12: 2258–2274. doi: <https://doi.org/10.1080/1369183X.2018.1468393>.

<sup>87</sup> Arendt, "The Origins of Totalitarianism."

<sup>88</sup> Flynn, "There and Back Again."

<sup>89</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>90</sup> Rinelli, "African migrants and Europe."

By the same token, the externalisation of migration by the EU also enables human rights abuses on a physical and mental scale. The criminalisation of irregular migration in Libya has resulted in mass and indefinite detention of migrants.<sup>91</sup> The Independent Fact Finding Mission (FFM) on Libya appointed by the Human Rights Council, in its reports submitted in November 2021 and March 2022, uncovered a pattern of human rights violations committed against migrants in Libya.<sup>92</sup> The FFM found that the Libyan Coast Guard intercepts migrants at sea, followed by arbitrary arrest and detention by the Department for Combating Illegal Migration. This is accompanied by a range of human rights abuses as part of systemic and widespread attacks against the migrant population. In 2019 it was estimated that up to 20,000 were being held in detention centres in Libya.<sup>93</sup> Various organisations that have been granted access to the EU-backed facilities have recorded the inhumane conditions in which men, women, and children are kept. They note that migrants are subject to torture, cruel and degrading treatment – including sexual violence – from those who are in charge.<sup>94</sup> Further, in addressing the accusations of modern slavery that have dominated popular media since 2017, it is evident that bonded labour is occurring.<sup>95</sup> Modern slavery covers a set of specific legal concepts including forced labour, debt bondage, forced marriage, other slavery and slavery-like practices, and human trafficking. Although not defined in law, it is used as an umbrella term that focuses attention on commonalities across these legal concepts. Essentially, it refers to ‘situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power.’<sup>96</sup> The lack of ability to apply for asylum and the continuous influx of migrants into Libya mean that these detention centres become overcrowded.<sup>97</sup> In October 2021, the Al Mabani detention centre in Libya, the largest in the country, was holding more than 5,000 people, four times over its official capacity.<sup>98</sup> This includes 100 children and 300 women. In an effort to

---

<sup>91</sup> Rinelli, “African migrants and Europe.”

<sup>92</sup> Report of the Independent Fact-Finding Mission on Libya, 1 October 2021, A/HRC/48/83, para. 61; Report of the Independent Fact-Finding Mission on Libya, 23 March 2022, A/HRC/49/4, para. 46.

<sup>93</sup> International Organization for Migration, “Missing Migrants database, Mediterranean region.”

<sup>94</sup> Amnesty International, “Libya’s Dark Web of Collusion.”; Amnesty International, *Scapegoats of fear: Rights of refugees, asylum-seekers and migrants abused in Libya*, (2013), <https://www.amnestyusa.org/wp-content/uploads/2017/04/mde190072013en.pdf>; Office of the United Nations High Commissioner for Human Rights, *Report on the Situation of Human Rights in Libya* (2017), [http://www.ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/34/42](http://www.ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/42); Heaven Crawley et al. *Unravelling Europe’s ‘Migration Crisis’: Journeys Over Land and Sea* 2018 (Policy Press); Report of the Independent Fact-Finding Mission on Libya, “A/HRC/49/4.”

<sup>95</sup> Amnesty International, “Libya’s Dark Web of Collusion.”

<sup>96</sup> International Labour Organisation and Walk Free “Global Estimates of Modern Slavery” 2021 [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_854733/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm).

<sup>97</sup> Amnesty International, “Libya’s Dark Web of Collusion.”

<sup>98</sup> UNICEF, “The safety and wellbeing of children at high risk in detention centres in Libya,” (2021), <https://www.unicef.org/press-releases/safety-and-wellbeing-children-high-risk-detention-centres-libya>.

reduce numbers, the local “*dallala*” (meaning intermediaries) would allegedly purchase migrants for approximately 30 Libyan dinars each, and would require them to work under bonded labour until they could reimburse the price they were purchased for.<sup>99</sup> Forced labour in difficult conditions such as in construction or agriculture is also evident: “*I was sold to an Arab man who forced me to work and told me to call my family so they would send money. He sold me to another Arab man who forced me to work for him too*”.<sup>100</sup> Given these points, it is clear that migrants in Libya are being subject to forms of modern slavery such as forced labour. These detention centres are facilitated by the financial aid given to Libya from the EU, through their migration externalisation processes.<sup>101</sup> The EU has established an Emergency Trust Fund for Africa, committing more than €455 million in projects in Libya since 2015, with 13% of funding going towards border management,<sup>102</sup> including the Libyan Coast Guard and Department for Combating Illegal Immigration. Thus, it is clear the externalisation of migration by the EU has the effect of enabling human rights abuses of migrants in Libya.

In addition, the EU arguably violate non-refoulement principles by enabling migrants on the Mediterranean and within international waters to be returned to Libya where they will undoubtedly experience forms of exploitation.<sup>103</sup> Non-refoulement is the practice of not forcibly returning or otherwise transferring any person to a country where they would be subject to persecution. This principle is absolute and entrenched in both international treaty law and customary international law.<sup>104</sup> As part of the EU externalisation of migration, Italy is arguably engaged in refoulement by actively undertaking procedures whose end result is to return migrants on the Mediterranean to Libya, in which they will face persecution.<sup>105</sup> The EU cannot claim to be ignorant of these human rights violations. Several resolutions of the European Parliament have highlighted the critical situation in Libya in recent years.<sup>106</sup> Further, not only is

---

<sup>99</sup> Ibid; Many Christian migrants noted this was the same price that Judas asked for to betray Jesus, Rinelli, “African migrants and Europe.”

<sup>100</sup> Izza Leghtas, “‘Hell on Earth’: Abuses Against Refugees and Migrants Trying to Reach Europe from Libya,” *Refugees International* (2017), <https://static1.squarespace.com/static/506c8ea1e4b01d9450dd53f5/t/592f37468419c2ac554b4c9f/1496266580341/2017.6.1+Libya.pdf>.

<sup>101</sup> Rinelli, “African migrants and Europe.”

<sup>102</sup> European Union, “EU Emergency Trust Fund for Africa North of Africa window June 2021 Update,” (2021), [https://ec.europa.eu/trustfundforafrica/sites/default/files/eutf\\_libya\\_en.pdf](https://ec.europa.eu/trustfundforafrica/sites/default/files/eutf_libya_en.pdf).

<sup>103</sup> Biondi, “The Case for Italy’s Complicity in Libya Push-Backs.”

<sup>104</sup> For example: Article 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Article 33(1) of the Convention Relating to the Status of Refugees.

<sup>105</sup> *Hirsi Jamaa and Others v Italy* (2012) Application No. 27765/09 Eur Court HR; The question of whether the EU is more broadly responsible for acts committed by Libya remains ambiguous.

<sup>106</sup> Amnesty International, “Libya’s Dark Web of Collusion,” 56; European Parliament, Resolution on the situation of migrants in Libya (2012/2879(RSP)), 22 November, 2012, [http://www.europarl.europa.eu/cmsdata/40865/att\\_20121128ATT56804-7744803661669500636.pdf](http://www.europarl.europa.eu/cmsdata/40865/att_20121128ATT56804-7744803661669500636.pdf).

the EU arguably violating non-refoulement principles by returning migrants to Libya, but a secondary refoulment also takes place in which Libya has engaged in mass deportations of migrants.<sup>107</sup> Between 2012 and 2014, it is estimated that 40,000 migrants (including asylum seekers) were deported to countries of origin, and this practice continues.<sup>108</sup> In October 2022, the Office of the United Nations High Commissioner for Human Rights released a report tabling that migrants who are forced to return to their countries of origin under the guise of "assisted returns" in Libya, often face severe human rights violations and abuses, which fall short of international human rights laws and standards.<sup>109</sup> The EU's externalisation policies ensure that migrants remain in Libya, and thus are vulnerable to refoulement by Libyan authorities.

## CONCLUSIONS

The European Union maintains an externalisation of migration policies with specific reference to Libya. This framework has partly arisen as a result of securitisation,<sup>110</sup> and a consensus between EU Member States.<sup>111</sup> What has resulted is the transformation of the European border through extra-territoriality, and hence silences migrant voices.<sup>112</sup> This has compounded in the undermining of an individual's right to asylum and the weakening of refugee protections. Externalisation of migration within the context of the EU and Libya leads to migrants becoming legally inadmissible without a state considering their claim for asylum,<sup>113</sup> and violates non-refoulement principles which results in exposure to human rights violations in Libya,<sup>114</sup> namely modern slavery.<sup>115</sup> The EU therefore, not only tolerates human rights abuses occurring in Libya as a result of their externalisation of migration policies, but proactively enables these abuses to occur.<sup>116</sup> Thus, migrants who attempt to reach Libya and then cross the Mediterranean into Europe risk being condensed to exceptional human beings who are subject to

---

<sup>107</sup> Altaï Consulting, "UNHCR and Impact, Mixed migration trends in Libya: Changing dynamics and protection challenges," (2017), <http://www.altaiconsulting.com/wp-content/uploads/2017/07/LIB-HCR-MAS-Final-Report.pdf>.

<sup>108</sup> Ibid.

<sup>109</sup> Office of the United Nations High Commissioner for Human Rights, "Nowhere but back: Assisted return, reintegration and the human rights protection of migrants in Libya," 22 October, 2022, <https://www.ohchr.org/sites/default/files/2022-12/Report-on-assisted-return-and-reintegration.pdf>.

<sup>110</sup> Hirsch and Bell, "The Right to Have Rights."

<sup>111</sup> Betkey, "A Lottery of Asylum."

<sup>112</sup> Rinelli, "African migrants and Europe."

<sup>113</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>114</sup> Rinelli, "African migrants and Europe."

<sup>115</sup> Amnesty International, "Libya's Dark Web of Collusion."

<sup>116</sup> Ibid.



human rights violations enabled by the EU, all because they fall within the gaps of the global system.<sup>117</sup>

---

<sup>117</sup> Rinelli, "African migrants and Europe." Arendt, "The Origins of Totalitarianism".

# Stuck In The Middle: The Case of Venezuelan Migrants

**Carolina Spiridigliozzi**

Universidad de Flores, Bueno Aires, Argentina

**Florencia Barbeito**

Universität Bielefeld, Stuttgart, Germany

## Abstract

The violation of human rights implies a failure of the state-inhabitant relationship and the international governance system from which these rights emerge. Although the link between human trafficking and migration is widely accepted, there is still a gap in the research on the correlation between the isolationist attitudes adopted by States and the increase in human trafficking and exploitation networks. Therefore, studying the situation of Venezuelan displaced people is essential to understand the challenges and the need for transnational perspectives to address the complexities of migration processes and thus prevent the rise of human exploitation networks.

**Keywords:** Venezuela - Forced Migration - Human Trafficking - Human Rights - Transnational Governance

The post-world war II era gave rise to the emergence of a global governance system<sup>1</sup> and with it the idea that all human beings have fundamental rights - human rights - which are indivisible, interdependent, and interrelated.<sup>2</sup> They are inherent to our condition as human beings, universal, and therefore must be protected and respected by all States. The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, was the first document that guaranteed these rights. After that, several United Nations-sponsored

---

<sup>1</sup> Deacon Bob, "The International and Global Dimensions of Social Policy", in *Global Social Policy and Governance* (London: Sage, 2007), 3-23.

<sup>2</sup> UN General Assembly, "Universal Declaration of Human Rights" (December 1948): 217 A (III).

international human rights treaties emerged,<sup>3</sup> which various governments ratified in the following years. The growing commitment, at least normative, from the States regarding human rights is quite notable considering that these types of instruments, unlike other international documents, are legally binding, and therefore limit the sovereignty of national governments.<sup>4</sup>

Despite the fact that the Universal Declaration of Human Rights abolished slavery, a study published in 2016 confirmed there are still an estimated of 40.3 million people under forms of modern slavery.<sup>5</sup> Albeit there is no normative consensus on its scope and content, the concept of modern slavery can include forced labor, sexual exploitation, and human trafficking, among others.

One of the fastest-growing forms of slavery is human trafficking. Unfortunately, due to its illegal nature and the mobility it entails, there are no reliable statistics on its extent. Its primary victims are people from developing countries affected by political or economic instability. These individuals are often reluctant to report their victimization or to cooperate with law enforcement, partly for fear of reprisals from their exploiters but also for fear of prosecution or imprisonment for breaking the law.<sup>6</sup> This context increases the difficulties in estimating the number of people under these forms of exploitation.

Migrants, especially those who fall under the category of "forced" migrants, are more likely to fall prey to human trafficking networks and be prone to torture and violence during the mobilization processes.<sup>7</sup> The demanding entry requirements, the lack of institutional protection, and the border mistreatment lead them to use irregular routes and associate with smugglers.

The absence or poor adoption of comprehensive approaches to the study of forced migration and human trafficking produces a re-victimization of migrants. As a result, migrants flee their homes due to massive violations of their rights to find themselves in similarly vulnerable situations in their host countries. For example, the criminalization of victims of human trafficking - given their irregular status - prevents them from reporting to local authorities for fear of prosecution. This is a consequence of States' failure both in adequately training their

---

<sup>3</sup> See for example, the Refugee Convention (1951) and its Protocol (1967), The International Covenant on Civil and Political Rights (1966), The International Covenant on Economic, Social and Cultural Rights (1966), The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987), the New York Declaration for Refugees and Migrants (2016), among others. At the regional level, American Declaration of the Rights and Duties of Man (1948), American Convention on Human Rights (1969), Inter-American Convention to Prevent and Punish Torture (1985), among others.

<sup>4</sup> For a detailed look on why governments commit to these kind of treaties and critics, see Finnemore and Sikkink 1998, Boli and Thomas 1999, Simmons 2009.

<sup>5</sup> Walk Free Foundation, "The Global Slavery Index 2018"

<sup>6</sup> Ngwe, Job E., and Elechi Oka O., Human Trafficking: *The modern day slavery of the 21st century*. African Journal of Criminology and Justice Studies, 2012.

<sup>7</sup> See for instance, United Nations Office on Drugs and Crime, "Global Report on Trafficking in Persons 2016", UNODC Website, accessed September 26, 2018, [https://www.unodc.org/documents/data-and-analysis/glotip/2016\\_Global\\_Report\\_on\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf)

security forces in distinguishing potential refugees and trafficking victims from regular migrants, as well as offering relevant information and legal assistance to vulnerable populations.

Studying the situation of Venezuelan displaced people becomes then essential to understand the challenge and the need to strengthen human rights protection mechanisms at regional and global levels and the impact that the lack of them has on modern forms of slavery. Venezuela's growing economic, social, and political crisis<sup>8</sup> has produced an unprecedented exodus in the region. According to the United Nations High Commissioner for Refugees (UNHCR), there are currently more than 7.13 million Venezuelan refugees and migrants worldwide, of which more than one million are asylum seekers and 211,000 refugees.<sup>9</sup> In addition, an estimated 174,000 Venezuelans are living in slavery, the highest number in the American region.<sup>10</sup>

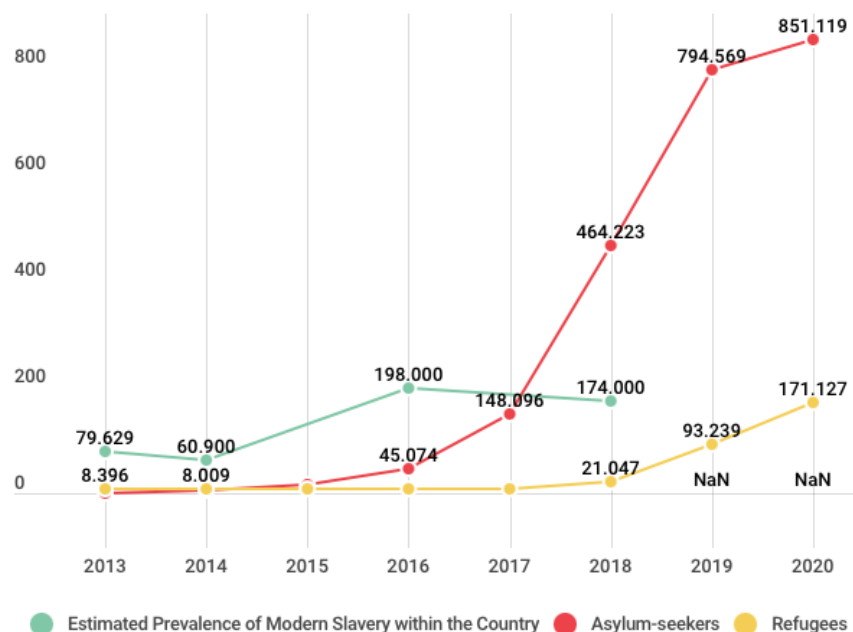


Figure I. Source: own elaboration based on UNCHR and The Global Slavery Index<sup>11</sup>

Understanding the context from which human trafficking networks emerge could help make prevention policies more robust and reduce the number of people in modern forms of

<sup>8</sup> For more information on the Venezuelan crisis please refer to the "Venezuela: an overview" section.

<sup>9</sup> UNHCR, "Venezuela situation", UNHCR Website, February 18, 2023, <https://www.unhcr.org/venezuela-emergency.html>

<sup>10</sup> Walk Free Foundation, "GSI 2018"

<sup>11</sup> UNHCR, "Refugee Data Finder", UNHCR website, June 20, 2021, <https://www.unhcr.org/refugee-statistics/download/?url=5nJVd1> and Walk Free Foundation, "GSI 2018"

slavery. In consequence, this research will first address contemporary forms of slavery and their relation to migration. It will then proceed to the analysis of the situation in Venezuela. Finally, it will address the Latin American regional attitudes towards this context and the outcomes of such attitudes.

This article argues that the inability of States to continue their cooperation efforts, combined with the diversification of the international arena, encourages the failure of the measures taken and, consequently, the growth of human exploitation networks. The research goes in line with those studies that propose methodological transnationalism<sup>12</sup> for the analysis of social problems. Placing human trafficking and forced migration within this broader context of world politics opens up a vast potential research agenda.<sup>13</sup>

The analysis was carried out through a qualitative content analysis approach using the Grounded Theory coding system as inspiration to process the collected data. First, official reports from the Organization of American States (OAS), the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labor Organization (ILO), and the Economic Commission for Latin America and the Caribbean (ECLAC) were compiled and analyzed. These are available on their respective web pages. Secondly, the analysis was complemented with the reports made by different NGOs and platforms,<sup>14</sup> and the study of journalistic articles that could provide more context to the research object. In addition, the International treaties in force in the region were examined concerning the abolition of new forms of slavery, human rights, and the rights of migrants as asylum seekers.

## **Modern Slavery and Migration**

The Slavery Convention understand slavery as “*the state or condition of an individual over which the attributes of property rights or some of them are exercised.*”<sup>15</sup> Although slavery was abolished in its traditional form, 1.9 out of every 1,000 people in the Americas still live under some form of modern slavery, with Venezuela, Haiti, the Dominican Republic, and Cuba having the highest rate in the region.

While there is a global understanding that modern forms of slavery exist, there is no consensus on the concept’s scope. The lack of clarity on the notion in international law has a negative impact on the different actors’ ability to make joint efforts. Usually, modern slavery is identified as human trafficking (across borders and within a country), forced labour, debt

---

<sup>12</sup> Alexandra Kaasch and Kerstin Martens, eds. *Actors and Agency in Global Social Governance* (Oxford: Oxford University Press, 2015)

<sup>13</sup> See for instance, Chimni 2000, Castles 2003, Dean 2007, Faist 2009, Betts 2013.

<sup>14</sup> Such as ENCOVI (Encuesta Nacional de Condiciones de Vida), Observatorio Venezolano de Migración, Walk Free Foundation, The Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V).

<sup>15</sup> UN -OHCHR, “Slavery Convention” (September 1926): art.1

bondage, forced or servile marriage, or the sale and exploitation of children. Essentially, it refers to a situation of exploitation from which a person cannot refuse or leave because of threats, violence, coercion, abuse of power, or deception.<sup>16</sup> According to international law, human trafficking involves “*the recruitment, transportation, transfer, reception or reception of people, resorting to the threat or use of force or other forms of coercion, abduction, fraud, to deception, abuse of power or a situation of vulnerability or the granting or receipt of payments or benefits to obtain the consent of a person who has authority over another, for the purpose of exploitation*”<sup>17</sup>.

Some scholars, and International Organizations (IOs) such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Office on Drugs and Crime (UNODC), argue that human trafficking is not a modern form of slavery but rather the cause/origin that gives access to them.<sup>18</sup> International reports from various United Nations (UN) agencies indeed confirm that the vast majority of trafficking victims end up in sexual exploitation or forced labor networks, as well as in debt bondage.<sup>19</sup> The impact of some migration processes on the increase of human trafficking and other forms of exploitation is recognized in several reports.<sup>20</sup>

Organizations such as the Human Rights Watch have documented cases of Venezuelans being deceptively recruited by criminal groups who offer them false job opportunities to exploit them later as drug traffickers. Women and girls are forced to engage in sex work during their journey from Venezuela to Colombia, while many others have been victims of sexual assault while crossing the border between these two countries. In addition, the Inter-American Commission on Human Rights (IACHR) has recorded that in several States, irregular migration is criminalized, and therefore, Venezuelans are detained in jails. According to various journalistic portals<sup>21 22</sup> since 2016, 75% of the victims of trafficking attended and registered by the Colombian authorities are of Venezuelan nationality, 83% being women.

---

<sup>16</sup> Walk Free Foundation, GSI 2018

<sup>17</sup> UN General Assembly, “The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children” (November 2000):art.3

<sup>18</sup> See for instance, UNODC, “Global Report 2016”, accessed September 26, 2018.

<sup>19</sup> Ngwe, Job E., and Elechi Oka O., Human Trafficking: *The modern day slavery of the 21st century*. African Journal of Criminology and Justice Studies, 2012.

<sup>20</sup> See for example The Walk Free Foundation index reports.

<sup>21</sup> Unidad de Investigación de Venezuela, “Aumentan casos de migrantes venezolanos víctimas de trata en Colombia”, *Insight Crime*, October 24, 2018, <https://es.insightcrime.org/noticias/noticias-del-dia/aumentan-casos-de-migrantes-venezolanos-victimas-de-trata-en-colombia/>

<sup>22</sup> Redacción Bogotá, “Venezolanos, los más afectados por trata de personas en Bogotá”, *El Espectador*, July 30, 2018, <https://www.elespectador.com/noticias/bogota/venezolanos-los-mas-afectados-por-trata-de-personas-en-bogota/>

Migrants and asylum seekers are particularly vulnerable to abuse and exploitation at different stages of their journeys, including at their destination. Restrictive immigration policies lead migrants to adopt risky methods to enter countries, especially those who fall into the category of forced migrants. As a result, they are forced to resort to smugglers to facilitate their entry as the only means of fleeing persecution, conflict, and violence. Often the smugglers do not comply and end up subjecting them to some form of exploitation.

Forced migrants, unlike "regular" migrants, flee their homes because the conditions of their existence are no longer guaranteed. In this context, these individuals feel that their living conditions are not "normal", their home is no longer safe ground and their life and integrity are threatened. Hence, they seek asylum in other territories. This process implies a break or at least a collapse in the nation-state-inhabitant relationship.<sup>23</sup>

The person who crosses a border and enters another State - which has assumed international obligations - in search of asylum produces a situation in which that State must act as a substitute guarantor of his or her rights. The problem that consequently arises is that the refugee regime only protects a small group of people, a necessary condition being that they are fleeing selective persecution. The regime does not contemplate special protection for those asylum seekers fleeing from significant deprivation of human rights. Therefore, the principle of *non-refoulement*<sup>24</sup> may not apply to this type of asylum seekers, and States could require them to exit the country.

Even in the destination country, migrants may fall into trafficking networks due to discrimination, restrictions on services, lack of employment, or limited access to humanitarian assistance. As a result, trafficking networks operate in such a way that they prey on refugees in places where they should be safe, such as camps, shelters, or other settlements.

The COVID-19 pandemic exacerbated the challenges. Border closures, the application of quarantines, and the suspension of asylum applications further rendered vulnerable populations invisible. Such policies have not only proven ineffective, as demonstrated by the extent of the spread of the virus, but have also encouraged the use of irregular transit routes, the need to seek work outside the formal sector, and the inability of vulnerable populations to seek help from State agents.

### *Survival Migration*

The causes, consequences, and political responses to the categories of forced migration are closely related to world politics. The concept of forced migration implies the unwillingness or incapacity of the country of origin to guarantee the protection of its citizens and, consequently,

---

<sup>23</sup> Haddad Emma, "The Refugee: The Individual between Sovereigns", *Cambridge: Cambridge University Press*, (2010) <https://www.tandfonline.com/doi/abs/10.1080/1360082032000104532>

<sup>24</sup> Principle that governs in the international arena by which States cannot return asylum seekers to countries where they could be persecuted.

the need for international protection.<sup>25</sup> However, it leaves open the possibility that there is not a lack of will on the part of the State of origin to guarantee fundamental rights, but rather a possible inability.

The existing literature on forced migration and refugees explains the conditions under which States contribute to the protection of refugees. The most general practice is the giving of asylum<sup>26</sup>, which refers to the obligation of States to protect asylum seekers who arrive on their territory. This practice is firmly institutionalized in the international arena and has a mandatory character. There is also another practice, not that institutionalized and typical of strong regional alliances such as the European Union, which is the distribution of burden. Burden sharing necessarily implies supranational negotiation, in which States contribute to the protection of refugees in the territories of other States. This cooperation is not mandatory, but it has nevertheless worked for the European alliance to deal with the thousands of asylum seekers who reach European shores through the Mediterranean since 2008.

The category of "refugee" only exists in a system of inter-state cooperation. The difficulty of reaching a consensus to expand its scope has several reasons, and different organizations have been debating this issue for quite some time. In that regard, James Hathaway<sup>27</sup> offers an interesting argument to defend the limitation of the meaning.

The author argues that States are becoming more reluctant to provide asylum and warns that any attempt to expand the category could risk the status quo and undermine the protection for all. Hathaway's argument is accurate: states are increasingly reluctant to take in refugees. The reasons for this increasing reluctance are mainly the necessary allocation of economic resources to foreigners instead of national citizens and societal resistance to immigration rooted in xenophobia. However, mentioning the States' reluctance does not imply disregarding a situation that exists and needs to be addressed in some manner at the international level.

The evidence shows that there are more and more groups of individuals in different parts of the world, such as the Venezuelan migrants of the last decade, who suffer such deprivations of human rights that it becomes a risk to their lives to remain in their country of nationality. Therefore, these individuals need to be recognized by the international arena as an existing group with their own specific rights.

Following this line of argument, Alexander Betts<sup>28</sup> introduces a new concept recognizing the reluctance to increase the scope of the current one and the necessity to fill the gap between the asylum seeker who falls into the category of refugee and the migrant who migrates for

---

<sup>25</sup> Emma Haddad, *The Refugee in International Society: Between Sovereigns* (Cambridge: Cambridge University Press, 2008)

<sup>26</sup> Guy Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (Oxford: Oxford University Press, 2007)

<sup>27</sup> James C Hathaway, "Is Refugee Status Really Elitist? An Answer to the Ethical Challenge", in *Europe and Refugees: A Challenge*, eds. Jean-Yves Carlier and Dirk Vanheule (The Hague: Kluwer Law International, 1997), 79-88.

<sup>28</sup> Alexander Betts, *Survival Migration. Failed Governance and the Crisis of Displacement* (Ithaca; London: Cornell University Press, 2013)



economic purposes. He defines this kind of migration as *survival migration* and describes it as "persons who are outside their country of origin due to an existential threat for which they do not have access to an internal remedy or resolution."

### Venezuela: An overview

Until the 1970s, Venezuela had a long-established tradition of being a host country for migrants in the region; it welcomed people from Southern Europe, Latin America, and the Caribbean. It was attractive for its job opportunities and economic prosperity due to the sharp increase in oil revenues. Nonetheless, after the collapse of oil prices in the 1980s and the steep recession that it unleashed, the situation changed. The rise to power of President Hugo Chávez (1999-2013) and the so-called Bolivarian Revolution heightened this variation of migration patterns.

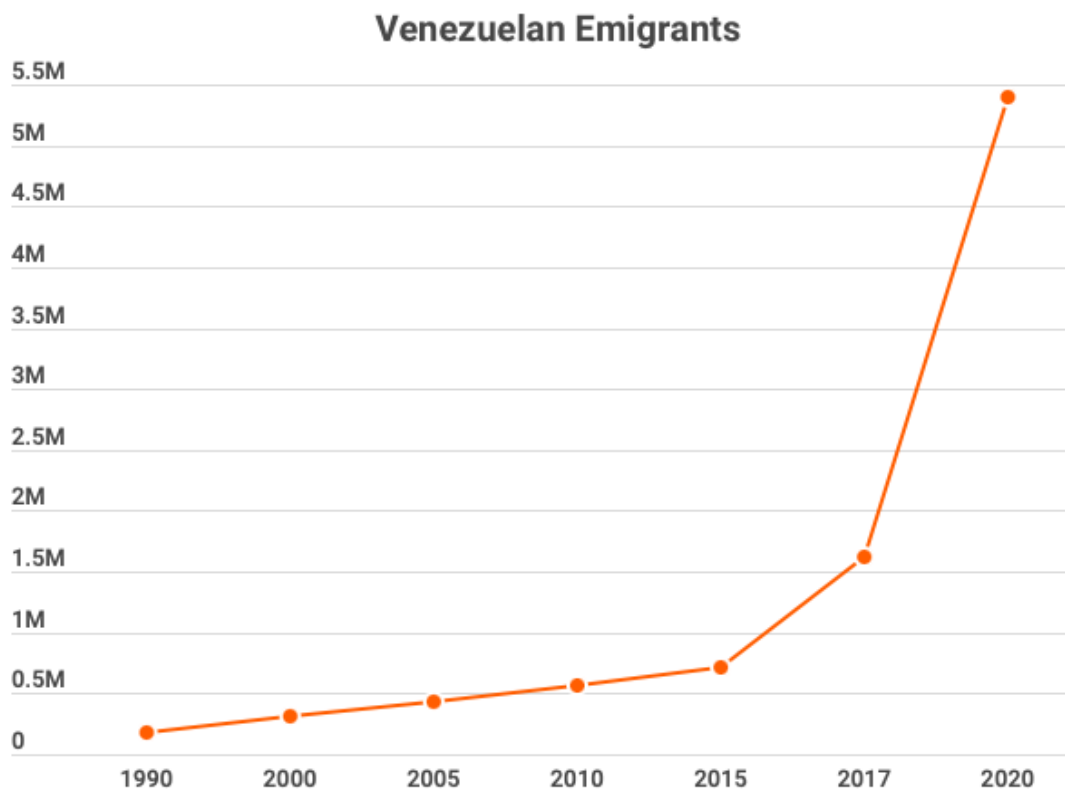


Figure II. Source: own elaboration based on statistics from Migration Data Portal and IOM<sup>29</sup>

<sup>29</sup>Migration Data Portal, "The bigger picture, Data Migration statistics by countries.. Venezuela (Bolivarian Republic of) 1990-2020", Migration Data Portal website, June 15, 2021, [https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock\\_abs\\_&t=1990](https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock_abs_&t=1990) and International Organization for Migration (IOM), "Tendencias Migratorias Nacionales en América del Sur - República Bolivariana de Venezuela". Informes Migratorios (February 2018)

Within the first stage of the Bolivarian Revolution (1998-2014), some Venezuelans started to emigrate due to ideological disparities with the project. These qualified and high-educated migrants belonged to the middle and upper classes. They had the financial resources to face relocation costs and housing at the beginning of their stay. They were well received by host countries such as the United States, Canada, Europe, and Australia. Although the number of government dissidents in this migration wave was large, Chávez's presidency was generally well accepted by the region and the state itself.

After Chávez's death in 2013, and the worsening of living conditions, the Venezuelan migration wave intensified. The decay of the socio-economic situation, the shortages of food and basic supplies, the interruption of public services such as water and energy, the increase in insecurity and violence, and the political persecution led to a second flow of emigrants. This exodus, which continues to this day, is characterized by precarious relocation conditions, new and longer migration routes, the use of various types of transportation, and a distinctive difference in socioeconomic characteristics from those of the previous wave. The composition of these migration flows is much more heterogeneous in terms of both economic resources and educational levels.

Since 2017, the economic, social, and political context of the Venezuelan state has significantly worsened. The perception of corruption grew<sup>30</sup>, the price of the basic food basket increased to the point that a family requires approximately nine minimum wages to buy it<sup>31</sup>, and access to essential services became more unstable.<sup>32</sup> Deaths of children in medical centers and hospitals have increased due to national blackouts and a lack of medicines to treat preventable diseases. A total of 1,557 deaths have been reported caused by shortages of medicines and supplies, and 79 deaths of patients due to power outages. This situation, added to the exodus of health professionals, represents a real threat to people's integrity.<sup>33</sup>

Various reports indicate that Venezuela suffers from a structural context of persecution of dissent, characterized by the militarization of public security and the excessive use of force to repress civil demonstrations and protests. For example, during the first six months of 2019, 10,477 protests were registered, in which at least 47 people died, all from gunshot wounds. The responsibility for most of the deaths was attributed to state security agents.<sup>34</sup> According to the

---

<sup>30</sup>Transparency International in its corruption perception index ranked Venezuela as 168 out of 180 countries Transparency International, "Corruption Perceptions Index 2019", (2020). [https://images.transparencycdn.org/images/2019\\_CPI\\_Report\\_EN\\_200331\\_141425.pdf](https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf)

<sup>31</sup> ENCOVI, "Encuesta Nacional De Condiciones De Vida", (2018) <https://www.proyectoencovi.com/encovi-2018-encuesta-nacional-de-condiciones-de-vida-copy>

<sup>32</sup> OAS - IACHR, "Chapter IV. B - Special Report: Venezuela", *2019 Annual Report*. <http://www.oas.org/en/iachr/docs/annual/2019/TOC.asp>

<sup>33</sup> ENH - Encuesta Nacional de Hospitales, "Balance Final 2019 - Parte I" (December 2019). [https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5\\_bb11695325ef4dde8026e9cd5409298d.pdf](https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5_bb11695325ef4dde8026e9cd5409298d.pdf)

<sup>34</sup> Venezuelan Observatory of Social Conflict, "Conflictividad social en Venezuela 2019", *Informe Anual*, (2020) <https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf>

NGO "Foro Penal", 8,899 people have been criminally investigated and prosecuted for political reasons and deprived of their freedoms without legal support or valid justification.

In addition, one of the main problems in the area of deprivation of liberty is the use of police detention centers -whose nature is transitory- as permanent housing spaces. As a result, several police cells have exceeded their capacity by 400%. Furthermore, the Venezuelan Prisons Observatory<sup>35</sup> indicates that more than 60% of the prison population depends on food and water provided by relatives or acquaintances.

One of the most critical areas of human rights violations is found in the prison system, which is characterized by the absence of a gender perspective. Women's facilities are annexed buildings to men's prisons, and as a result, women often suffer violence or sexual harassment perpetrated by guards and other inmates. This context can clearly be defined as a form of slavery since women are constantly subjected to the sexual use of their bodies without consent. According to the Office of the High Commissioner for Human Rights (OHCHR), "*There does not have to be any financial gain in sexual slavery; it is merely the imposition of absolute control or power of one person over another. It is the sexual exploitation of individuals through the use or threat of force*".<sup>36</sup>

Since 2002, the OAS, through the IACHR, has mentioned the need to attend to the Venezuelan human rights situation and included it on the list of countries with the most concerning human rights conditions in the Americas.<sup>37</sup> It has increasingly intensified its surveillance efforts in the country, achieving in 2019 the implementation of a specific follow-up Mechanism for Venezuela (MESEVE) to reinforce procedures and act more effectively.<sup>38</sup>

The Commission has repeatedly requested the Venezuelan government's consent to address the situation in situ and has not yet received a response. The solid political alliance between Venezuela and the Russian Federation is likely to influence the country's behavior in not responding to international pressures. Still, the government continues to belong to other transnational organizations, revealing an inability of the IOs to exert effective pressures that can recover or establish a situation of non-violation of human rights. This would also imply that it is necessary to problematize the situation from a transnational governance perspective.

### *Response to Venezuelan displacement*

In the last ten years, a sevenfold increase in Venezuelan emigrants has been observed. According to IOM, in 2019, there were 4,769,498 Venezuelan emigrants. It is followed in second

---

<sup>35</sup> Venezuelan Observatory of Prisons, "Informe 2019", (2019), <https://oveprisiones.com/informes/>

<sup>36</sup> OHCHR, "Abolishing Slavery and its Contemporary Forms. 2002" OCHCHR Publications, June 03, 2021, <https://www.ohchr.org/Documents/Publications/slaveryen.pdf>

<sup>37</sup> OAS - IACHR, "Chapter IV. B - Special Report: Venezuela"

<sup>38</sup> OAS - IACHR, "Establishes Special Follow-Up Mechanism for Venezuela (MESEVE)", *OAS Website*, October 21, 2019, [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/267.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/267.asp)

place by Colombia with 2,869,032 and Brazil with 1,745,339. These numbers give a pretty good overview of the social situation within Venezuelan territory.

Due to the increasing number of asylum seekers from Venezuela, the region's States established diverse mechanisms to receive and guarantee the rights of Venezuelan citizens. For example, the *Regional Response Plan for Refugees and Migrants from Venezuela* (RMRP), coordinated by UNHCR and IOM, was launched in 2019 to strengthen the work of national governments through the collaboration of multisectoral actors and international financing. Framed in the United Nations Global Compact,<sup>39</sup> it assesses the needs of host countries and helps articulate response strategies in areas such as direct emergency assistance, protection, socio-economic/cultural integration, and capacity building.

Since 2019, the region has also been receiving international financing to face the Venezuelan crisis. The Inter-American Development Bank (IDB) approved non-reimbursable resources for \$ 100 million to help countries that receive migrants.<sup>40</sup> In 2020, the international community pledged to contribute \$ 2.79 billion to assist host countries and mobilize resources to address the crisis exacerbated by COVID-19.<sup>41</sup> However, of the \$1.79 billion that RV4 estimates is needed, less than half has actually been funded. The same organization estimates that 1.46 million people are in need due to human trafficking or smuggling, but only 3,344 have received assistance thanks to this funding.<sup>42</sup>

Despite the efforts, a region without experience in receiving this amount of migrants and refugees, a tendency to constant economic crises, and a weak regional alliance, have caused thousands of Venezuelans not to reach regularity and basic security within the host countries. This context makes them especially vulnerable and susceptible to trafficking, labor and sexual exploitation, violence, and discrimination.<sup>43</sup>

### **Regional behavior: Setting up the problem from a transnational perspective**

The Cartagena Declaration on Refugees (1984) establishes a definition of Refugee that goes beyond the persecution and also considers as such people who “... *have fled their countries because their lives, security and freedom have been threatened by generalized violence, foreign*

---

<sup>39</sup> UN. *Global Compact for Safe, Orderly and Regular Migration and Global Compact on Refugees*, 2018

<sup>40</sup> IDB, “IDB approves grant funds for countries receiving migrants in Latin America and Caribbean”, IDB Website, June 12, 2021 <https://www.iadb.org/es/noticias/bid-aprueba-recursos-no-reembolsables-para-ayudar-los-paises-que-reciben-migrantes>

<sup>41</sup> UN- UNHCR, “International Conference of Donors for Venezuelan Refugees”, UNHCR Website, May 28, 2020, <https://eacnur.org/es/actualidad/noticias/emergencias/conferencia-donantes-refugiados-venezolanos>

<sup>42</sup> R4V, “Funding update - RMRP 2021”, R4V website, June 13, 2021, <https://www.r4v.info/es/financiamiento>

<sup>43</sup> UN - UNHRC, “Refugees and migrants from Venezuela top 4 million: UNHCR and IOM”, *UNHRC Website*, June 7, 2019, <https://www.unhcr.org/news/press/2019/6/5cfa2a4a4/refugees-migrants-venezuela-top-4-million-unhcr-iom.html>

*aggression, internal conflicts, the massive violation of human rights or other circumstances that have seriously disturbed public order ...*".<sup>44</sup> Although this Declaration was created within Central America, its wide acceptance in the continent is such that many countries in the region have included its understanding in their internal legislation.

Migrants from Venezuela easily fall into this category of refugees considering the crisis in the country. UN organizations such as UNHCR recommended that the region apply this understanding of the concept to this population. Yet, it is striking that these organizations do not use this broader meaning on a global scale.

Even with this regulatory framework, the region was not and is not prepared to face the most significant displacement in the history of Latin America and the challenges it entails. The main challenge for the region has been to respond to a situation that does not seem to have a solution in the short term while facing its own pre-existing crises and weaknesses. Along with the increase in the migratory flow, the resistance of public opinion and the emergence of discrimination and xenophobia towards Venezuelan migrants and refugees also grew. Consequently, many countries in the region modified their entry requirements and tightened the measures.

The countries with borders closest to Venezuela -Colombia, Ecuador, Brazil, Peru, and Chile- have naturally received the highest flow of migrants in the first instance, followed by Central America and the Caribbean, and last by the Southern Cone - Argentina, Uruguay, Paraguay, and Bolivia-. At first, they maintained an open-door policy stance, and the border countries, along with some others, implemented specific policies for Venezuelan refugees and migrants. However, despite their efforts to maintain this hospitality and open-door policy, the worsening of the Venezuelan crisis and the depletion of resources resulting from the overloading of institutional and financial capacities led to a change in attitude towards restrictive measures.

---

<sup>44</sup> Cartagena Declaration on Refugees, (Cartagena, Colombia: 1984): Conclusion III, Third.

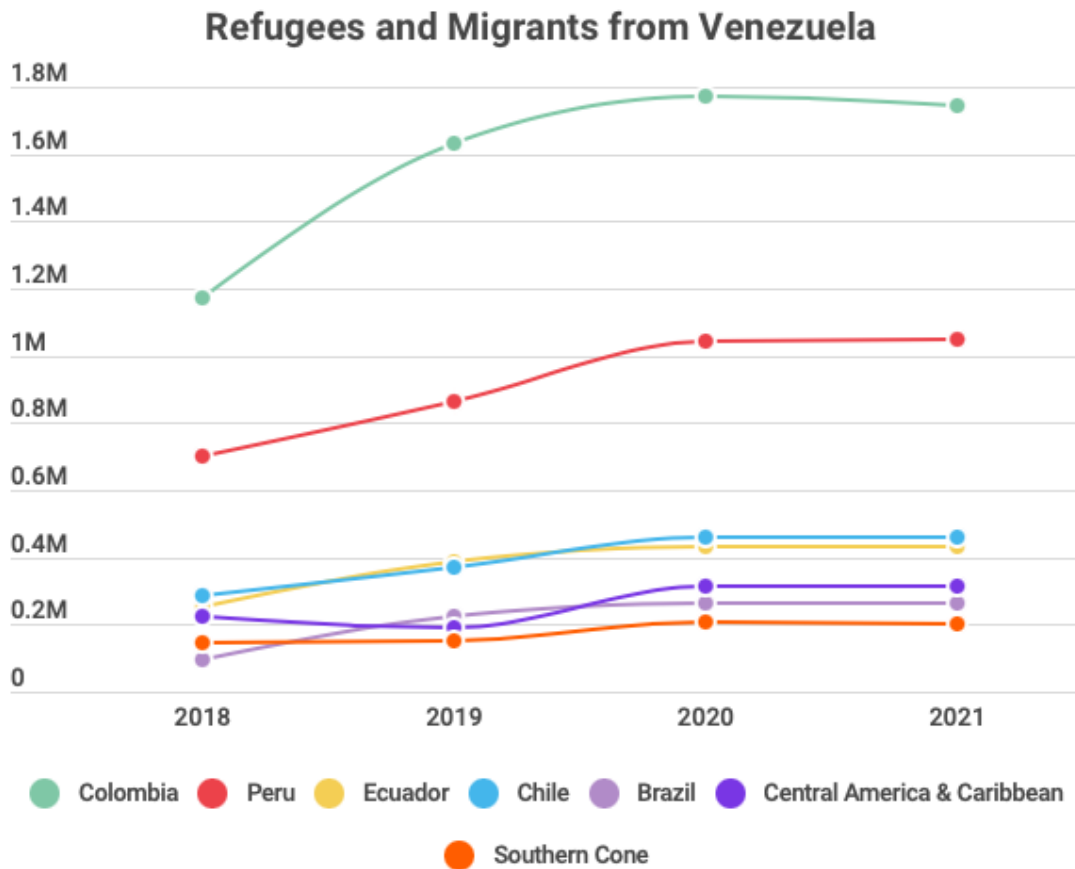


Figure III. Source: own elaboration based on statistics from R4V<sup>45</sup>

#### Government initiatives and measures

The major host countries developed special ad hoc entry and residence permits for Venezuelans. Unfortunately, the lack of agreements in supranational organizations to establish a single criterion for the processing of permits, the constant modifications of the requirements, and the inability to adapt them to the conditions of Venezuelans have aggravated the state of affairs.

<sup>45</sup>R4V, “Refugiados y migrantes de Venezuela”, R4V website, June 13, 2021, <https://www.r4v.info/es/refugiadosymigrantes>

Entrance permit	Colombia	Perú	Ecuador	Chile	Brazil	Central America & Caribbean	Southern Cone
Short stay	X	X	X	X	X	X	
Transit	X						
Permanence	X	X	X	X	X		X
<b>Requirements</b>							
passport/ valid passport	X	X	X	X		X	X
no criminal record	X	X	X	X			X
processing cost		X	X	X		X	X
covid test						X	X
others	regular income	humanitarian visa				financial solvency	•regular income •residence address

Figure IV. Source: Own elaboration

*Colombia*, the leading host country, was the first to adopt special permits to allow Venezuelans to access goods and services (TMF) and enter the territory to cross to another destination (PIP TT). Both *Peru* and Colombia have implemented temporary residence permits to regularize the situation of Venezuelans (although the last one only until 2018). However, these permits required a formal job offer endorsed by the employer, in the case of Colombia, and a valid passport and humanitarian visa<sup>46</sup> in the case of Peru.

In *Ecuador*, until the country withdrew from the block in 2019, Venezuelans could stay in the country for two years with the possibility of work and access to health through the UNASUR Residence Visa. In 2019, Executive Decree No. 826 recognized the Venezuelan population as beneficiaries of the migratory amnesty. However, it required them to have entered the country legally and to have a valid visa, disregarding the situation of the most vulnerable immigrants and forcing them to remain in an irregular situation. As of March 2020, this is no longer valid, and a tourist visa is now required for entry.

In *Chile*, since 2018, Venezuelans can apply for a temporary residency visa called Democratic Responsibility visa, which allows them to live in the country for one year with the possibility of an extension. Until 2019, they could also enter the country without a visa, for recreational purposes, and without the possibility of working. However, through the implementation of the consular tourist visa, the government began to require them a letter of

<sup>46</sup> It is the document that allows the entry of Venezuelan citizens to Peruvian territory and grants humanitarian migratory status, through which they are enabled to reside and work. It can be obtained at the Consulates General of Peru in Venezuela, Colombia and Ecuador by Venezuelan nationals. Also can be processed at the border. Ministry of Labor and Employment Promotion, Peru, "Information booklet for Venezuelan citizens", accessed December 13, 2020 [https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla\\_informativa\\_para\\_ciudadanos\\_venezolanos.pdf](https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla_informativa_para_ciudadanos_venezolanos.pdf)

invitation and proof of economic solvency to enter. Due to the border closure as a result of the pandemic, permit processing was temporarily suspended in 2021.

In regards to *Brazil*, Venezuelan citizens arrive mainly through the northern border state of Roraima, facing challenges that are not present in other countries, such as the language barrier and the difficulty of traveling through the Amazon rainforest. Decree 126/2017 allowed them temporary residence for two years, and since 2018 migrants entering through Roraima and Amazonas received specific assistance through the Welcome Operation (*Operação Acolhida*).<sup>47</sup> In the same year, Decree No. 9,285 recognized the vulnerable situation of Venezuelan migrants in Roraima, and Provisional Measure 820 created subcommittees to attend precisely to this migratory flow.<sup>48</sup> However, as the Operation involved the militarization of the borders, the Venezuelan government closed its frontiers with the country and Colombia in response. In 2019 Brazil negotiated the withdrawal of border troops and, although the pandemic hampered the normal development of the operation, internal relocation continued.

In *Central America and the Caribbean*, access to asylum continues to be limited in all countries, mainly due to a lack of capacity and shortcomings in the regulatory framework. Some countries have introduced restrictions such as visa requirements or the temporary closure of their borders with Venezuela, which has led to an increase in irregular entry and the associated risks. In the first half of 2019, at least 80 people lost their lives at sea trying to reach the Caribbean.<sup>49</sup>

In Costa Rica, Mexico, and Panama, delays in processing migratory regularization and asylum applications have increased. The Costa Rican president tightened immigration measures and signed a decree, not yet in force, with a particular category for Venezuelans, Cubans, and Nicaraguans. Under this category, they would be able to work for 2 years as long as they renounce their refugee application. Panama has established entry limitations, arguing that the visa requirement has been made to restore democratic order in Venezuela. Trinidad and Tobago also implemented, in 2019, the necessity to apply for a visa with a valid passport.

The countries from the *Southern Cone*, contrary to the regional trend, have adopted less restrictive measures. Despite Venezuela's suspension in that forum, Argentina and Uruguay have offered Mercosur visas to Venezuelans.<sup>50</sup> In general terms, the national laws of the Southern Cone provide universal and free access to public health and education services - with greater

---

<sup>47</sup> The operation was divided into three axes: border management, reception, and internalization through the relocation of migrants in other Brazilian States

<sup>48</sup> The Subcommittee for the Reception of Immigrants in a Vulnerable Situation of Venezuela, Federal Subcommittee on Health Actions for Immigrants and Federal Subcommittee on Reception, Identification and Evaluation. Ministry of justice and public security, Brazil. "Resolutions of the Federal Emergency Assistance Committee", accessed December 5, 2020. . <https://portaldeimigracao.mj.gov.br/pt/resolucoes-conare/resolucoes-do-comite-federal-de-assistencia-emergencial>

<sup>49</sup> R4V, "RMRP 2020", 131-144

<sup>50</sup> Andrew Selee, and Jessica Bolter, "Bienvenidas asimétricas. Respuestas de América Latina y el Caribe a la Migración venezolana y nicaragüense", *Migration Policy Institute* (Washington DC: 2020) <https://www.migrationpolicy.org/sites/default/files/publications/Venezuela-Nicaragua-Migration2020-ES-Final.pdf>



scope and coverage in Argentina and Uruguay - which presents significant advantages for the incoming migrants.<sup>51</sup> Unfortunately, some requirements constitute a barrier to the regularization and integration of Venezuelans, such as the need to have a stamp to enter, a residence address for visa processing, and the approval of both parents for children's residence permit in Uruguay.<sup>52</sup>

### Regional work

The region has been making its own multilateral efforts to address and strengthen the protection of refugees and displaced people in its territory. For example, in 2014, the Brazil Plan of Action introduced a joint roadmap to increase protection and promote sustainable solutions for refugees, displaced and stateless people. In 2017, Venezuela was suspended as a member of MERCOSUR since its members considered that the government breached the democratic order and its commitment to maintaining it. Days later, the decision was supported by the 12 American countries that joined the Lima Group, rejecting the violation of human rights and urging the country to restore democratic order.<sup>53</sup> Prior to this decision, several instances of discussion on the current state of democracy in the country were established. However, the Venezuelan government rejected these consultations.

As was previously stated in another section, international organizations had warned about the situation in Venezuela for at least seven years before MERCOSUR officially recognized the state of affairs in the country. This attitude reveals not only the existence of a problem within the borders of the State but also at the regional level. Nonetheless, specific efforts to regionally address the situation of Venezuelan mobility began with the Quito Process, which is defined as a regional consultative process on migration. To date, this Forum has had eight meetings in which commitments and actions were adopted in an articulated manner from a human rights perspective.

Since the creation of its constitutions, the region has been distinguished by the strong presidentialism of its governments, which has made it difficult to maintain regional integration mechanisms. Governments are prone to adopt individual decisions influenced by the political tendencies of the parties in power. For example, in 2018, seven of the twelve governments that were part of UNASUR suspended their participation.<sup>54</sup> Although the organization was never able to achieve what it set out to do, it is worth mentioning that President Chávez and left-wing executives were the ones who promoted its creation. This may have influenced the exiting decision since the outgoing governments belonged to center-right ideological parties.

---

<sup>51</sup> R4V, "RMRP 2020", 159-178

<sup>52</sup> Selee and Bolter, "Bienvenidas asimétricas"

<sup>53</sup> Ministry of Foreign Affairs, International Trade and Worship, Argentina, "Lima Declaration", accessed December 3, 2020 <https://cancilleria.gob.ar/en/news/releases/lima-declaration>

<sup>54</sup> Argentina, Brazil, Colombia, Chile, Paraguay and Peru. Ecuador joined in 2019 and Uruguay in 2020

This trend can also be seen in the measures adopted in response to the Venezuelan crisis. Based on a human rights perspective, the reception and welcoming actions of the first years have generally corresponded to left-wing governments. However, the increase in the number of displaced has coincided chiefly with right-wing governments in the region, which, concerned about security issues, adopted restrictive measures. Even when they have been the most vocal in condemning the Maduro regime, they have not undertaken significant cooperative actions to help the displaced.<sup>55</sup>

Although the region has made specific efforts to address the Venezuelan situation, the existing regional integration blocs (UNASUR, MERCOSUR, CAN, CELAC) have not taken the necessary or sufficient steps to reduce or modify the existing circumstances. Latin American countries prefer to discuss the Venezuelan mobilization through summits and forums of presidents instead of coordinating actions within existing regional organizations. Direct meetings between executives prevail, with hardly any participation of the legislative branch and typically with non-binding outcomes.<sup>56</sup>

These spaces are undoubtedly necessary, but the prominence of the Executive's will in the decision-making processes makes migration policy prone to ideology and political calculation. As a result, the legal security of migrants under international protection mechanisms is threatened.<sup>57</sup>

## **Final Remarks**

So far, this research has identified international and local actions to address the issue of Venezuelan migrants. These actions deserve to be recognized; however, further considerations need to be addressed.

Venezuelan migrants encounter significant obstacles in gaining access to official identification documents such as passports, identity cards, civil registration certificates, and criminal record certificates. This is a typical characteristic of asylum seekers fleeing their homes. Many do not have time to collect their belongings when fleeing or suffer robberies and losses on the transport routes. At the same time, they cannot trust their government to reissue these documents. In addition to the new restrictions, they face in entering other countries, they are exposed to criminal organizations.

The disparity found between international agreements and national policies reinforces human rights violations against Venezuelans, but now from the international community. The sudden and simultaneous changes that have taken place in several States in the region regarding

---

<sup>55</sup> Freier L, Castillo Jara S, “El Presidencialismo y la “Securitización” de la Política Migratoria en América Latina: Un Análisis de las Reacciones Políticas frente al desplazamiento de Ciudadanos Venezolanos” *Internacia, Revista de Relaciones Internacionales* Nro.1, 2020

<sup>56</sup> Freier, C.Jara, “Presidencialismo y securitización”

<sup>57</sup> Freier, C.Jara, “Presidencialismo y securitización”

passport or visa requirements to access their territories demonstrate a desire to select and curb the entry of immigrants. It seems necessary to establish and improve accountability mechanisms for countries that have committed to respecting and guaranteeing human rights.

## Conclusion

Massive flows of immigrants are the result of political and social changes that affect and emerge from the entire international arena. When large flows of asylum seekers arise, there is a tendency to question the national scenario. But, at the same time, the structure and mechanisms of the international community and the role played by international institutions are not sufficiently criticized. When human rights are not guaranteed, it is not only a failure of the state-inhabitant relationship, but also of the system of global governance.

Although several organizations, as well as regional mechanisms, have developed topical strategies to restore rights to Venezuelan migrants, the lack of compliance with the commitments adopted internationally deserves concern. The contradictions between the international agreements, the tightening of requirements, and the delay in the response of host countries are not only observed at the Latin American level. However, the inability to establish a robust panel discussion to address the subject and agree on a minimum and general standard of treatment for displaced Venezuelans demonstrates the weakness of the regional cooperation agencies.

This research has identified common negative patterns in the development of policies. The policies adopted are necessary, but they have blatantly ignored the most vulnerable populations. Specifically, those fleeing the country without time to process permits, without money, or without possession of their documents. Denying entry to these individuals does not stop mobilization but instead encourages irregular movement and transit routes and the development of criminal networks. Furthermore, denying the possibility of regularization to those who entered the country illegally forces individuals to live in constant clandestinity.

As described above, the Venezuelan crisis has not resulted from an abrupt change but rather the reproduction of a growing pattern of behavior over a considerable period. The lack of cooperation between different institutions around the world and the inability to raise public awareness suggests that the efforts and commitment of the international community have come too late. The incapacity of Latin American States to continue cooperative efforts has resulted in the failure of the measures adopted. Consequently, it has led many Venezuelans to fail to achieve regularity and basic security during their travels or within the host countries.

The COVID-19 pandemic caused a setback in all efforts to improve the living conditions of Venezuelans. In particular, border closures, access restrictions, and the criminalization of the transit of migrants have put public policies aimed at this population on hold. It is necessary to raise the discussion at a global level on whether a global pandemic is a sufficient reason to breach international human rights treaties and put on hold attempts to reduce and end modern forms of slavery and human trafficking. Under our understanding of the law, a pandemic does not exempt States from their obligations.

It is worth mentioning that much of the work done in the country and outside has been carried out by non-governmental organizations (NGOs). They have done great work measuring and investigating the number of individuals subjected to modern forms of slavery, following up on the victims of trafficking, and redressing the processes of re-victimization by States. The international community should recognize their work and provide them with logistical and financial support to continue with it.

## **Bibliography**

- Betts, Alexander. *Survival Migration. Failed Governance and the Crisis of Displacement*. Ithaca; London: Cornell University Press, 2013.
- Boli, John, and George M. Thomas, eds. 1999. *Constructing World Culture: International Non-governmental Organizations since 1975*. Stanford, Calif.: Stanford University Press.
- Cartagena Declaration on Refugees. Cartagena: Colombia, 1984
- Castles, Stephen. "The International Politics of Forced Migration." *Development*, 2003, 46(3), 11–20. doi:[10.1177/10116370030463003](https://doi.org/10.1177/10116370030463003)
- Chimni, B. S. "Globalization, Humanitarianism and the Erosion of Refugee Protection." *Journal of Refugee Studies*, 2000, 13(3), 243–263. doi:[10.1093/jrs/13.3.243](https://doi.org/10.1093/jrs/13.3.243)
- Deacon, Bob. "The International and Global Dimensions of Social Policy," in *Global Social Policy and Governance*, 3-23. London: Sage, 2007.
- Dean, Hartley. "Social Policy and Human Rights: Re-thinking the Engagement." *Social Policy & Society*, 2007, 7(1).
- ENCOVI. "Encuesta Nacional De Condiciones De Vida." (2018). <https://www.proyectoencovi.com/encovi-2018-encuesta-nacional-de-condiciones-de-vida-copy>
- ENH - Encuesta Nacional de Hospitales. "Balance Final 2019 - Parte I". (December 2019). [https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5\\_bb11695325ef4dde8026e9cd5409298d.pdf](https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5_bb11695325ef4dde8026e9cd5409298d.pdf)
- Faist, Thomas. "The Transnational Social Question: Social Rights and Citizenship in a Global Context." *International Sociology* 24, no. 1 (January 2009): 7–35. <https://doi.org/10.1177/0268580908099153>.

- Finnemore, Martha, and Sikkink, Kathryn “International Norm Dynamics and Political Change.” *International Organization*, 1998, 52(4): 887–918.
- Freier L, Castillo Jara S, “El Presidencialismo y la “Securitización” de la Política Migratoria en América Latina: Un Análisis de las Reacciones Políticas frente al desplazamiento de Ciudadanos Venezolanos” *Internacia, Revista de Relaciones Internacionales* Nro.1, 2020
- Goodwin-Gill, Guy, and Jane McAdam. “The Refugee in International Law.” Oxford: Oxford University Press, 2007.
- Haddad, Emma. “The Refugee: The Individual between Sovereigns.” *Cambridge: Cambridge University Press*, 2010. <https://www.tandfonline.com/doi/abs/10.1080/1360082032000104532>
- Hathaway, James C. “Is Refugee Status Really Elitist? An Answer to the Ethical Challenge.” In *Europe and Refugees: A Challenge*, edited by. Jean-Yves Carlier and Dirk Vanheule, 79-88. The Hague: Kluwer Law International, 1997.
- Inter-American Development Bank ( IDB). “IDB approves grant funds for countries receiving migrants in Latin America and Caribbean”. IDB Website, June 12, 2021 <https://www.iadb.org/es/noticias/bid-aprueba-recursos-no-reembolsables-para-ayudar-los-paises-que-reciben-migrantes>
- International Organization for Migration (IOM), “Tendencias Migratorias Nacionales en América del Sur - República Bolivariana de Venezuela”. *Informes Migratorios* (February 2018)
- International Organization for Migration (IOM). “Tendencias Migratorias en América del Sur”. *Informe Migratorio Sudamericano N°3 Año 2020* (March 2020).
- International Labour Organization (ILO), Walk Free Foundation, in partnership with International Organization for Migration (IOM), “Global Estimates of Modern Slavery: forced labour and forced marriage,” Geneva 2017
- Kaasch, Alexandra and Kerstin Martens, eds. . Oxford: Oxford University Press, 2015.
- Migration Data Portal. “The bigger picture, Data Migration statistics by countries. Venezuela (Bolivarian Republic of) 1990-2020”, Migration Data Portal Website, June 15, 2021, [https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock\\_abs\\_&t=1990](https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock_abs_&t=1990)

Ministry of Foreign Affairs, International Trade and Worship, Argentina. “Lima Declaration.” Accessed December 3, 2020 <https://cancilleria.gob.ar/en/news/releases/lima-declaration>

Ministry of Justice and Public Security, Brazil. “Resolutions of the Federal Emergency Assistance Committee.” Accessed December 5, 2020. <https://portaldeimigracao.mj.gov.br/pt/resolucoes-conare/resolucoes-do-comite-federal-de-assistencia-emergencial>

Ministry of Labor and Employment Promotion, Peru. “Information booklet for Venezuelan citizens.” Accessed December 13, 2020. [https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla\\_informativa\\_para\\_ciudadanos\\_venezolanos.pdf](https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla_informativa_para_ciudadanos_venezolanos.pdf)

Ngwe, Job E., and Elechi Oka O., “Human Trafficking: The modern day slavery of the 21st century”. *African Journal of Criminology and Justice Studies*, 2012.

OAS - IACHR. “Chapter IV. B - Special Report: Venezuela.” *2019 Annual Report*. (2019) <http://www.oas.org/en/iachr/docs/annual/2019/TOC.asp>

OAS - IACHR. “Establishes Special Follow-Up Mechanism for Venezuela (MESEVE).” *OAS Website*, October 21, 2019. [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/267.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/267.asp)

Price, Matthew E. “Rethinking Asylum: History, Purpose, and Limits,” *Cambridge: Cambridge University Press*, (2009). doi:10.1017/CBO9780511626845.

R4V - Response for Venezuelans. “Refugee and Migrant Response Plan (RMRP) 2020. January - December 2020” (January 2020). <https://data2.unhcr.org/es/documents/details/73277>

R4V - Response for Venezuelans. “Funding update - RMRP 2021”, R4V website, June 13, 2021, <https://www.r4v.info/es/financiamiento>

R4V, “Refugiados y migrantes de Venezuela”, R4V website, June 13, 2021, <https://www.r4v.info/es/refugiadosymigrantes>

Redacción Bogotá. “Venezolanos, los más afectados por trata de personas en Bogotá”, *El Espectador*, July 30, 2018. <https://www.elespectador.com/noticias/bogota/venezolanos-los-mas-afectados-por-trata-de-personas-en-bogota/>

Selee Andrew, and Bolter Jessica. "Bienvenidas asimétricas. Respuestas de América Latina y el Caribe a la Migración venezolana y nicaragüense", *Migration Policy Institute*. (Washington DC: 2020) <https://www.migrationpolicy.org/sites/default/files/publications/Venezuela-Nicaragua-Migration2020-ES-Final.pdf>

Simmons, Beth A. *Mobilizing for Human Rights: International Law in Domestic Politics*. Cambridge: Cambridge University Press, 2009. doi:10.1017/CBO9780511811340.

Transparency International. "Corruption Perceptions Index 2019", (2020). [https://images.transparencycdn.org/images/2019\\_CPI\\_Report\\_EN\\_200331\\_141425.pdf](https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf)

UN General Assembly. "Universal Declaration of Human Rights," (December 1948). [https://undocs.org/en/A/RES/217\(III\)](https://undocs.org/en/A/RES/217(III))

UN General Assembly. "International Covenant on Economic, Social, and Cultural Rights." (1966), *Treaty Series*, 999.

UN-General Assembly, "New York Declaration for Refugees and Migrants" (September 2016),

UN Website, June 17, 2021 [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_71\\_1.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_71_1.pdf)

UN General Assembly, "The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" (November 2000):art.3

UN - OHCHR. "Slavery Convention" (September 1926): art.1

UN - OHCHR, "Abolishing Slavery and its Contemporary Forms. 2002" OCHCHR Publications, June 03, 2021, <https://www.ohchr.org/Documents/Publications/slaveryen.pdf>

UN - UNHCR. "Refugees and migrants from Venezuela top 4 million: UNHCR and IOM".

UNHCR Website, June 7, 2019 <https://www.unhcr.org/news/press/2019/6/5cfa2a4a4/refugees-migrants-venezuela-top-4-million-unhcr-iom.html>

UN - UNHCR. "International Conference of Donors for Venezuelan Refugees". UNHCR Website, May 28, 2020 <https://eacnur.org/es/actualidad/noticias/emergencias/conferencia-donantes-refugiados-venezolanos>

UN - UNHCR. “Venezuela situation”. UNHCR Website, June 12, 2021, <https://www.unhcr.org/venezuela-emergency.html>

UN - UNODC. “Global Report on Trafficking in Persons” (2016). UNODC Website, June 17, 2021 [https://www.unodc.org/documents/data-and-analysis/glotip/2016\\_Global\\_Report\\_on\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf)

Unidad de Investigación de Venezuela. “Aumentan casos de migrantes venezolanos víctimas de trata en Colombia”. *Insight Crime*, October 24, 2018. <https://es.insightcrime.org/noticias/noticias-del-dia/aumentan-casos-de-migrantes-venezolanos-victimas-de-trata-en-colombia/>

Venezuelan Observatory of Prisons. “Informe 2019”. (2019). <https://oveprisiones.com/informes/>

Venezuelan Observatory of Social Conflict. “Conflictividad social en Venezuela 2019.” *Informe Anual*, (2020). <https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf>

Walk Free Foundation. “The Global Slavery Index 2018”



# Forced into Slavery: Eritreans Caught Between Refugee and Migration Policies

**Lucy Hovil**

Refugee Law Initiative, University of London

**Sasha Jespersen**

Centre for the Study of Modern Slavery, St. Mary's University

## Abstract

The protection offered to refugees, while intended to be above politics, is influenced by politics in the state of origin, host states and donor countries. Accordingly, refugees must negotiate with the rules and policies of each state to ensure their own safety and work within or circumnavigate the many constraints they encounter. Using the case study of Eritreans moving into Ethiopia or Sudan who then seek onward movement because they do not feel secure, this article considers the dangers of policies framed by the concept of ‘mixed migration’ and highlights the risk of refugees being pushed into modern slavery by the inadequacy of approaches ostensibly designed for their protection.

**Keywords:** forced migration, modern slavery, Eritrea, irregular migration, mixed migration

Refugee protection policies are designed to operate above politics, ensuring vulnerable persons fleeing violence and persecution can seek refuge. In practice, they are heavily influenced by politics – the politics of the state of origin, of host states and of donor countries. As a result, refugees often have to work within or circumnavigate these constraints to ensure their own safety. Where this pushes them into contravening rules and laws, they are labelled ‘irregular migrants’ and become vulnerable to exploitation and modern slavery. This is the situation facing many Eritrean refugees who flee to Ethiopia and then move further afield. While the vulnerabilities they face are not exclusive to Eritreans, this article uses the case study of Eritrean movement through Ethiopia and Sudan. It considers how the contradictions, bifurcation and gaps between refugee and migration policies creates an environment in which they become

particularly vulnerable to modern slavery. It argues that the term ‘mixed migration’,<sup>1</sup> which is often used to frame policy responses for those who fall between (or encompass) the two categories, fails to protect both refugees and non-refugee migrants from exploitation. While ‘mixed migration’ might be useful short-hand to describe migrant flows, routes or individuals who do not fit easily into a recognised category of migration, the term has led to something of a policy fudge designed primarily for the benefit of governments that want to prevent so-called ‘mixed migrants’ from reaching their shores rather than for the protection of the migrants. In this context, modern slavery becomes a symptom of a failed policy architecture.

Modern slavery has grown as an area of academic investigation. When linked to movement, the focus is often on agency or the specific vulnerabilities that result in exploitation amounting to modern slavery. For example, O’Connell Davison draws on research on debt-financed migration where migrants weigh up the risks and potential benefits, highlighting how those considered trafficking victims ‘invariably want to move, and generally have excellent reasons for wishing to do so’.<sup>2</sup> The focus in this article is on human trafficking/people smuggling that may be exploitative, rather than the exploitation or slavery itself. While the term modern slavery has been heavily criticised,<sup>3</sup> it does usefully centre the focus on the exploitation and the factors that make an individual vulnerable to exploitation. This increased attention is reflected in the fact that the International Organisation for Migration (IOM) has published two studies on vulnerability to modern slavery.<sup>4</sup> While it is positive that these studies focus on the exploitation of slavery, neither engages with the influence of macro-level policies under the rubric of ‘mixed migration’ that contribute to these vulnerabilities. However, there is a growing critique of the impact of policies on migrants.<sup>5</sup> For instance, Perkowski and Squire critique the EU’s approach to migration across the Mediterranean, highlighting how it has emphasised the criminal networks that facilitate smuggling rather than the criminal regimes that force people to flee.<sup>6</sup> While they do identify that this approach seeks to shift the business model from being low risk, high return to high risk, low return, which necessarily increases the prevalence of exploitation as smugglers seek to maintain profits, they do not explore this aspect in detail. Between policy-making and exploitation of migrants, therefore, is a middle ground that remains largely unexplored in the literature. It is this middle ground that this article focuses on by connecting the cause of exploitation to migration policymaking. The urgency of this analysis has only been heightened by the impact of the Covid-19 pandemic: even governments promoting themselves as global leaders in the response to modern slavery

---

<sup>1</sup> See, for examples, N. Van Hear, (2011) “Mixed Migration: Policy Challenges.” Mixed Migration Observatory, March, <https://migrationobservatory.ox.ac.uk/resources/primers/mixed-migration-policy-challenges/>. The term is explored in greater depth below.

<sup>2</sup> J. O’Connell Davison (2017). “The Right to Locomotion? Trafficking, Slavery and the State.”

<sup>3</sup> See for example J. Mende (2019). ‘The Concept of Modern Slavery’.

<sup>4</sup> IOM (2019). Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour.; P. Hynes et al. (2019). ‘Between Two Fires’.

<sup>5</sup> See for example, V. Squire (2020). Europe’s Migration Crisis.

<sup>6</sup> N. Perkowski and V. Squire (2018). The Anti-Policy of European Anti-Smuggling.

have ignored the effects that demands for protective equipment and other supplies have had on supply chains.<sup>7</sup>

The article draws on the authors' experience of doing policy-related work on refugee and migration policy and modern slavery, including field research with Eritreans living in or moving through Ethiopia, Sudan and Europe in 2017; visits by the authors to safehouses and refugee camps in Gedaref and Kassala, Sudan in 2017, and Shire, Ethiopia in 2018 and 2019; and a number of interviews with donor, UN and government officials working on migration in Ethiopia and Sudan. While these datasets inform the analysis, the primary focus of this article is on the role of policymaking in creating vulnerabilities.

The article begins by outlining the case study of Eritrean refugees moving from Eritrea, through Ethiopia and Sudan, and considers the choices, options and implications of how they operate both within and outside of policy structures ostensibly designed for their protection. It then outlines a typology of exploitation for those who move outside of the protection provided by refugee policies, which exposes the inadequacy of policies designed to respond to irregular migration. The article then unpacks the way in which the term 'mixed migration' has been applied by policy makers to Eritreans and others caught up in similar situations as a way of explaining and responding to the complex mobility dynamics in many parts of the world – and yet, as is evident from the typology of harms, this approach fails to protect.

### **Forced Migration of Eritreans**

Against the backdrop of Europe's 'refugee crisis' and the mass displacement out of Eritrea since the early 2000s, a number of studies have been conducted on Eritrean refugees and diaspora communities.<sup>8</sup> There has been significant focus on ascertaining whether or not those who leave Eritrea are refugees as determined by international refugee law.<sup>9</sup> This research considers that a significant proportion of fleeing Eritreans are, indeed, refugees.<sup>10</sup> There is also a

---

<sup>7</sup> See for example, A. Trautrim (2020). Survival at the expense of the weakest?

<sup>8</sup> See, for instance, Gaim Kibreab, "Forced Migration in the Great Lakes and Horn of Africa Regions." In Fiddian-Quasmiyeh, E., Loescher, G., Long, K. and Sigona, N. (ed.) *The Oxford Handbook of Refugee and Forced Migration Studies* Oxford Oxford University Press.

<sup>9</sup> See, for instance, Andreas Holm Røsborg and Kjetil Tronvoll. "Migrants or Refugees? The internal and external drivers of migration from Eritrea." ILPI, February 2017; Mogos O. Brhane., "Understanding why Eritreans go to Europe." *Forced Migration Review*, January 2016, 34-35.

<sup>10</sup> Amnesty International, "Just Deserters: Why Indefinite National Service in Eritrea Has Created a Generation of Refugees." December 2015; Andreas Holm Røsborg and Kjetil Tronvoll. "Migrants or Refugees? The internal and external drivers of migration from Eritrea." ILPI, February 2017. [www.udi.no/globalassets/global/forskning-fou\\_i/asylmottak/migrants-or-refugees-internal-and-external-drivers-of-migration-from-eritrea.pdf](http://www.udi.no/globalassets/global/forskning-fou_i/asylmottak/migrants-or-refugees-internal-and-external-drivers-of-migration-from-eritrea.pdf) Accessed 17 August 2017; (ILPI 2017) Clare Cummings, Julia Pacitto, Diletta Lauro, and Marta Foresti, "Why people move: understanding the drivers and trends of migration to Europe." Overseas Development Institute, December 2015. [www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/10157.pdf](http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/10157.pdf) Accessed 18 August 2017; Mogos O. Brhane., "Understanding why Eritreans go to Europe." *Forced Migration Review*, January 2016, 34-35.

significant body of research that explores the routes that migrants take and the general patterns of irregular migration in the region, as well as on the networks of human smuggling and trafficking that operate within it and their common methods of operation and structures.<sup>11</sup> Several studies have also focused specifically on human rights violations against migrants during their journeys from and within the region.<sup>12</sup>

Eritreans leaving their country are escaping forced conscription into the Eritrean military, which amounts to indefinite forced labour. Introduced by President Isaias Afewerki in 1995, conscription is supposed to last 18 months but is often extended indefinitely, leaving recruits vulnerable to human rights abuses, barred from formal employment, under-qualified and poorly paid.<sup>13</sup> Amnesty International has defined conscription as ‘forced labour on a national scale’,<sup>14</sup> and although Isaias announced in 2018 that new recruits would be released after their 18 month term, this has not yet come to fruition.<sup>15</sup>

In 2017, many Eritreans were fleeing directly into Sudan, but numbers declined once a state of emergency was introduced in Sudan’s eastern Kassala state, accompanied by a deployment of the Rapid Support Forces (RSF), a Sudanese state militia implicated in human rights violations against migrants and refugees. Instead, many Eritreans crossed into Ethiopia. By the end of 2018, 30% of Eritrea’s population of 6 million were estimated to be living outside of the country.<sup>16</sup>

While Ethiopia has consistently hosted large numbers of Eritrean refugees for years, the rapprochement between Ethiopia and Eritrea resulted in an increase in flows following the temporary reopening of the border between the two countries from September 2018. As of November 2020, Ethiopia hosted 96,223 Eritrean refugees in four camps in Tigray province, with

---

<sup>11</sup> Rachel Humphris (2013) "Refugees and the Rashaida: human smuggling and trafficking from Eritrea to Sudan and Egypt." UNHCR, New Issues in Refugee Research, Research Paper No. 254; Sasha Jespersen, Rune Henriksen, Anne-Marie Barry and Michael Jones (2019). Human Trafficking: An Organised Crime? Hurst; Regional Mixed Migration Secretariat, "Going West: Contemporary mixed migration trends from the Horn of Africa to Libya & Europe." June 2014; Sahar Foundation and IGAD Security Sector Program (ISSP), "Human Trafficking and Smuggling on the Horn of Africa-Central Mediterranean Route." February 2016; Tinti and Reitano (2017) Migrant, Refugee, Smuggler, Saviour. Hurst.

<sup>12</sup> Mirjam van Reisen, Meron Estefanos, and Conny Rijken (2012) Human Trafficking in the Sinai: Refugees between Life and Death, Tilburg University/Europe External Policy Advisors; Physicians for Human Rights (2010) 'Hostages, Torture, and Rape in the Desert: Findings from 284 Asylum Seekers about Atrocities in the Sinai', PHR.

<sup>13</sup> The Economist (2014) 'Miserable and Useless: National Service in Eritrea'.

<sup>14</sup> Amnesty International (2015) 'Eritrea: Refugees Fleeing Indefinite Conscription Must be Given Safe-Haven' <https://www.amnesty.org/en/latest/news/2015/12/eritrea-refugees-fleeing-indefinite-conscription-must-be-given-safe-haven/>

<sup>15</sup> Amnesty International (2015) 'Eritrea: Refugees Fleeing Indefinite Conscription Must be Given Safe-Haven' <https://www.amnesty.org/en/latest/news/2015/12/eritrea-refugees-fleeing-indefinite-conscription-must-be-given-safe-haven/>

<sup>16</sup> Hans Lucht and Tekalign Ayalew Mengiste (2020) 'Eritrean Refugees Struggle after the Peace Agreement with Ethiopia', <https://www.diis.dk/en/research/eritrean-refugees-struggle-after-the-peace-agreement-with-ethiopia>

thousands more living in urban areas and outside of camps, the total number registered was 181,393.<sup>17</sup> Since then, the conflict in the Tigray region has further eroded safety for refugees, and dramatically reduced the presence of humanitarian activity in Tigray.

### **First country of safety or an increasingly hostile environment?**

Ethiopia has long been a hub for migration. The country not only hosts hundreds of thousands of refugees, but it is also at the epicentre of multiple other forms of migration. It has a significant population of internally displaced persons (IDPs); it continues to generate refugees, albeit in considerably smaller numbers than two decades ago; it is a transit country for non-refugee migrants moving across the region; and it has witnessed considerable rural-urban migration within the country. As broadly understood, therefore, migration is a defining feature of the country.

For Eritreans fleeing forced conscription, on paper Ethiopia – particularly prior to the recent outbreak of conflict in Tigray – appeared to be a strong candidate as a first country of safety. Historically, Ethiopia has prided itself in granting *prima facie*<sup>18</sup> refugee status to asylum seekers arriving from Eritrea, along with those from South Sudan and Somalia, a policy that should make it a safe country for Eritreans. Yet in practice there are many factors that influence whether refugees feel safe and protected by this policy environment, and many seek onward movement, with some reports indicating that as many as 80% of Eritreans living in Ethiopian camps have sought to move on.<sup>19</sup>

A key reason for Eritreans seeking onward movement has been a lack of security in Ethiopia. For Eritreans, the legacy of the Eritrean-Ethiopian border war has meant that Eritreans have never felt safe in Ethiopia, particularly in Tigray province, given that the Tigrayan People's Liberation Front (TPLF) was the leading protagonist in the conflict. The legacy of war, therefore, has created an unease that has only been heightened by the rapprochement between Abiy and Isaias. The recent fighting in Tigray is case in point: it highlights the vulnerability for those living in refugee camps situated in a border region that has a significant history of conflict. The decision to move on is also driven by the impact of national level refugee policies, which have not been conducive to Eritreans finding safety and livelihoods in Ethiopia. While Ethiopia has presented itself as a safe haven for refugees, the reform agenda put forward by Prime Minister Abiy Ahmed, who came to power in 2018, has in practice created something of a hostile environment for migrants, particularly Eritrean refugees. While recently Ethiopia has, in theory, moved beyond encampment policies, in practice legal provisions related to the right to work and

---

<sup>17</sup> <https://data2.unhcr.org/en/country/eth>

<sup>18</sup> The recognition of refugee status on the basis of readily apparent, objective circumstances in the country of origin. A *prima facie* approach acknowledges that those fleeing these circumstances are at risk of harm that brings them within the applicable refugee definition.

<sup>19</sup> Hans Lucht and Tekalign Ayalew Mengiste (2020) 'Eritrean Refugees Struggle after the Peace Agreement with Ethiopia', <https://www.diis.dk/en/research/eritrean-refugees-struggle-after-the-peace-agreement-with-ethiopia>

live out of camps have created additional challenges such as difficulties in getting business licences and resentment from host communities.<sup>20</sup>

In particular, refugee policy approaches have not been conducive to finding long-term solutions for Eritrean refugees. Along with many other countries in the region, Ethiopia has responded to the presence of significant numbers of refugees within its territory primarily as an emergency rather than as a long-term challenge. It has led to national policies that have emphasised limitations on movement for refugees as governments have favoured repatriation (an ending of their own responsibility) over local integration as governments face many other competing priorities from their own population. With limited – and mainly short-term and erratic – international support, national governments such as Ethiopia have had little incentive to offer refugees citizenship, and instead have favoured encampment policies.<sup>21</sup> Camps have effectively been used as semi-permanent holding places until such time as refugees can return to where they came from – which, of course, remains unviable for Eritreans fleeing a repressive state that is unlikely to change any time soon.

Recent developments at a national level have only made remaining in Ethiopia less viable. Abiy's refugee policy reform agenda, which was initially viewed as an opportunity to implement the pledges set out in the Comprehensive Refugee Response Framework (CRRF), has been something of an illusion. For instance, as part of the CRRF, donors funded the creation of much-touted industrial parks designed to create jobs for refugees and host communities. Thirty percent of the 100,000 jobs created by the industrial parks were planned to be reserved for refugees. While good on paper, in practice the industrial parks were located far from the camps, meaning that refugees would have to relocate for work which few had the means to do; salaries were inadequate to cover living expenses, averaging between 660-1000 birr per month (USD17-26); and most parks only provided jobs for unskilled women with few jobs available for men. To give an indicator of how unworkable the situation would be, an estimate of living expenses within a camp suggests that housing, food, water and non-food items cost approximately 6000 birr per month per family.<sup>22</sup> Furthermore, relocating to where the parks are situated would mean unsettling *de facto* local integration structures that have been built up over years and that have often been a crucial mechanism for survival for displaced populations. Accordingly, the use of industrial parks to provide work for refugees was scaled back, and even Ethiopians who took jobs were forced to engage in other activities, including prostitution, in order to cover their living expenses.<sup>23</sup>

---

<sup>20</sup> Hans Lucht and Tekalign Ayalew Mengiste (2020) 'Eritrean Refugees Struggle after the Peace Agreement with Ethiopia', <https://www.diiis.dk/en/research/eritrean-refugees-struggle-after-the-peace-agreement-with-ethiopia>

<sup>21</sup> Even in the case of Tanzania where the government did offer citizenship to significant numbers of Burundian refugees, the promise of international assistance for local integration initiatives metamorphosed into a World Bank loan to the government, creating a significant breach in trust. For detail on this process, see Lucy Hovil, *Refugees, Conflict and the Search for Belonging*. Palgrave, 2016.

<sup>22</sup> Author interviews.

<sup>23</sup> Author interviews.

Then in early 2020, the Ethiopian government announced the closure of Hitsats camp, which hosts over 25,000 Eritreans. This camp had been the most popular of the camps in Tigray province because of its proximity to the Sudanese border, which made it easier for onward movement. The *prima facie* recognition of refugee status for Eritreans was also revoked, raising the possibility of refoulement. At the same time, Covid-19 restrictions limited options to move elsewhere. Air travel was particularly curtailed, with flights suspended on 20 March 2020. While land borders were also closed, these are easier to circumnavigate, particularly with the assistance of smugglers.

Then in October 2020, conflict broke out between the Ethiopian government through its national armed forces, and the provincial government in Tigray province, where most Eritreans are hosted. When Abiy postponed elections scheduled for August 2020 to 2021 because of Covid-19, Tigray Province went ahead with their own provincial election in early September. Declared illegal by the Ethiopian government, the Tigray Regional Assembly and Executive was abolished by Ethiopia's parliament and air strikes were launched targeting TPLF bases. Violence led to tens of thousands of Ethiopians crossing into Sudan. By mid-December 2020, nearly 50,000 had crossed the border, most to Hamdayet. At the same time, many Eritreans housed in the four refugee camps in Tigray Province were forced to flee once more with fighting taking place near the camps. Shimelba camp, which hosts 8,702 Eritrean refugees and has typically had lower rates of onward movement than the others, was particularly impacted by proximity to the conflict. In March 2021, when UNHCR's access to the camps was restored, both Shimelba and Hitsats camps had been destroyed, with supplies looted.<sup>24</sup> While some have relocated to the other camps in Tigray, many have likely left the region. Not surprisingly, instability has dramatically increased the desire for Eritreans to leave Ethiopia, with Sudan being the closest option, and the extent to which onward movement has been a characteristic of the recent conflict was only heightened by the confirmed involvement of Isaias and Eritrean forces, who have reportedly targeted the camps in Tigray.<sup>25</sup>

These factors have made Ethiopia increasingly unviable as a safe country of asylum for many Eritreans. While some have little choice but to remain within the Horn of Africa as they do not have the resources to move onward, others have decided to leave the region and try and reach Europe or other wealthier nations.<sup>26</sup> But in crossing another border, they effectively cross into a

---

<sup>24</sup> UNHCR (2021), 'UNHCR Reaches Destroyed Camps in Northern Tigray'. Available at: <https://www.unhcr.org/news/briefing/2021/3/605da0564/unhcr-reaches-destroyed-camps-northern-tigray.html>

<sup>25</sup> Nic Cheeseman and Yohannes Woldemariam (2021), 'Ethiopia's Perilous Propaganda War: Efforts to Control Information Are Only Hardening the Country's Divisions', Foreign Affairs, 8 April; Human Rights Watch (2021), Ethiopia: Eritrean Refugees Targeted in Tigray Need for Urgent Protection, Assistance; Thousands Still Missing, <https://www.hrw.org/news/2021/09/16/ethiopia-eritrean-refugees-targeted-tigray#:~:text=As%20of%20October%202020%2C%20Ethiopia,Harush%20camps%20in%20southern%20Tigray>.

<sup>26</sup> Lucy Hovil and Lutz Oette, "Tackling the root causes of human trafficking and smuggling from Eritrea: The need for an empirically grounded EU policy on mixed migration in the Horn of Africa." IRRI, SOAS and SIHA, November 2017.

different category of migrant, becoming defined as ‘irregular’ or even ‘illegal’ in policy terms which, inevitably, has consequences.

### **Crossing into Slavery**

The journeys undertaken by Eritreans who leave their country in search of safety takes place within this broader national and international policy context. Although their reason for leaving Eritrea is to seek asylum, in order to leave their country, Eritreans begin their journey by crossing closed borders, whether into Ethiopia or Sudan, often with the assistance of people smugglers. They are fleeing a government that has previously implemented a ‘shoot-to-kill’ policy for citizens trying to flee, even if it has been used with less frequency in recent years. Until early 2020, once in Ethiopia Eritreans were considered refugees, but this status is now uncertain. Similarly in Sudan, if Eritreans registered at one of the camps in Kassala or Gedaref state on arrival, they would be granted refugee status but then had no right to movement or work. Even if their intention was to travel to the camps, border officials have been known to arrest asylum seekers as ‘illegal migrants’.

The movement of Eritreans into and through Sudan is longstanding, and is marked by exploitation and violence, arising from a permissive environment for criminality and exploitation. Under former President Bashir regime, the legitimacy, efficacy and capacity of national institutions was constantly eroded by the fact that the armed forces, intelligence agencies and some elements of the government were given autonomy to pursue independent financial interests.<sup>27</sup> Accordingly, rule of law was undermined, removing any options for recourse – although their irregular status deterred most migrants from seeking assistance regardless. The result was an environment in which both authorities and communities sought to benefit from the movement of people.

Within this context, Eritrean refugees have to decide whether to remain in camps or seek onward movement. In a policy context of encampment, the decision to leave the camps effectively shifts refugees into a different policy ‘space’ that falls somewhere between refugee and migration policies. They are then labelled by both national and international policy categories as either irregular or illegal migrants, which effectively shifts them into the relatively less defined and established status of ‘mixed migrant’.

Rather than being protected by policy frameworks which, on paper, claim to offer a degree of national and international protection, in practice protection – or lack of it – is often derived from the resources a migrant is able to pay people smugglers (and traffickers) to facilitate their onward movement. Eritreans who can afford to pay smugglers a ‘full package’ upfront are able to buy a degree of protection. In practice, this means they have paid for the complete journey to their intended destination – for instance, the Libyan coast – travelling along the most efficient route. However, these resources can also be a liability: scouts have been

---

<sup>27</sup> Sasha Jespersen, Rune Henriksen, Anne-Marie Barry and Michael Jones (2019). *Human Trafficking: An Organised Crime?* Hurst



known to identify migrants with the ability to pay, placing them at heightened risk of kidnapping for ransom in both Sudan and Libya. In recent years, migrants have been held for months and extorted (and tortured) multiple times before they are released.

Eritreans who can cover a proportion of costs upfront but need to supplement this with work *en route* to finance each leg of their journey often become vulnerable to exploitative working conditions in agriculture, gold mines and associated services, or in urban areas as domestic workers or in sex work. Particularly in remote areas, migrants may be left in farms or mining areas until smugglers deem they have earned enough, or may be sold into debt bondage to mine owners.

Finally, those who cannot pay at all are often the most vulnerable to exploitation as they are left completely at the mercy of their smugglers, with an increased risk of debt bondage. Recent cases of migrants travelling on credit from the Eastern Chad near the Sudanese border to the goldfields in Northern Chad, near the Libyan border, suggest that they need to find 10 grams of gold to pay down their travel debt, but they will also need to cover food and accommodation costs to the mine owner for that period. Those miners who are unsuccessful in finding gold quickly, have been tortured and even killed.<sup>28</sup>

Regardless of the resources they have and the choices they make, Eritrean refugees are taking a gamble. As the diagram below demonstrates, even those who move to Sudan and present themselves to the authorities as asylum seekers are at risk of arrest when they cross into Sudan, and many have faced refoulement. And even if they are successful in reaching the refugee camps (which is where they have to register), they then face severe restrictions, unable to work or move freely in Sudan. Accordingly, many 'evade' refugee status, as it does not provide them with the protection they need, and smugglers are all too willing to step in where refugee protection fails, providing a service to facilitate onward movement. However, the lawless environments through which smuggling routes pass means that many journeys transition into situations of trafficking rather than smuggling. While there are efforts to create migrant resource centres and safehouses with support for victims of exploitation, these are limited and frequently avoided by migrants cognisant of their irregular or illegal status and fearing refoulement.

---

<sup>28</sup> RHIPTO (2020) XCEPT Policy Brief: Migration.

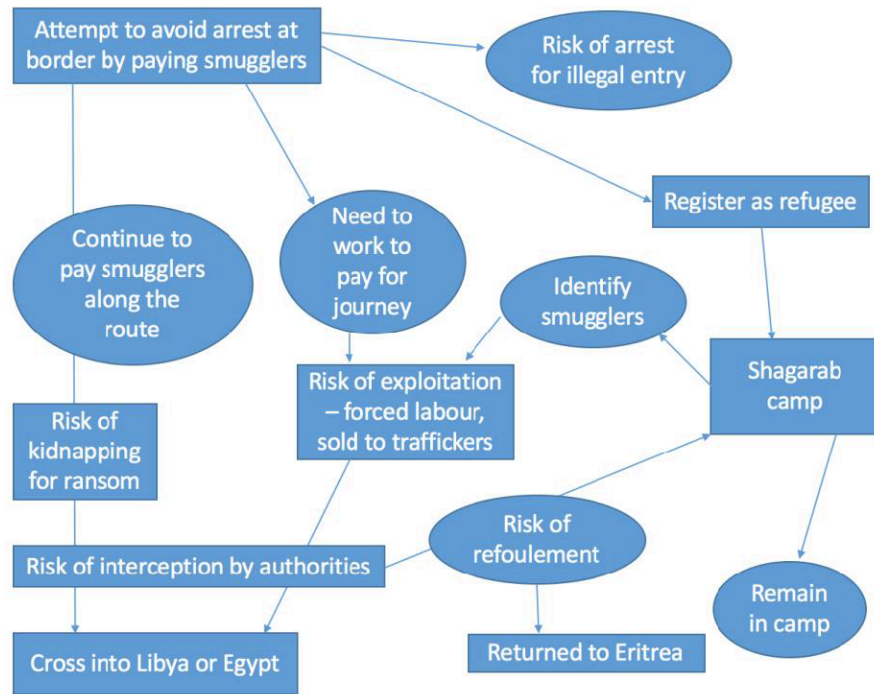


Figure 1: Challenges to Eritreans moving into and through Sudan<sup>29</sup>

Much of the exploitation that Eritreans face, therefore, is as a result of policies that have failed them. By rejecting the options available to them because they do not see them as offering solutions to their situation, and in seeking their own solutions instead, they are labelled ‘irregular’ and are subject to a policy environment that does not engage with the drivers of their movement, their needs while moving, or their aspirations to find a safe place to settle. In response to the inadequacy of policies that fail to capture or reflect this complexity in movement, other actors take advantage of vulnerabilities created as a result. These actors profit from the desire of refugees to keep moving in search of safety and livelihoods, which only further reinforces or justifies policies that target criminal facilitators.

<sup>29</sup> Figure 1 was developed during research for Sasha Jespersen, Rune Henriksen, Anne-Marie Barry and Michael Jones (2019). *Human Trafficking: An Organised Crime?* Hurst.

## **In between refugee and migration categories**

Those who effectively operate within the space between refugee and migrant policies – or who try to straddle the two – are often labelled as ‘mixed migrants’ in current policy discussions. Yet as evidenced by the harm faced by those who are often ascribed this label, it is clear that as a form of protection, approaches that rely on this concept are poorly conceived and poorly implemented.

One clear example of approaches framed by ‘mixed migration’ is a policy platform known as the ‘Khartoum Process’. In 2014, in recognition of the challenges of ‘mixed migration’, 37 states in Europe and Africa, along with the European Union (EU) and African Union (AU), formed a policy platform (the ‘Khartoum Process’), with a particular focus on tackling smuggling and trafficking. The platform’s aim was to strengthen cooperation and create a sustainable regional dialogue on mobility and migration. It was designed to be an “inter-continental consultation framework”,<sup>30</sup> to tackle “the challenges posed by the mixed migratory flows of irregular migrants, refugees and asylum seekers between countries of origin, transit and destination between the Horn of Africa and Europe.”<sup>31</sup>

In practice, however, the Khartoum Process represents a top-down, instrumentalist approach to ‘migration management’<sup>32</sup> that has placed significant emphasis on boosting border controls. While the influence of European policies on border control measures in Africa has been evident for decades (not least through the colonial enterprise that created many of the borders in the first place), this approach effectively outsources border controls and targets the criminal actors that facilitate people smuggling. As a result, and while the route from the Horn of Africa through Sudan and exploitation along it is not new and pre-dates this policy construction, research has demonstrated that levels of violence have been exacerbated by the Khartoum Process.<sup>33</sup> For instance, although the mechanism was not directly intended to fund the Rapid Support Force in Sudan, Commander Mohamed Hamdan Dagolo (Hemeti) positioned the force as the protector of borders as part of the ‘Khartoum Process’, while also engaging in the extortion and abuse of migrants who have been intercepted. While the EU has since cut funding under this mechanism, its approach undermined protection mechanisms that were also supported by the EU, including shelters, access to justice and psychosocial support in the same region. Likewise in Libya, Italy’s attempt to outsource border protection to militias that had previously engaged in smuggling reduced the numbers moving through Libya, but did so as a result of fear of the increased violence that arose from the policy.<sup>34</sup>

---

<sup>30</sup> Khartoum Process, “About”. <https://www.khartoumprocess.net/about/the-khartoum-process>

<sup>31</sup> Rome Declaration, p. 2.

<sup>32</sup> Hovil and Oette

<sup>33</sup> Hovil and Oette, 2017.

<sup>34</sup> GI-TOC (2019) After the Storm

Therefore, Eritreans often become victims of a system that is motivated primarily by the need to prevent movement from the Horn of Africa to Europe. It has created a situation in which “mixed migration, and trafficking and smuggling of vulnerable persons, are portrayed as regional, African issues, rather than a joint, international problem,”<sup>35</sup> or the consequence of policy decisions. The lack of serious engagement with legal migration routes reflects a broader context in which migrant and refugee ‘off-shoring’ – whereby states pay another state to host asylum seekers or refugees – is gaining traction globally.<sup>36</sup>

Through the Khartoum Process and other programmes responding to ‘mixed migration’, European donors have partnered with states and state actors with a questionable human rights record, which is in direct conflict with the protection that should be accorded to refugees. The focus on criminal actors glosses over the drivers of migration and seeks to address the symptoms rather than the root causes of migration. The result is that migrants are forced into riskier routes facilitated by more clandestine actors.

### **Mixed migration – an emperor without any clothes on?**

The case study of Eritreans moving through Ethiopia and Sudan points to a wider debate over how to categorise people who move, which continues without a resolution in sight. It reflects wider debate about who is responsible for responding to the plight of refugees and other migrants and what those specific responsibilities are.<sup>37</sup> While the so-called ‘European migrant crisis’ in 2015 stirred up public interest in migration responses across the political spectrum and pushed donor governments to take action in source and transit countries, when judged through the lens of protection for those who are moving it is clear that this level of interest has not resulted in a tangible or cohesive response – and, therefore, has failed to create protection. In part, this lack of cohesion relates to a lack of genuine commitment in practice to address the challenges of hosting refugees in parts of the world where there is a crisis. At a global level, the failure to share responsibility for refugees has left the world’s poorest states carrying the greatest burden for hosting refugees. Despite a significant increase in lip service around responsibility sharing, in practice wealthier states have failed to recognise that it is untenable for the burden of asylum to be met by a few states (and ones that often lack resources), with financial support at the discretion of third states. This has fostered asymmetrical relationships of dependence and has

---

<sup>35</sup> Lutz Oette and Mohamed Abdelsalam Babiker, “Migration Control à la Khartoum: EU External Engagement and Human Rights Protection in the Horn of Africa”, Refugee Survey Quarterly, 2017. (Oette and Babiker 2017)

<sup>36</sup> Jeff Crisp, “What is externalization and why is it a threat to refugees?” Chatham House Expert Comment, 14 October 2020. [https://www.chathamhouse.org/2020/10/what-externalization-and-why-it-threat-refugees?utm\\_source=Chatham%20House&utm\\_medium=email&utm\\_campaign=11968290\\_Copy%20of%20ILP%20Autumn%202020%20Newsletter&dm\\_i=1S3M,74ISI,NUSTZ9,STLTT,1](https://www.chathamhouse.org/2020/10/what-externalization-and-why-it-threat-refugees?utm_source=Chatham%20House&utm_medium=email&utm_campaign=11968290_Copy%20of%20ILP%20Autumn%202020%20Newsletter&dm_i=1S3M,74ISI,NUSTZ9,STLTT,1)

<sup>37</sup> Lucy Hovil, “Telling Truths about Migration”. Editorial, International Journal of Transitional Justice, Vol 13, Issue 2, June 2019.

ignored the principle of shared international responsibility for refugees, embodied in the 1951 Refugee Convention.

With resettlement places significantly decreased over the past 15 years as a result of policy changes in the global North, repatriation unrealistic for the vast majority, and local integration politically unpalatable,<sup>38</sup> millions of people have been left living for years and sometimes decades in a protracted situation of exile with no end in sight. In the case of Eritreans, the prospect of repatriation is minimal and particularly stark: any return to Eritrea for those who had left seeking asylum will result in imprisonment at best. This has been the case since President Isaias Afewerki introduced forced conscription in 1995 and is unlikely to change while he is still in power.

Instead, wealthier states have effectively favoured approaches that enable them to sidestep their responsibilities despite written (albeit generally un-enforceable) commitments to the contrary. One result of this has been the increased focus on the idea of ‘mixed migration’ as a concept or category of migration. The term has been in use since the beginning of this century, and evolved as a way of describing situations where motivations for moving may be mixed; where refugees and non-refugee migrants make use of the same agents and brokers in order to travel; where they travel with others who have moved for different reasons; and where motivations for movement may change during their journey.<sup>39</sup> More recently the term has gained traction<sup>40</sup> partly as a result of increased visibility of migration to Europe and the need to find categories to describe a situation in which it was not always apparent how to label those who were moving. In the process, it has moved increasingly from being a primarily descriptive term to gaining weight as a category of policy.

While the concept of ‘mixed migration’ has always posed a significant policy challenge,<sup>41</sup> there is growing disquiet around how deeply problematic it is as a term, not least because it is primarily driven by the concern of countries in the Global North<sup>42</sup> and does not reflect the concerns of the states hosting the vast majority of the world's refugees.<sup>43</sup> As a result, it has been

---

<sup>38</sup> See, for instance, Lucy Hovil and Nick Maple, “Local Integration: A Durable Solution in need of Restoration?” *Refugee Survey Quarterly*, Volume 41, Issue 2, June 2022, Pages 238–266, <https://doi.org/10.1093/rsq/hdac008>

<sup>39</sup> N. Van Hear, (2011) “Mixed Migration: Policy Challenges.” Mixed Migration Observatory, March, <https://migrationobservatory.ox.ac.uk/resources/primers/mixed-migration-policy-challenges/>

<sup>40</sup> See, for instance, N. Van Hear, R. Brubaker, and T. Bessa, (2009). “Managing Mobility for Human Development: The Growing Salience of Mixed Migration.” Human Development Research Paper, 2009/20, June 1. [https://www.mpra.ub.uni-muenchen.de/19202/1/MPRA\\_paper\\_19202.pdf](https://www.mpra.ub.uni-muenchen.de/19202/1/MPRA_paper_19202.pdf); N. Van Hear, (2011) “Mixed Migration: Policy Challenges.” Mixed Migration Observatory, March, ; and more recently, Nicholas Maple, Susan Reardon-Smith & Richard Black (2020) “Immobility and the Containment of Solutions: Reflections on the Global Compacts, Mixed Migration and the Transformation of Protection”. *Interventions*, DOI: [10.1080/1369801X.2020.1845775](https://doi.org/10.1080/1369801X.2020.1845775)

<sup>41</sup> Van Hear, 2011.

<sup>42</sup> Inder and Garlick (forthcoming), in Maple et al 2020.

<sup>43</sup> Maple et al, 2020.

turned from a solution into a problem.<sup>44</sup> In the same vein, it glosses over the concerns of governments in transit or host states. For example, the Kenyan government has periodically threatened to close Dadaab refugee camp to highlight concerns of terrorism from Somalis crossing the border. This threat has not been taken as seriously as concerns of terrorists joining migration flows to enter Europe. As a result, it is not immediately obvious how or where the term's increased rhetorical value has translated into robust agreement on how to protect those who fall into this category.

Challenges in protection are also evident in the creation of two separate Global Compacts – one focused on refugees, and the other on migration. The significantly different approach, and the failure of the two Compacts to talk to each other in any meaningful way, only underlines the emptiness of 'mixed migration' as a policy formulation. As Maple et al argue, "given the well-established architecture and technical nature of the refugee field ..., it was unlikely that the process around the GCR [Global Compact on Refugees] would radically alter or expand the refugee definition in line with the nuance required when dealing with mixed migration. Therefore, the space to address mixed migration sat largely within the GCM [Global Compact for Migration], which could have provided a number of safeguards and increased protection for vulnerable migrants."<sup>45</sup> In practice, however, this did not happen and commitments within the GCM were watered down.<sup>46</sup>

As a consequence, while 'mixed migration' might be useful short-hand to describe migrant flows, routes or individuals who do not fit easily into a single internationally recognised category of migration, in practice it has led to something of a policy fudge designed primarily for the benefit of wealthy nations who want to prevent so-called 'mixed migrants' from reaching their shores rather than for the protection of the migrants who are supposed to fit within this category. When viewed from the perspective of those who are supposed to fit within this category and yet who have encountered considerable harm instead of protection, this article argues that the term has become somewhat nebulous as a result. In fact, it can be extremely harmful in destination countries, where global north governments use it as a tool to water down claims for asylum. This is unequivocally evident in the case of Eritrean refugees who cross definitional boundaries as they cross borders.

## Conclusion

While Eritreans start their journey as asylum seekers/refugees, this status becomes increasingly uncertain as they move. In a context in which Ethiopia often fails to function as a first country of safety inasmuch as refugees are unable to find both safety and access to

---

<sup>44</sup> Christina Oelgemöller, 2020, "Mixed Migration and the Vagaries of Doctrine Formation Since 2015". *Interventions*, December 2020.

<sup>45</sup> Maple et al, 2020.

<sup>46</sup> Maple et al, 2020.

livelihoods, this inevitably has an impact on their willingness to remain. But taking the decision to move onward in search of a solution to their exile means many have to cross an international border, and they have to do so outside of a policy structure that has been created ostensibly to protect them. By crossing borders, therefore, they effectively cross over into being categorised by governments and other actors as ‘irregular’ or even ‘illegal’. They have to deal with the negative portrayals and policy responses that accompany these categories, which have been constructed largely to prevent their movement rather than designed to protect them.

As a result, the further they move away from being recognised as refugees, the more their access to protection decreases. They move increasingly into a context in which the focus is on targeting criminal facilitators in the form of people smugglers as a result of policies designed to stop migration. While the analysis of modern slavery is increasingly grappling with the permissive environment and the role of government policies in countries where slavery occurs, the connection back to donor policy-making remains a blindspot. Rising exploitation, particularly in Libya, has prompted funding to support psychosocial trauma counselling and rehabilitation after the fact, but there remains limited critical reflection on why slavery has become so prolific along certain migration routes.

In effect, therefore, by opting to go against the policy grain – which has been driven primarily for the benefit of wealthy governments rather than those seeking protection – many Eritrean refugees put themselves at incredible risk. The approach of targeting the criminal facilitators of people smuggling increases the vulnerability of migrants to exploitation, as they must take riskier journeys in search of safe passage. While the concept of ‘mixed migration’ was coined to understand or describe complex migration dynamics that have emerged over the past two decades, the term has been used increasingly as a policy category. Yet, rather than closing the space between refugees and non-refugee migrants, or offering a bridge between the two, it has actually created something of a protection chasm. At worst, ‘mixed migration’ policies effectively push migrants into highly abusive situations, including modern slavery. In this context, modern slavery is a symptom of a failed policy architecture, and the case of Eritreans who leave their country in search of safety and opportunities highlights this reality.

## **Bibliography**

Amnesty International (2015) ‘Eritrea: Refugees Fleeing Indefinite Conscription Must be Given Safe-Haven’ <https://www.amnesty.org/en/latest/news/2015/12/eritrea-refugees-fleeing-indefinite-conscription-must-be-given-safe-haven/>

Cheeseman, Nic and Yohannes Woldemariam (2021), ‘Ethiopia’s Perilous Propaganda War: Efforts to Control Information Are Only Hardening the Country’s Divisions’, *Foreign Affairs*, 8 April. Available at: <https://www.foreignaffairs.com/articles/africa/2021-04-08/ethiopias-perilous-propaganda-war>

- Crisp, Jeff (2020). “What is externalization and why is it a threat to refugees?” Chatham House Expert Comment, 14 October. [https://www.chathamhouse.org/2020/10/what-externalization-and-why-it-threat-refugees?utm\\_source=Chatham%20House&utm\\_medium=email&utm\\_campaign=11968290\\_Copy%20of%20ILP%20Autumn%202020%20Newsletter&dm\\_i=1S3M,74ISI,NUSTZ9,STLTT,1](https://www.chathamhouse.org/2020/10/what-externalization-and-why-it-threat-refugees?utm_source=Chatham%20House&utm_medium=email&utm_campaign=11968290_Copy%20of%20ILP%20Autumn%202020%20Newsletter&dm_i=1S3M,74ISI,NUSTZ9,STLTT,1)
- The Economist (2014) ‘Miserable and Useless: National Service in Eritrea’.
- Global Initiative against Transnational Organised Crime (GI-TOC) (2019). “After the Storm: Organised Crime across the Sahel-Sahara Following Upheaval in Libya and Mali”, available at: <https://globalinitiative.net/analysis/after-the-storm/>
- Holm Røsberg, Andreas and Kjetil Tronvoll. “Migrants or Refugees? The internal and external drivers of migration from Eritrea.” ILPI, February 2017; Mogos O. Berhane., “Understanding why Eritreans go to Europe.” Forced Migration Review, January 2016, 34-35.
- Hovil, L. (2016) *Refugees, Conflict and the Search for Belonging*. Palgrave.
- Hovil, L. and Lutz Oette, (2017). “Tackling the root causes of human trafficking and smuggling from Eritrea: The need for an empirically grounded EU policy on mixed migration in the Horn of Africa.” IRRI, SOAS and SIHA, November 2017.
- Hovil, L. and Nick Maple, “Local Integration: A Durable Solution in need of Restoration?” Refugee Survey Quarterly, Volume 41, Issue 2, June 2022, Pages 238–266, <https://doi.org/10.1093/rsq/hdac008>
- Humphris, Rachel. "Refugees and the Rashaida: human smuggling and trafficking from Eritrea to Sudan and Egypt." UNHCR, New Issues in Refugee Research, Research Paper No. 254.
- Hynes, Patricia et al. (2019). ‘Between Two Fires’: Understanding Vulnerabilities and the Support Needs of People from Albania, Viet Nam and Nigeria who have experienced Human Trafficking into the UK. Available at: <https://www.beds.ac.uk/media/266832/between-two-fires-finalreport-29062019.pdf>



International Organisation for Migration (IOM) (2019). Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour. Available at: <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>

Jespersen, S, and Rune Henriksen, Anne-Marie Barry and Michael Jones (2019). *Human Trafficking: An Organised Crime?* Hurst.

Lucht, Hans and Tekalign Ayalew Mengiste (2020) ‘Eritrean Refugees Struggle after the Peace Agreement with Ethiopia’, <https://www.diis.dk/en/research/eritrean-refugees-struggle-after-the-peace-agreement-with-ethiopia>

Maple, Nicholas, Susan Reardon-Smith & Richard Black (2020). “Immobility and the Containment of Solutions: Reflections on the Global Compacts, Mixed Migration and the Transformation of Protection”. *Interventions*, DOI: <https://doi.org/10.1080/1369801X.2020.1845775>.

Mende, J. (2019). ‘The Concept of Modern Slavery: Definition, Critique, and the Human Rights Frame’. *Human Rights Review*, 20: 229-248. <https://doi.org/10.1007/s12142-018-0538-y>

O’Connell Davidson, Julie (2017). “The Right to Locomotion? Trafficking, Slavery and the State.” In Kotiswaran, P (ed.), *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*. Cambridge: Cambridge University Press.

Oette, Lutz and Mohamed Abdelsalam Babiker, (2017) “Migration Control à la Khartoum: EU External Engagement and Human Rights Protection in the Horn of Africa”, *Refugee Survey Quarterly*.

Perkowski, Nina and Vicki Squires, (2018). ‘The anti-policy of European anti-smuggling as a site of contestation in the Mediterranean migration ‘crisis’’. *Journal of Ethnic and Migration Studies*, 45:12, 2167-2184, DOI: <https://doi.org/10.1080/1369183X.2018.1468315>

Physicians for Human Rights (2010) ‘Hostages, Torture, and Rape in the Desert: Findings from 284 Asylum Seekers about Atrocities in the Sinai’, PHR.

Regional Mixed Migration Secretariat, (2014). “Going West: Contemporary mixed migration trends from the Horn of Africa to Libya & Europe.” June 2014

RHIPTO (2020) XCEPT Policy Brief: Migration.

- Sahan Foundation and IGAD Security Sector Program (ISSP), (2016). “Human Trafficking and Smuggling on the Horn of Africa-Central Mediterranean Route.” February.
- Squire, Vicki (2020). *Europe's Migration Crisis: Border Deaths and Human Dignity*. Cambridge University Press.
- Tinti, Peter and Reitano, Tuesday. (2017) *Migrant, Refugee, Smuggler, Saviour*. Hurst.
- Trautrim, Alexander (2020). Survival at the expense of the weakest? Managing modern slavery risks in supply chains during COVID-19. *Journal of Risk Research*, 23:7-8, 1067-1072, DOI: <https://doi.org/10.1080/13669877.2020.1772347>
- UNHCR (2021), ‘UNHRC Reaches Destroyed Camps in Northern Tigray’. Available at: <https://www.unhcr.org/news/briefing/2021/3/605da0564/unhcr-reaches-destroyed-camps-northern-tigray.html>
- Van Hear, N. (2011) “Mixed Migration: Policy Challenges.” Mixed Migration Observatory, March, <https://migrationobservatory.ox.ac.uk/resources/primers/mixed-migration-policy-challenges/>
- Van Hear, N., R. Brubaker, and T. Bessa, (2009). “Managing Mobility for Human Development: The Growing Salience of Mixed Migration.” Human Development Research Paper, 2009/20, June 1. [https://www.mpra.ub.uni-muenchen.de/19202/1/MPRA\\_paper\\_19202.pdf](https://www.mpra.ub.uni-muenchen.de/19202/1/MPRA_paper_19202.pdf).
- Van Reisen, Mirjam, Meron Estefanos, and Conny Rijken (2012) *Human Trafficking in the Sinai: Refugees between Life and Death*, Tilburg University/Europe External Policy Advisors.

# Immigration Detention in Australia and Asylum Seekers' Rights to Appropriate Health Care. Health Care Consequences of Keeping Asylum Seekers in Mandatory Detention in Alternative Places of Detentions (APOD)s

Vinu Verghis

PhD Candidate, The University of Queensland

Jackson Moody

MD candidate, Faculty of Medicine, The University of Queensland

Suzanna Fay

Senior Lecturer & Director of Research Training,  
School of Social Science, The University of Queensland

*In memory of Dr. Sayed Mirwais Rohani, who despite speaking fluent English (and six other languages) and having a medical degree that was recognized in Australia was not granted refugee protection visa in Australia and was not permitted to travel to UK to be with his parents. He jumped to his death on 15 October 2019 from the 22nd floor of Brisbane hotel, where he was detained.*

## Abstract

As a signatory to various international conventions, Australian government is obligated to provide protection to asylum seekers who have fled their own country and are seeking protection. Despite this provision, asylum seekers arriving in boats are detained in detention centres offshore as well as in alternative places of detention onshore owing to their illegal entry. An important question is to look at how mandatory detention emulates modern slavery by a continuum of exploitative practices such as restriction of movement and abuse of vulnerability. This article explores the available evidence on how closely human smuggling and human trafficking are linked and to what extent are we exposing asylum seekers to further rights violation by turning back the boats, as is what happening currently in Australia. In this article we look at current Australian detention policies, health impacts of mandatory detention policies and impact of COVID-19 on refugees seeking asylum in Australia before discussing our recommendations.

**Keywords:** People smuggling, Human trafficking, Health impacts, Mandatory detention, Alternative to detention.

At the end of 2019, 79.5 million people were displaced worldwide, of which 26 million were refugees and 4.2 million were identified as asylum seekers.<sup>1</sup> Globally, there is a palpable tension between the rights of the refugees and the rights of nations to protect their sovereign borders. Deterrence as a policy which includes detention, denial of entry and forced turning back of boats has been used by many countries.<sup>2</sup> Deterrence policies have been used to pander to the populist perceptions of asylum seekers and refugees and to demonstrate that government is in control and acting appropriately to protect sovereign borders. Deterrence is also used as a process to reduce the number of applicants and to save money for government.<sup>3</sup>

In this paper, we outline how Australian refugee policies are dependent on government of the day and the detrimental effect draconian deterrent policies have had on people seeking asylum. Based on overwhelming evidence that shows the detrimental health impacts of mandatory detention of asylum seekers, we call for Australia to end its detention and deterrence approach once for all, and immediate cessation of onshore and offshore detention of irregular maritime arrivals and ask that Refugee Status Determination services be offered to irregular maritime arrivals.

### **People smuggling and human trafficking connection**

People smuggling refers to a payment for service arrangement to individuals or groups that helps to organise movement of people across international borders.<sup>4</sup> Although there is no coercion, threat or deception for the purpose of exploitation involved in people smuggling as opposed to human trafficking, there is a link between human trafficking, people smuggling and asylum seekers. Often human trafficking includes an element of human smuggling, and a person could be smuggled and trafficked at the same time. especially across borders. Evidence suggests that lack of viable options due to restrictive asylum policies and border closure when seeking protection from persecution forces asylum seekers to entrust and seek services of human

---

<sup>1</sup> UNHCR, Figures at a glance (2020), <https://www.unhcr.org/en-au/figures-at-a-glance.html>.

<sup>2</sup> Marko Valenta et al., "European Asylum Policies and the Stranded Asylum Seekers in Southeastern Europe," *Journal of refugee studies* 32, no. Special\_Issue\_1 (2019), <https://doi.org/10.1093/jrs/fey063>; Antje Missbach and Wayne Palmer, "People smuggling by a different name: Australia's 'turnbacks' of asylum seekers to Indonesia," *Australian journal of international affairs* 74, no. 2 (2020), <https://doi.org/10.1080/10357718.2020.1721429>.

<sup>3</sup> Lisa Hassan, "Deterrence Measures and the Preservation of Asylum in the United Kingdom and United States," *Journal of refugee studies* 13, no. 2 (2000), <https://doi.org/10.1093/jrs/13.2.184>.

<sup>4</sup> Jane Hearn Kerry Carrington, *Trafficking and the Sex Industry: from Impunity to Protection*, (Canberra: Parliament of Australia, 2003).

traffickers, exposing them to abuse and extortion.<sup>5</sup> Migration routes traverse through areas of conflicts, exposing asylum seekers to further exploitation, more so when they run out of money and are forced to accept exploitative situations in order to pay for the smuggling and the debt incurred.<sup>6</sup> People who attempt to sail to Australia and are turned back as part of turn back the boats policy are still vulnerable to human trafficking, forced labour and modern slavery in their new destination countries.<sup>7</sup>

People smuggling is a crime under Australian law and people smugglers can be charged under section 233c of the Migration act 1958. People who are smuggled to Australia faces mandatory detention in offshore detention centres and risk being deported to their home country where they might face further persecution.<sup>8</sup> Most asylum seekers smuggled to Australia by boat are from Middle East and South Asia, in particular from Iran, Iraq, Afghanistan and Sri Lanka.<sup>9</sup>

### **Australian detention policies**

The 1948 Universal declaration of human rights postulates that everyone has “the right to seek and enjoy in other countries asylum from persecution.” Australia is a signatory of the 1951 *Convention relating to the status of refugees* (the 1951 refugee convention, the key legal document defining who is a refugee, their rights and legal obligations).<sup>10</sup> Australian refugee policy is shaped by politics. Both Coalition and Labor government have adopted and maintained an array of refugee policies in response to unauthorised arrival of refugees by boat since 2001. Acceptance of refugees or implicit discrimination and detention of refugees is determined by the Government of the day and the leadership’s desideratum to pander to voters and public opinion. Australia’s defence force led Operations Sovereign Borders (OSB) which included deterrence by means of turning back boats, offshore processing and mandatory detention of asylum seekers received bipartisan support since its inception in 2013. Numerous studies have shown the

---

<sup>5</sup> Getachew Kindu, "Re-conceptualizing the operations of trafficking in persons in Ethiopia to inform policy and practice: Lessons from Europe," (2017).

<sup>6</sup> Johan Leman and Stef Janssens, *Human Trafficking and Migrant Smuggling in Southeast Europe and Russia* (London: Palgrave Macmillan UK, 2015).

<sup>7</sup> Katharine Bryant Fiona David, Jacqueline Joudo Larsen, *MIGRANTS AND THEIR VULNERABILITY*, IOM (Switzerland, 2019), [https://publications.iom.int/system/files/pdf/migrants\\_and\\_their\\_vulnerability.pdf](https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf).

<sup>8</sup> Aila Spathopoulou, Anna Carastathis, and Myrto Tsilimpounidi, "‘Vulnerable Refugees’ and ‘Voluntary Deportations’: Performing the Hotspot, Embodying Its Violence," *Geopolitics* (2020), <https://doi.org/10.1080/14650045.2020.1772237>.

<sup>9</sup> UNODC, *Smuggling of Migrants by Sea*, United Nations Office on Drugs and Crime (2011), [http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue\\_Paper\\_-\\_Smuggling\\_of\\_Migrants\\_by\\_Sea.pdf](http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_Smuggling_of_Migrants_by_Sea.pdf).

<sup>10</sup> UN General Assembly, "Convention Relating to the Status of Refugees," in *United Nations, Treaty Series, vol. 189, p. 137*, ed. UN General Assembly (28 July 1951).

financial costs for these policies as well as the mental and physical impact these policies have had on refugees seeking shelter in Australia, However, Australian government continue to engineer such policies with the intent that it will deter others from coming to Australia by boat. Additionally, Australian border force act (2015) was passed with bipartisan support.<sup>11</sup> Under section 26 of the act the Commissioner is allowed to tell “entrusted persons” not to report serious misconduct or criminal activity if it affects, or is likely to affect, the operations, responsibilities, or reputation of the Department. And under section 42 of the Act, it is an offence to make a record or disclose protected information. The penalty is imprisonment for two years. This act effectively prevents anyone working in detention centres from reporting about the horrendous conditions in immigration detention centres, effectively silencing criticism as well as removing transparency and accountability.

Australian Labor party's 2021 National Platform regarding refugee policy mentioned that asylum seekers who arrive by irregular means will not be punished for their mode of arrival.<sup>12</sup> “Under the Refugee Convention, people seeking asylum have the right to seek protection and asylum. Labor will continue to show global leadership and increase Australia's humanitarian refugee intake and we will treat people seeking our protection with dignity and compassion in accordance with our international obligations, the rule of law and the principles of fairness. Labor believes as a nation we must not harm people seeking refuge.” (page 85)

“ Under the Refugee Convention, asylum seekers have the right to seek protection and asylum and, regardless of the mode of arrival, this is not illegal under Australian or international law. Accordingly, Labor rejects the practice of referring to asylum seekers as ‘illegals’.” (page 119) In June 2022, a month after winning federal election, Labor government reaffirmed the Coalition government's boat turnback's saying ‘Policy doesn't change.’<sup>13</sup>

It appears that there is a bipartisan support for boat turn backs, detention in offshore facilities and resettlement in a third country.

The refugee status determination (RSD) procedure of each country determines the status of refugees and the granting of asylum. In Australia, asylum seekers arriving by boat are not allowed to use the refugee status determination process. All ‘unauthorised maritime arrivals as determined by the Migration Act 1958, are prohibited from applying for a protection visa, unless the relevant Minister lifts the prohibition by exercising personal discretion and allowing the refugee to apply.’<sup>14</sup>

---

<sup>11</sup> Australian Government, "Australian Border Force Act 2015," in *C2016C00650* (2015). <https://www.legislation.gov.au/Details/C2016C00650>.

<sup>12</sup> Paul Erickson, *ALP National Platform* (2021), <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>. Page 85

<sup>13</sup> Amy Hall, "‘Policy doesn't change’: Labor underlines commitment to boat turnbacks after latest interception," *SBS News* (Australia) 10 June 2022, <https://www.sbs.com.au/news/article/policy-doesnt-change-labor-underlines-commitment-to-boat-turnbacks-after-latest-interception/xwjwjoptx>. Page 119

<sup>14</sup> Senate standing committee, AE20-127 - Medical transfers and transitory persons in Australia, (2 March 2020).

Under sections 189, 196 and 198 of the Migration Act, all non-citizens who are unlawfully in Australia must be detained and kept in immigration detention until a visa is granted to remain in Australia or an order is issued for deportation from Australia.<sup>15</sup> Under the previous Australian Coalition government, protecting Australian borders from irregular migration involved shifting the responsibility for processing asylum to other countries such as Nauru and Manus island of Papua New Guinea (PNG) under a regional resettlement agreement with PNG and Nauru.<sup>16</sup> Under this settlement agreement, asylum seekers who arrived by boat were transferred to PNG, where their refugee claim was assessed under PNG law and if they were found to be refugees, they are resettled in PNG or any other participating regional states. Nauru and Cambodia were the only participating regional states. The offer from New Zealand to take the refugees were refused by Australia because the New Zealand Australia visa program which the refugees could utilise in the future and gain entry to Australia.<sup>17</sup> Cost of transfer, assessment and resettlement in PNG or regional centres were met by Australia. Permanent resettlement options for those who are found to be refugees have not materialised due to lack of interest from regional participating states.

Having ruled out permanent resettlement in Australia, the Government utilised other countries to take in the refugees (Nauru and Manus Island of PNG). Resettlement agreement with United States was reached with Obama administration in 2016 that provided resettlement opportunities for up to 1250 refugees. Trump administration agreed to honour the deal made during Obama administration, however the deal agreed with Trump administration ended by December 2020.<sup>18</sup> Canada allows resettlement of refugees through Private Sponsorship of Refugees, where Canadian citizens and permanent residents can raise equivalent of one year's social security and engage in the resettlement of refugees from overseas.<sup>19</sup> The consequence of deals with other countries and lack of transparency means that there is no clear evidence of what happens to refugees and asylum seekers.

Previously, Australian government used various means such as restrictions on media, blocking access to external observers to visit detention centres in order to restrict transparency. These restrictions have created a closed system characterised by high levels of secrecy and low

---

<sup>15</sup> Australian Government Federal Register of Legislation, "Migration Reform Act 1992," in C2004A04475, ed. Australian Government (Canberra, 1992). <https://www.legislation.gov.au/Details/C2004A04475>.

<sup>16</sup> Australian Government, Regional resettlement arrangement between Australia and Papua New Guinea, (Canberra: DFAT, 2013).

<sup>17</sup> Andrew Tillett, "Kiwi refugee offer comes with security checks attached," *Financial Review* 2019, <https://www.afr.com/politics/federal/kiwi-refugee-offer-comes-with-security-checks-attached-20191205-p53h35>.

<sup>18</sup> Tom McIlroy, "Australia races to resettle refugees as clock ticks on Trump deal," *Financial Review* (Australia) 2020, <https://www.afr.com/politics/federal/australia-races-to-resettle-refugees-as-clock-ticks-on-trump-deal-20201008-p563bn>.

<sup>19</sup> Government of Canada, Private sponsorship of refugees program, (n.d).

levels of accountability.<sup>20</sup> At all stages of processes relating to refugees and asylum seekers, there is a lack of transparency from Australian authorities which results in Australians being uninformed. Hence the actual number of refugees and where they are held in detention are difficult to gauge. Australia utilises three kinds of detention centres to detain refugees. Immigration Detention Centres (IDCs), Immigration Transit Accommodations (ITAs) and Alternative Place of Detention (APODs). As of 30<sup>th</sup> April 2022, 1414 people are in detention facilities which include 1354 men and 60 women.<sup>21</sup>

### **Irregular Maritime arrival, Global context**

According to UNHCR 83,079 asylum seekers and migrants arrived by sea to Italy, Greece, Spain, Cyprus and Malta in 2020.<sup>22</sup> In comparison, Australia had 69,391 irregular maritime arrival from 1976 to 2016 (40 years).<sup>23</sup>

In 2011, Australia had 4565 irregular maritime arrival, meanwhile Pakistan hosted 1.7 million refugees and 886,500 refugees were hosted by Iran. In essence the burden of assisting and supporting the world' asylum seekers often fall to the poorest countries.<sup>24</sup>

### **Modern slavery bill 2018 Australia**

The modern slavery bill protects right to freedom from slavery, torture and other cruel, inhuman or degrading treatment or punishment, the right to freedom of movement and the right to health.<sup>25</sup> Mandatory detention of asylum seekers in onshore and offshore detention centres is in direct breach of the modern slavery bill of 2018. Mandatory detention is illegal, violates the rights of asylum seekers and should be considered as a crime against humanity.

### **Where people are held in detention.**

Three different kinds of detention facilities are used in Australia to detain asylum seekers. Immigration Detention Centres (IDCs), Immigration Transit Accommodation (ITAs) and

---

<sup>20</sup> Gabrielle Holly, "Challenges to Australia's Offshore Detention Regime and the Limits of Strategic Tort Litigation," *German law journal* 21, no. 3 (2020), <https://doi.org/10.1017/glj.2020.26>.

<sup>21</sup> "Offshore processing statistics," Refugee Council of Australia, 2020, accessed 11/12/2020, 2020, <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/5/>.

<sup>22</sup> UNHCR, *Figures at a glance*.

<sup>23</sup> Janet Phillips, Boat arrivals and boat 'turnbacks' in Australia since 1976: a quick guide to the statistics, (2017).

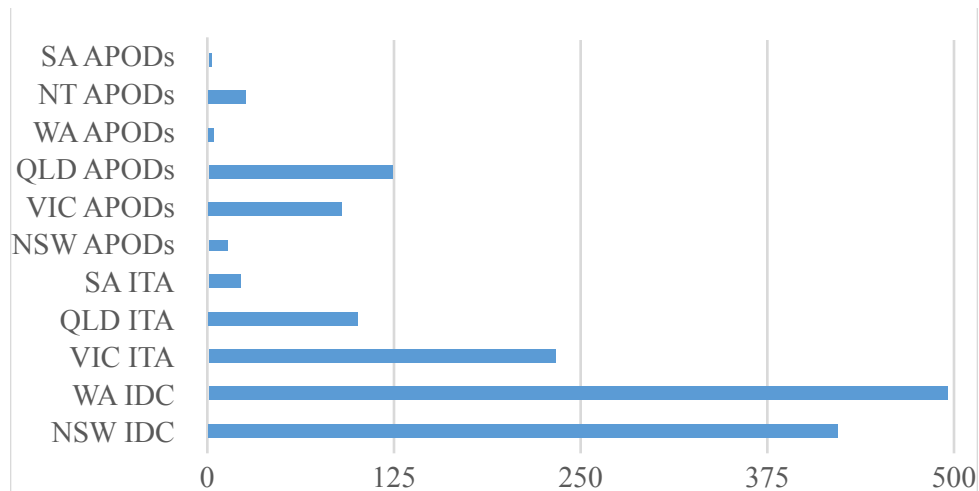
<sup>24</sup> Harriet Spinks Janet Phillips, Boat arrivals in Australia since 1976, (2013).

<sup>25</sup> Australian Government, "Modern Slavery bill 2018," in *C2018B00136*, ed. Australian Government Federal Register of Legislation (Canberra, 2018). <https://www.legislation.gov.au/Details/C2018B00136/Explanatory%20Memorandum/Text>.



Alternative Places of Detention (APODs). As of 30<sup>th</sup> April 2022, 1414 people are in detention facilities of these, 962 people are held In Immigration Detention Centres in Australia and Christmas Island, 100 are held in APODs and 332 are held in ITAs.<sup>26</sup>

Table 1: Where people are held in detention



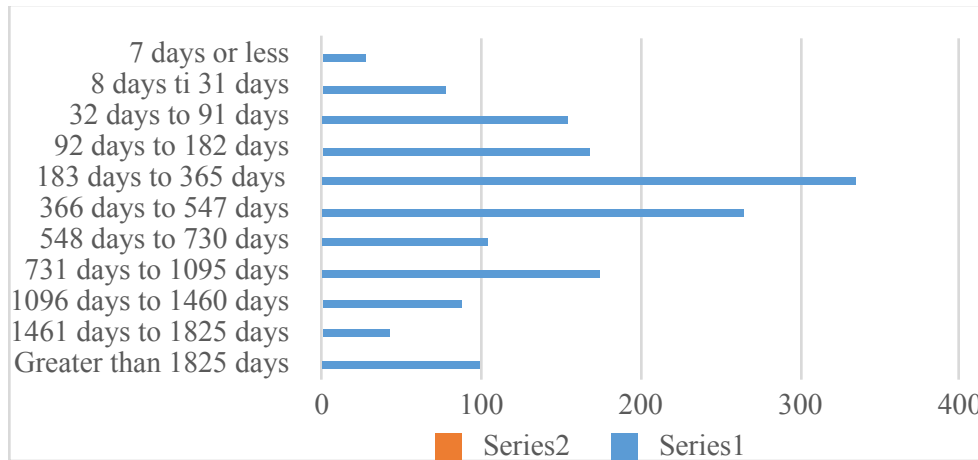
Source: Australian Border Force, [Immigration Detention and Community Statistics Summary, 30 Sep 2020](#)

Time spent in Immigration detention facilities. Of the 1534 people held in detention, 773 (50.5% ) have been held more than 365 days and 99 of them in that group (6.5%) have been held in detention for more than 1825 days.<sup>27</sup>

<sup>26</sup> Australian Border Force, *Immigration Detention and Community Statistics Summary* (2022), <https://www.homeaffairs.gov.au/research-and-stats/files/immigration-detention-statistics-30-april-2022.pdf>.

<sup>27</sup> Australian Government, *Immigration Detention and Community Statistics Summary* (Canberra: Australian Government, 2020).

Table 2: Time Spent in Immigration and detention centres



Source: Australian Border Force, [Immigration Detention and Community Statistics Summary, 30 Sep 2020](#)

### Alternate places of detention

Alternate places of detention (APODs) include hotels in Melbourne and Brisbane as well as hospitals where the asylum seekers are under 24/7 guard. 100 people currently reside in APODs.<sup>28</sup> The APODs are not a prison but share fundamental features of imprisonment, including denial of basic rights and coercive treatment. The people living in APODs have not committed any crime and have not been imprisoned because they have committed a crime. Their individual circumstances are not considered prior to placing them in detention. Under the migration act, APODs have been used to house people whose detention is authorised under the act and who need to access medical care in Australia. Unlike an imprisonment order issued by a judicial court, the provisions that govern mandatory detention of asylum seekers require that the person be detained until they have been deported or visa is granted. The asylum seekers that live in these places are neither entirely within the rule of law nor outside. While prisoners in Australia receive timely medical care that meets international standards, asylum seekers living in APODs are under 24 hours of surveillance with limited transparency in regard to their health care needs and what has been provided. Australian border force personnel and their contractors are entrusted with organising health care for asylum seekers living in APODs. Under international human rights law, Australia has the obligation to respect, protect and fulfil its human rights obligations and this obligation extends to asylum seekers detained at APODs currently in Australia. They are held under lockdown condition and are not given access to mobile phones. Denial of mobile phone access is part of the Australian Government's policy to deny asylum seekers access to channels of communication and remove the opportunity for the asylum seekers to voice their

<sup>28</sup> Government, Short Immigration Detention and Community Statistics Summary

concerns to outside world. Historically prohibition of free speech is the hallmark of dictators and despots, not democratic societies and, as such, the Australian Government's policy and actions could be legitimately characterised as despotic and dictatorial.

Even if the government is aware that the irregular maritime arrival is likely to experience persecution in their home country, they are refusing to acknowledge the legitimacy of the claim by not allowing application for RSD. The factors that determine who is a refugee and who is not a refugee should begin with Refugee Status Determination. Without due process, people are not able to state their claim or challenge their detention. The Pacific solution envisaged by the Howard government, allowed detention of 1637 unauthorised arrivals in Manus and Nauru detention centres between September 2001 and February 2008.<sup>29</sup> 70 percent of those (1153 people) were found to be genuine refugees and were resettled in Australia and other countries.<sup>30</sup> Between 2012 and 2013, 18119 people arrived by sea and applied for refugee status determination (includes sole applicants, accompanied applicants and dependants). 5145 applications for protection visa were considered and 3475 protection visas were issued. 8308 applications (includes sole applicants, accompanied applicants and dependants) of asylum received from people entering Australia with valid visa and then applying for Asylum and 5094 visa applications were considered and 1691 applicants (33.2 percent) were granted protection visa.<sup>31</sup>

Table 3: Comparison of asylum application approval/refusal by mode of arrival

Total number of applications for Protection visa	By Air	By Sea	Protection visa granted	Protection visa refused
5145	No	Yes	3475 (68%)	1670 (32%)
5094	Yes	No	1691 (33.32%)	3403 (66.8%)

Source: [Asylum trends](#)

The above figures clearly demonstrate that most of those arriving by sea are genuine refugees. Asylum seekers arriving in Australia by boat are not breaking any laws and by detaining them in detention centres we are further harming them, apart from breaching international law.

<sup>29</sup> Janet Phillips, The 'Pacific Solution' revisited: a statistical guide to the asylum seeker caseloads on Nauru and Manus Island, (Canberra 2012).

<sup>30</sup> C Evans, "Last refugees leave Nauru," news release, 2008, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22media/pressrel/YUNP6%22>.

<sup>31</sup> DIBP, Asylum Trends – Australia: 2012-13 Annual Publication, (Canberra 2013).

## Health effects of mandatory detention

The process of seeking asylum is inherently distressing and the subsequent mandatory detention works only to dehumanise and negatively affect the health of people fleeing persecution. Asylum seekers are typically forced to flee their home country suddenly and sometimes under particular traumatic circumstances, which may be compounded with a dangerous journey and the severing of ties to vital support networks.<sup>32</sup>

Detention conditions and the remoteness of the detention locations play a significant role in the mental and physical wellbeing of the asylum seekers.<sup>33</sup>

It is estimated that one in six asylum seekers are living with a health problem that is severely impacting their life, including both communicable and non-communicable disease.<sup>34</sup> Non-communicable disease such as hypertension, diabetes mellitus, and coronary artery disease are at a high prevalence in early screenings of asylum seekers and are generally considered to represent the primary burden of disease in these populations.<sup>35</sup> It has also however been consistently observed that asylum seeking populations of all ages experience an increased prevalence of psychiatric disorders such as post-traumatic stress disorder, depression, and anxiety.<sup>36</sup> Furthermore, a report from 2014 detailed that 34% of children held in detention centres were living with mental health disorders, more than double the rate of the general Australian population.<sup>37</sup> More pertinent to the medevac group, an Australian study from 2006 identified that the time spent in detention specifically contributed significantly towards the development of

---

<sup>32</sup> Branch of Epidemiology, "Review of Cultural and Linguistic Diversity (CaLD) Data Collection Practices in the WA Health System," (2018).; Zachary E Buchanan et al., "Perceived discrimination, language proficiencies, and adaptation: Comparisons between refugee and non-refugee immigrant youth in Australia," *International journal of intercultural relations* 63 (2018).

<sup>33</sup> M. von Werthern et al., "The impact of immigration detention on mental health: a systematic review," *BMC Psychiatry* 18, no. 1 (2018), <https://doi.org/10.1186/s12888-018-1945-y>; Melissa Bull et al., "Sickness in the System of Long-term Immigration Detention," *Journal of refugee studies* 26, no. 1 (2013), <https://doi.org/10.1093/jrs/fes017>; Janette P. Green and Kathy Eagar, "The health of people in Australian immigration detention centres," *Med J Aust* 192, no. 2 (2010), <https://doi.org/10.5694/j.1326-5377.2010.tb03419.x>.

<sup>34</sup> Fary Khan and Bhasker Amatya, "Refugee health and rehabilitation: challenges and response," *Journal of rehabilitation medicine* 49, no. 5 (2017).

<sup>35</sup> Khan and Amatya, "Refugee health and rehabilitation: challenges and response."

<sup>36</sup> Panos Vostanis, "Meeting the mental health needs of refugees and asylum seekers," *The British journal of psychiatry : the journal of mental science* 204, no. 3 (2014), <https://doi.org/10.1192/bjp.bp.113.134742>; Nadia J Chaves et al., "The Australasian Society for Infectious Diseases and Refugee Health Network of Australia recommendations for health assessment for people from refugee-like backgrounds: an abridged outline," *Medical Journal of Australia* 206, no. 7 (2017).; Zachary Steel et al., "Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia," *Australian and New Zealand journal of public health* 28, no. 6 (2004).

<sup>37</sup> Anagha Killedar and Patrick Harris, "Australia's refugee policies and their health impact: a review of the evidence and recommendations for the Australian government," *Australian and New Zealand Journal of Public Health* 41, no. 4 (2017).

mental health disorders such as depression and post-traumatic stress disorder.<sup>38</sup> Prolonged detention was found to be associated with more severe mental disturbance with long-term reports of “persistent sadness, hopelessness, intrusive memories, attacks of anger and physiological reactivity” linked to the duration of detention.<sup>39</sup>

This health burden on asylum seekers is only worsened once they are subjected to mandatory detention in the way the medevac group have. High rates of self-harm and suicide have been consistently observed in Australian detention centres for the past couple of decades. In a retrospective, self-reported study of 10 families detained in Australia from 2004, 93% of adults and 55% of children described suicidal ideation during their time in detention.<sup>40</sup> Records from Australian immigration detention centres in 2001 detailed 244 incidents of self-harm, with estimated prevalence rates of 12,343 per 100,000 for men and 10,227 per 100,000 for women.<sup>41</sup> These rates are estimated to reflect 41 and 21 times the male and female national Australian rates.<sup>42</sup> Following this and more recently, in 2011 it was reported that 22% of asylum seekers had self-harmed in the 20 month recording period with a number of methods reported including cutting, hanging, and head hitting as the most common.<sup>43</sup> Among these incidents, the male to female ratio was 12:1, which may be a reflection of the average adult immigration detention population having a male to female ratio of 6.8:1.<sup>44</sup> As for precipitating factors, 83.2% of reports did not have identifiable precipitating factors, but for those incidents that did the following were the most commonly reported: detention conditions, processing arrangements, negative decisions made on refugee claims, and family separation.<sup>45</sup>

Incidence of self-harm was highest in populations in off-shore detention centres such as Nauru and Manus, where self-harm episode rates were 216 and 45 times the general Australian

---

<sup>38</sup> Zachary Steel et al., "Impact of immigration detention and temporary protection on the mental health of refugees," *The british journal of psychiatry* 188, no. 1 (2006).

<sup>39</sup> Steel et al., "Impact of immigration detention and temporary protection on the mental health of refugees."

<sup>40</sup> Steel et al., "Psychiatric status of asylum seeker families held for a protracted period in a remote detention centre in Australia."

<sup>41</sup> Michael Dudley, "Contradictory Australian national policies on self-harm and suicide: The case of asylum seekers in mandatory detention," *Australasian Psychiatry* 11, no. 1\_suppl (2003).

<sup>42</sup> Kyli Hedrick, "Getting out of (self-) harm's way: a study of factors associated with self-harm among asylum seekers in Australian immigration detention," *Journal of forensic and legal medicine* 49 (2017).; Dudley, "Contradictory Australian national policies on self-harm and suicide: The case of asylum seekers in mandatory detention."

<sup>43</sup> Kyli Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study," *SSM-population health* 8 (2019).

<sup>44</sup> Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study."

<sup>45</sup> Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study."

community rates for self-harm treated in hospital, respectively.<sup>46</sup> Furthermore, rates of self-harm in asylum seeker populations living in the community were 4 times those of the general population.<sup>47</sup> The massively higher rates of self-harm in individuals living in mandatory detention, even when compared to other asylum seekers living in the community, further highlights the significant influence that mandatory detention has on the mental health of these people.<sup>48</sup>

The Interpersonal Theory of Suicide (ITPS) details how suicidal ideation alone does not lead one to suicide, but instead this paired with persistent and repeated exposure to pain and fear.<sup>49</sup> As previously mentioned, repeated exposure to traumatic experiences are a predominant feature of the asylum seeker experience. Although pre-migration stressors play a significant role in the development of psychiatric disorders, there continues to be compelling evidence that post-migration stressors such as continued displacement and prolonged mandatory detention are just as important, if not more so, as influences on the mental health of asylum seekers.<sup>50</sup> It becomes clear from this evidence that the ongoing isolation and dehumanisation from the mandatory detention enforced in Australia is likely having a significant direct impact on the likelihood of asylum seekers, such as those from the medevac group, to commit suicide.

Latent Tuberculosis infection, Vitamin deficiencies, Hepatitis B and Schistosomiasis were the most common diagnoses at the refugee health clinic at the University Hospital Geelong between 2007 and 2012.<sup>51</sup> Asylum seekers often have complex health needs that are influenced by experiences prior to leaving their home country, while in transit and after their arrival in the host country. The global rise in chronic non-communicable disease especially in low and middle-income countries suggests that asylum seekers from those regions may already have a higher burden of pre-existing chronic conditions.<sup>52</sup> Long periods of disruptions in treatment and access

---

<sup>46</sup> Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study.";S. Pointer, Trends in hospitalised self-injury, Australia 1999-00 to 2012-13. Injury research and statistic series no 171, (Canberra, Australia 2015).

<sup>47</sup> Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study."

<sup>48</sup> Hedrick et al., "Self-harm in the Australian asylum seeker population: A national records-based study."

<sup>49</sup> Kimberly A Van Orden et al., "The interpersonal theory of suicide," *Psychological review* 117, no. 2 (2010).;Shraddha Kashyap and Amy Joscelyne, "Refugees and suicide: when the quest for a better life becomes thwarted," in *Alternatives to Suicide* (Elsevier, 2020).

<sup>50</sup> Wen Chen et al., "Pre-migration and post-migration factors associated with mental health in humanitarian migrants in Australia and the moderation effect of post-migration stressors: findings from the first wave data of the BNLA cohort study," *The Lancet Psychiatry* 4, no. 3 (2017).;Committee on the Elimination of Discrimination against Women (CEDAW), (2016), <https://sustainabledevelopment.un.org/content/documents/10192CEDAW%20contribution%20to%20HLPF%20recd%202016-May-16.pdf>.

<sup>51</sup> Peta J. Masters et al., "Health issues of refugees attending an infectious disease refugee health clinic in a regional Australian hospital," *Aust J Gen Pract* 47, no. 5 (2018), <https://doi.org/10.31128/AFP-10-17-4355>.

<sup>52</sup> Dele O. Abegunde et al., "The burden and costs of chronic diseases in low-income and middle-income countries," *Lancet* 370, no. 9603 (2007), [https://doi.org/10.1016/S0140-6736\(07\)61696-1](https://doi.org/10.1016/S0140-6736(07)61696-1).

to healthcare while in transit often result in poorly controlled chronic health conditions such as Diabetes and Hypertension.

### **Death toll of offshore detention**

There are no official numbers of border related deaths in Australia. The Australian Border Deaths Database was established as part of the the Global Frontier research. The database is hosted at the Border Crossing Observatory, Monash University. According to the database, since the beginning of 2000, 17 people living in offshore detention centres, 41 people living in onshore detention centres and 22 people living in Community detention have died. 942 people were returned to their country and of which 34 have since died after they were returned to their home countries, suggesting potential breaches of Australia's non-refoulment obligations.<sup>53</sup>

The Coroners court of Queensland found in 2018 that delays and systematic failure in offshore processing led to the death of Hamid Kehazaei in Manus.<sup>54</sup> The coroner concluded that if Mr Kehazaei had been transferred to Australia based on the treating doctor's recommendation, his life would have been saved. Omid Masourmali is another refugee who died in Australia and the case is before the Queensland coroner. It should be noted that no coronial inquiries were held for those who died in offshore detention as the deaths occurred outside Australia's legal jurisdiction.

With limited prospects of resettlement, be it in Australia or neighbouring countries asylum seekers in offshore detention centres face deterioration of mental and physical health necessitating transfer to Australia for further medical treatment under the Medevac legislation (Medical Evacuation law).<sup>55</sup>

### **Impact of COVID-19 on people in detention**

While Australia was quick to close borders following WHO declaration of COVID pandemic in March 2020 and stopped processing humanitarian visa, Australian government exhibited callous indifference to safety of refugees kept in detention, despite the Commonwealth Ombudsman recommendation to cease the use of APODs for long-term detention as well as to

---

<sup>53</sup> Y. J. Kim, "Observational Application Comparing Problem-Based Learning with the Conventional Teaching Method for Clinical Acupuncture Education," *Evidence-based Complementary and Alternative Medicine* 2019 (2019), <https://doi.org/10.1155/2019/2102304>.

<sup>54</sup> Coroners court of Queensland, Findings of Inquest into the death of Hamid Khazaei, (30 July 2018).

<sup>55</sup> "Explainer: The Medevac Repeal And What It Means For Asylum Seekers On Manus Island And Nauru," Australian Outlook, Australian Institute of International Affairs, 2019, accessed 11/12/2020, 2020, <https://www.internationalaffairs.org.au/australianoutlook/explainer-the-medevac-repeal-and-what-it-means-for-asylum-seekers-on-manus-island-and-nauru/>.

reduce the number of people held in detention facilities.<sup>56</sup> Meanwhile British Home office took the proactive step to curb the spread of COVID-19 in overcrowded facilities by releasing people from immigration detention.<sup>57</sup> Social isolation of already isolated detainees during lockdowns is bound to have a tremendous impact on mental health of the detainees. Australia's detention at all cost policy is another example of the callous regard government has when it comes to health and mental wellbeing of immigration detainees. Second concern is the economic impact COVID-19 had on refugees on temporary protection visas and on asylum seekers living in the community on bridging visas, while their claim is being processed. Australian government implemented Job seeker and Job seeker support packages to protect Australians from economic hardships as a result of COVID-19. Those on temporary visa and bridging visas were not afforded the same protection as Australians. This is despite the fact that in 2020, there were 13000 refugees were living in the community on bridging visas, 8400 people on TPVs (Temporary Visa) and 16,000 people on SHEVs (Safe Haven Enterprise Visa).<sup>58</sup>

### **Economic cost of mandatory detention**

Between 2008 and 2020, it is estimated that financial cost of Immigration and detention for Australian government was 20 billion dollars.<sup>59</sup> The average yearly cost of detaining one person in onshore detention was \$346,178 and in community detention was \$102,880 and in the community on a bridging visa, the cost is around \$10,221 per person.<sup>60</sup> A report by International detention coalition found that Australia spend twice as much to detain an asylum seeker in onshore detention centre compared to United States, Canada or European countries.<sup>61</sup>

In addition, in 2017, Australian government agreed to pay \$70 million to 2,000 asylum seekers held in Manus Island for illegally detaining them in dangerous and damaging

---

<sup>56</sup> Commonwealth Ombudsman, *Monitoring Immigration Detention* (2021), [https://www.ombudsman.gov.au/\\_\\_data/assets/pdf\\_file/0012/115005/Monitoring-immigration-detention-report-July-2020-to-June-2021.pdf](https://www.ombudsman.gov.au/__data/assets/pdf_file/0012/115005/Monitoring-immigration-detention-report-July-2020-to-June-2021.pdf).

<sup>57</sup> V. Chew, Phillips, M. & Yamada Park, M., *COVID-19 Impacts on Immigration Detention: Global Responses*, International Detention Coalition 2020 (2020), <https://idcoalition.org/wp-content/uploads/2020/10/COVID-19-Impacts-on-Immigration-Detention-Global-Responses-2020.pdf>.

<sup>58</sup> Harriet Spinks, *Seeking asylum in the time of coronavirus: COVID-19 pandemic effects on refugees and people seeking asylum*, Parliament of Australia (2020), [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2020/May/COVID-19\\_-\\_impacts\\_on\\_refugees\\_and\\_asylum\\_seekers](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/May/COVID-19_-_impacts_on_refugees_and_asylum_seekers); Refugee Council of Australia, *Statistics on people seeking asylum in the community* (2022), <https://www.refugeecouncil.org.au/asylum-community/6/>.

<sup>59</sup> Ryan Essex, *The healthcare community and Australian immigration detention : the case for non-violent resistance* (Singapore: Palgrave Macmillan, 2020).

<sup>60</sup> Paul Karp, "Australia's 'border protection' policies cost taxpayers \$4bn last year," *The Guardian* (Australia) 2018, <https://www.theguardian.com/australia-news/2018/jan/05/australias-border-protection-policies-cost-taxpayers-4bn-last-year>.

<sup>61</sup> IDC, *A handbook for preventing unnecessary immigration detention (revised edition)* (Australia, 2015), <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>.



conditions.<sup>62</sup> Since 2012, Australian government paid out close to \$12 million in compensation wrongful detention of individuals. This another example of ineffectiveness of mandatory detention and the exponential costs associated with it.

### **Alternatives to mandatory detention**

Alternatives to mandatory detention refers to less coercive measure that do not take away the liberty of the individual. Non-custodial, community-based alternatives to detention respect the human rights of the asylum seekers and contribute to their health and wellbeing. Community detention are cost effective, mee the basic needs of the people.

Although financial assistance and health care support given vary between member states in European Union, Netherlands and Greece provide collective accommodation for asylum seekers throughout the length of their application process, Austria and Belgium provide collective housing for new applicants and Sweden and Germany provide individual housing from the moment asylum application is submitted.<sup>63</sup> In Sweden, furnished self-catering apartments/ group homes are provided to asylum seekers which includes recreation facilities and child care centres are provided to asylum seekers. Collective accommodation such as the Takanini hostel which has seven self-sufficient housing blocks that can accommodate six people in each are provided for asylum seekers in New Zealand.<sup>64</sup>

Evidence suggests that alternatives to mandatory detentions are more affordable, humane and are effective. It is important that alternatives to detention safeguard health and wellbeing of the asylum seekers.<sup>65</sup>

### **Recommendations**

COVID-19 pandemic has brought a number of challenges and setbacks for refugee protection globally. Border closures, suspension visa process has affected the people who needed help and support the most and increased their vulnerabilities. War and armed conflict in Afghanistan, Syria, Myanmar and Ukraine are bound to increase the number of refugees globally. The current scale of the global refugee crises is challenging to policy makers around the

---

<sup>62</sup> Calla Wahlquist Ben Doherty, "Government to pay \$70m damages to 1,905 Manus detainees in class action," *The Guardian* (Australia) 2017, <https://www.theguardian.com/australia-news/2017/jun/14/government-to-pay-damages-to-manus-island-detainees-in-class-action>.

<sup>63</sup> Darinka Czischke and Carla J. Huisman, "Integration through Collaborative Housing? Dutch Starters and Refugees Forming Self-Managing Communities in Amsterdam," *Urban planning* 3, no. 4 (2018), <https://doi.org/10.17645/up.v3i4.1727>.

<sup>64</sup> Ophelia Filed, *Alternatives to Detention of Asylum Seekers abd Refugees*, UNHCR (Switzerland, 2006), <https://www.refworld.org/pdfid/4472e8b84.pdf>.

<sup>65</sup> Mary Bosworth, *Alternatives to Immigration Detention: A Literature Review* (2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3299532](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3299532).

world. There is an urgent need to offer protection and support to people fleeing violence, chaos, and strife while at the same time preventing deaths at seas and protecting sovereign borders. Australia's hard-line approach to irregular maritime arrival and forced detention is immensely harmful to the mental and physical health of the asylum seekers.

To avert further serious harm and loss of life, we recommend that the Australian government establish an efficient, fair, and transparent processing system for asylum seekers be they arrivals by boat or by other means. People seeking safety in Australia regardless of how or when they arrived, should have the right to have their claim assessed and verified by independent bodies that will operate according to a clearly stated and public set of procedures that also meet procedural safeguards. Independent monitoring teams should be established to audit the process in order to assess the quality of decision-making. This ensures transparency and accountability. We ask that asylum seekers be allowed to apply for refugee status determination upon arrival and those who pass initial identity, health, character, and security checks be granted a bridging visa immediately or placed in community detention. It is imperative that Australian government take steps to detain asylum seeker only as a last resort and detain them only for the shortest possible time.

Current two class system of treating asylum seeker arriving by air favourably as opposed to those arriving by sea is creating prejudice by discriminating one set of people, because they arrived without a valid visa and are therefore penalised and detained indefinitely.

COVID-19 has shown us that a pandemic can affect all of us. It is important to remember the weakest among us when we make policies, so that they too can benefit from government support programs. Visa status should not be used as a guide to who can avail government support.

“A successful refugee policy not only manages national borders but also protects people who need safety. The approach we set out is both principled and pragmatic. By adopting it, Australia could once again show global leadership in addressing the challenge of displacement”.  
- Professor Jane McAdam, Director, Kaldor Centre for International Refugee Law.

## References

(CEDAW), Committee on the Elimination of Discrimination against Women. (2016). <https://sustainabledevelopment.un.org/content/documents/10192CEDAW%20contribution%20to%20HLPF%20recd%202016-May-16.pdf>.

Abegunde, Dele O., Colin D. Mathers, Taghreed Adam, Monica Ortegón, and Kathleen Strong. "The Burden and Costs of Chronic Diseases in Low-Income and Middle-Income Countries." *Lancet* 370, no. 9603 (2007): 1929-38. [https://doi.org/10.1016/S0140-6736\(07\)61696-1](https://doi.org/10.1016/S0140-6736(07)61696-1).

- Ámy Hall. "'Policy Doesn't Change': Labor Underlines Commitment to Boat Turnbacks after Latest Interception." *SBS News* (Australia), 10 June 2022. <https://www.sbs.com.au/news/article/policy-doesnt-change-labor-underlines-commitment-to-boat-turnbacks-after-latest-interception/xwjwjoptx>.
- Assembly, UN General. "Convention Relating to the Status of Refugees." In *United Nations, Treaty Series, vol. 189, p. 137*, edited by UN General Assembly, 28 July 1951.
- "Offshore Processing Statistics." Refugee Council of Australia, 2020, accessed 11/12/2020, 2020, <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/5/>.
- Australian Border Force. *Immigration Detention and Community Statistics Summary*. (2022). <https://www.homeaffairs.gov.au/research-and-stats/files/immigration-detention-statistics-30-april-2022.pdf>.
- Australian Government. "Australian Border Force Act 2015." In *C2016C00650*, 2015. <https://www.legislation.gov.au/Details/C2016C00650>.
- Ben Doherty, Calla Wahlquist. "Government to Pay \$70m Damages to 1,905 Manus Detainees in Class Action." *The Guardian* (Australia), 2017. <https://www.theguardian.com/australia-news/2017/jun/14/government-to-pay-damages-to-manus-island-detainees-in-class-action>.
- Bosworth, Mary. *Alternatives to Immigration Detention: A Literature Review*. (2018). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3299532](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3299532).
- Buchanan, Zachary E, Hisham M Abu-Rayya, Emiko Kashima, Susan J Paxton, and David L Sam. "Perceived Discrimination, Language Proficiencies, and Adaptation: Comparisons between Refugee and Non-Refugee Immigrant Youth in Australia." *International journal of intercultural relations* 63 (2018): 105-12.
- Bull, Melissa, Emily Schindeler, David Berkman, and Janet Ransley. "Sickness in the System of Long-Term Immigration Detention." *Journal of refugee studies* 26, no. 1 (2013): 47-68. <https://doi.org/10.1093/jrs/fes017>.
- Canada, Government of. *Private Sponsorship of Refugees Program*, n.d.

- Chaves, Nadia J, Georgia A Paxton, Beverley-Ann Biggs, Aesen Thambiran, Joanne Gardiner, Jan Williams, Mitchell M Smith, and Joshua S Davis. "The Australasian Society for Infectious Diseases and Refugee Health Network of Australia Recommendations for Health Assessment for People from Refugee-Like Backgrounds: An Abridged Outline." *Medical Journal of Australia* 206, no. 7 (2017): 310-15.
- Chen, Wen, Brian J Hall, Li Ling, and Andre MN Renzaho. "Pre-Migration and Post-Migration Factors Associated with Mental Health in Humanitarian Migrants in Australia and the Moderation Effect of Post-Migration Stressors: Findings from the First Wave Data of the Bnla Cohort Study." *The Lancet Psychiatry* 4, no. 3 (2017): 218-29.
- Chew, V., Phillips, M. & Yamada Park, M. *Covid-19 Impacts on Immigration Detention: Global Responses*. International Detention Coalition 2020 (2020). <https://idcoalition.org/wp-content/uploads/2020/10/COVID-19-Impacts-on-Immigration-Detention-Global-Responses-2020.pdf>.
- committee, Senate standing. *Ae20-127 - Medical Transfers and Transitory Persons in Australia*, 2 March 2020.
- Commonwealth Ombudsman. *Monitoring Immigration Detention*. (2021). [https://www.ombudsman.gov.au/\\_\\_data/assets/pdf\\_file/0012/115005/Monitoring-immigration-detention-report-July-2020-to-June-2021.pdf](https://www.ombudsman.gov.au/__data/assets/pdf_file/0012/115005/Monitoring-immigration-detention-report-July-2020-to-June-2021.pdf).
- Czischke, Darinka, and Carla J. Huisman. "Integration through Collaborative Housing? Dutch Starters and Refugees Forming Self-Managing Communities in Amsterdam." *Urban planning* 3, no. 4 (2018): 156-65. <https://doi.org/10.17645/up.v3i4.1727>.
- DIBP. *Asylum Trends – Australia: 2012-13 Annual Publication*. Canberra, 2013.
- Dudley, Michael. "Contradictory Australian National Policies on Self-Harm and Suicide: The Case of Asylum Seekers in Mandatory Detention." *Australasian Psychiatry* 11, no. 1\_suppl (2003): S102-S08.
- Epidemiology, Branch of. "Review of Cultural and Linguistic Diversity (Cald) Data Collection Practices in the Wa Health System." (2018).
- Essex, Ryan. *The Healthcare Community and Australian Immigration Detention : The Case for Non-Violent Resistance*. Singapore: Palgrave Macmillan, 2020.

Evans, C. "Last Refugees Leave Nauru." news release, 2008, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22media/pressrel/YUNP6%22>.

Federal Register of Legislation, Australian Government. "Migration Reform Act 1992." In *C2004A04475*, edited by Australian Government. Canberra, 1992. <https://www.legislation.gov.au/Details/C2004A04475>.

Filed, Ophelia. *Alternatives to Detention of Asylum Seekers Abd Refugees*. UNHCR (Switzerland: 2006). <https://www.refworld.org/pdfid/4472e8b84.pdf>.

Fiona David, Katharine Bryant, Jacqueline Joudo Larsen. *Migrants and Their Vulnerability*. IOM (Switzerland: 2019). [https://publications.iom.int/system/files/pdf/migrants\\_and\\_their\\_vulnerability.pdf](https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf).

Government, Australian. *Immigration Detention and Community Statistics Summary* Canberra: Australian Government, 2020.

———. "Modern Slavery Bill 2018." In *C2018B00136*, edited by Australian Government Federal Register of Legislation. Canberra, 2018. <https://www.legislation.gov.au/Details/C2018B00136/Explanatory%20Memorandum/Text>.

———. *Regional Resettlement Arrangement between Australia and Papua New Guinea*. Canberra: DFAT, 2013.

Green, Janette P., and Kathy Eagar. "The Health of People in Australian Immigration Detention Centres." *Med J Aust* 192, no. 2 (2010): 65-70. <https://doi.org/10.5694/j.1326-5377.2010.tb03419.x>.

Harriet Spinks. *Seeking Asylum in the Time of Coronavirus: Covid-19 Pandemic Effects on Refugees and People Seeking Asylum*. Parliament of Australia (2020). [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2020/May/COVID-19\\_-\\_impacts\\_on\\_refugees\\_and\\_asylum\\_seekers](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2020/May/COVID-19_-_impacts_on_refugees_and_asylum_seekers).

Hassan, Lisa. "Deterrence Measures and the Preservation of Asylum in the United Kingdom and United States." *Journal of refugee studies* 13, no. 2 (2000): 184-204. <https://doi.org/10.1093/jrs/13.2.184>.

Hedrick, Kyli. "Getting out of (Self-) Harm's Way: A Study of Factors Associated with Self-Harm among Asylum Seekers in Australian Immigration Detention." *Journal of forensic and legal medicine* 49 (2017): 89-93.

Hedrick, Kyli, Gregory Armstrong, Guy Coffey, and Rohan Borschmann. "Self-Harm in the Australian Asylum Seeker Population: A National Records-Based Study." *SSM-population health* 8 (2019): 100452.

Holly, Gabrielle. "Challenges to Australia's Offshore Detention Regime and the Limits of Strategic Tort Litigation." *German law journal* 21, no. 3 (2020): 549-70. <https://doi.org/10.1017/glj.2020.26>.

IDC. *A Handbook for Preventing Unnecessary Immigration Detention (Revised Edition)*. (Australia: 2015). <https://idcoalition.org/wp-content/uploads/2016/01/There-Are-Alternatives-2015.pdf>.

Janet Phillips, Harriet Spinks. *Boat Arrivals in Australia since 1976*, 2013.

Karp, Paul. "Australia's 'Border Protection' Policies Cost Taxpayers \$4bn Last Year." *The Guardian* (Australia), 2018. <https://www.theguardian.com/australia-news/2018/jan/05/australias-border-protection-policies-cost-taxpayers-4bn-last-year>.

Kashyap, Shraddha, and Amy Joscelyne. "Refugees and Suicide: When the Quest for a Better Life Becomes Thwarted." In *Alternatives to Suicide*, 257-97: Elsevier, 2020.

Kerry Carrington, Jane Hearn. *Trafficking and the Sex Industry: From Impunity to Protection*. Canberra: Parliament of Australia, 2003.

Khan, Fary, and Bhasker Amatya. "Refugee Health and Rehabilitation: Challenges and Response." *Journal of rehabilitation medicine* 49, no. 5 (2017): 378-84.

Killedar, Anagha, and Patrick Harris. "Australia's Refugee Policies and Their Health Impact: A Review of the Evidence and Recommendations for the Australian Government." *Australian and New Zealand Journal of Public Health* 41, no. 4 (2017): 335-37.

Kim, Y. J. "Observational Application Comparing Problem-Based Learning with the Conventional Teaching Method for Clinical Acupuncture Education." *Evidence-based Complementary and Alternative Medicine* 2019 (2019). <https://doi.org/10.1155/2019/2102304>.

Kindu, Getachew. "Re-Conceptualizing the Operations of Trafficking in Persons in Ethiopia to Inform Policy and Practice: Lessons from Europe." 148-79, 2017.

Leman, Johan, and Stef Janssens. *Human Trafficking and Migrant Smuggling in Southeast Europe and Russia*. London: Palgrave Macmillan UK, 2015.

Masters, Peta J., Penelope J. Lanfranco, Emmy Sneath, Amanda J. Wade, Sarah Huffam, James Pollard, Jane Standish, *et al.* "Health Issues of Refugees Attending an Infectious Disease Refugee Health Clinic in a Regional Australian Hospital." *Aust J Gen Pract* 47, no. 5 (2018): 305-10. <https://doi.org/10.31128/AFP-10-17-4355>.

McIlroy, Tom. "Australia Races to Resettle Refugees as Clock Ticks on Trump Deal." *Financial Review* (Australia), 2020. <https://www.afr.com/politics/federal/australia-races-to-resettle-refugees-as-clock-ticks-on-trump-deal-20201008-p563bn>.

"Mediterranean Situation, Operational Portal Refugee Situations." edited by UNHCR, 2020. <https://data2.unhcr.org/en/situations/mediterranean>.

Missbach, Antje, and Wayne Palmer. "People Smuggling by a Different Name: Australia's 'Turnbacks' of Asylum Seekers to Indonesia." *Australian journal of international affairs* 74, no. 2 (2020): 185-206. <https://doi.org/10.1080/10357718.2020.1721429>.

Observatory, Border Crossing. "Annual Report on Border-Related Deaths 2018." Australian border deaths database. March 2019.

Paul Erickson. *Alp National Platform*. (2021). <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>.

Phillips, Janet. *Boat Arrivals and Boat 'Turnbacks' in Australia since 1976: A Quick Guide to the Statistics*, 2017.

———. *The 'Pacific Solution' Revisited: A Statistical Guide to the Asylum Seeker Caseloads on Nauru and Manus Island*. Canberra, 2012.

Pointer, S. *Trends in Hospitalised Self-Injury, Australia 1999-00 to 2012-13. Injury Research and Statistic Series No 171*. Canberra, Australia, 2015.

Queensland, Coroners court of. *Findings of Inquest into the Death of Hamid Khazaei*, 30 July 2018.

"Statistics on People in Detention in Australia." August 2022, accessed 28/08/2022, 2022, <https://www.refugeecouncil.org.au/detention-australia-statistics/2/>.

Refugee Council of Australia. *Statistics on People Seeking Asylum in the Community*. (2022). <https://www.refugeecouncil.org.au/asylum-community/6/>.

"Explainer: The Medevac Repeal and What It Means for Asylum Seekers on Manus Island and Nauru." Australian Outlook, Australian Institute of International Affairs, 2019, accessed 11/12/2020, 2020, <https://www.internationalaffairs.org.au/australianoutlook/explainer-the-medevac-repeal-and-what-it-means-for-asylum-seekers-on-manus-island-and-nauru/>.

Spathopoulou, Aila, Anna Carastathis, and Myrto Tsilimpounidi. "'Vulnerable Refugees' and 'Voluntary Deportations': Performing the Hotspot, Embodying Its Violence." *Geopolitics* (2020): 1-27. <https://doi.org/10.1080/14650045.2020.1772237>.

Steel, Zachary, Shakeh Momartin, Catherine Bateman, Atena Hafshejani, Derrick M Silove, Naleyva Everson, Konya Roy, *et al.* "Psychiatric Status of Asylum Seeker Families Held for a Protracted Period in a Remote Detention Centre in Australia." *Australian and New Zealand journal of public health* 28, no. 6 (2004): 527-36.

Steel, Zachary, Derrick Silove, Robert Brooks, Shakeh Momartin, Bushra Alzuhairi, and INA Susljik. "Impact of Immigration Detention and Temporary Protection on the Mental Health of Refugees." *The british journal of psychiatry* 188, no. 1 (2006): 58-64.

Tillett, Andrew. "Kiwi Refugee Offer Comes with Security Checks Attached." *Financial Review*, 2019. <https://www.afr.com/politics/federal/kiwi-refugee-offer-comes-with-security-checks-attached-20191205-p53h35>.

UNHCR. *Figures at a Glance*. (2020). <https://www.unhcr.org/en-au/figures-at-a-glance.html>.

UNODC. *Smuggling of Migrants by Sea*. United Nations Office on Drugs and Crime (2011). [http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue\\_Paper\\_-\\_Smuggling\\_of\\_Migrants\\_by\\_Sea.pdf](http://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/Issue-Papers/Issue_Paper_-_Smuggling_of_Migrants_by_Sea.pdf).

Valenta, Marko, Moa Nyamwathi Lønning, Jo Jakobsen, and Drago Župarić-Iljić. "European Asylum Policies and the Stranded Asylum Seekers in Southeastern Europe." *Journal of refugee studies* 32, no. Special\_Issue\_1 (2019): i162-i71. <https://doi.org/10.1093/jrs/fey063>.

Van Orden, Kimberly A, Tracy K Witte, Kelly C Cukrowicz, Scott R Braithwaite, Edward A Selby, and Thomas E Joiner Jr. "The Interpersonal Theory of Suicide." *Psychological review* 117, no. 2 (2010): 575.



Immigration Detention in Australia and Asylum Seekers' Rights to Appropriate Health Care. Health Care Consequences of Keeping Asylum Seekers in Mandatory Detention in Alternative Places of Detentions (APOD)s. Verghis. Moody. Fay.

von Werthern, M., K. Robjant, Z. Chui, R. Schon, L. Ottisova, C. Mason, and C. Katona. "The Impact of Immigration Detention on Mental Health: A Systematic Review." *BMC Psychiatry* 18, no. 1 (2018): 382-82. <https://doi.org/10.1186/s12888-018-1945-y>.

Vostanis, Panos. "Meeting the Mental Health Needs of Refugees and Asylum Seekers." *The British journal of psychiatry : the journal of mental science* 204, no. 3 (2014): 176. <https://doi.org/10.1192/bjp.bp.113.134742>.



## The Ru.Lag: the Kremlin's New Empire of Forced Labor

**Alexandra Lewis**

Lecturer in Education, Conflict and International Development at UCL

**Brad K. Blitz**

Professor of International Politics and Policy at UCL

**Acknowledgments:** With special thanks to Axelle Perinne and Margaret Okole for their assistance on this paper. Title images created by Cezary Żegliński, Yurko Gutsulyak, and Alena Morgunova.

**Keywords:** Russia, Putin, Ukraine, Conflict, Forced Labor, Gulag, Deportation, Displacement

### Abstract

In 2022, Russia reinvaded Ukraine, scaling up a military conflict that began in 2014 with its sudden annexation of Crimea. With the invasion came the establishment of filtration camps, to divide up captured Ukrainians into civilian and combatant groups, for deportation, imprisonment or release. At time of writing, over one million Ukrainians and at least 240,000 children have been confirmed to have been sent to Russia, but the actual numbers are estimated to be far higher. These Ukrainians are caught in a two-way human pipeline that has also led to the conscription of Russians, mainly from ethnic minority or rural areas, to fight and die in the war. We argue that the Kremlin's war has given rise to a new form of governance characterized by a

set of laws, policies, and practices that can be introduced at will through presidential decrees, and marshalled to create a state-wide system of oppression – a Ru.Lag, weaponizing transportation, deportation and forced labor. The Kremlin's war machine depends on state direction, not only of the military-related industries but also of legislative and judicial institutions. The Ru.Lag reaches all present on Russian-controlled territories, regardless of their nationality, and through its utilitarian commodification of human bodies and disregard for individual autonomy evokes the Soviet Gulag of old.

## Introduction

On 24 February 2022, Russia launched a massive invasion of Ukraine, scaling up a military conflict that began in 2014 with the sudden annexation of Crimea. As early as March 2022, reports were emerging of up to 402,000 Ukrainians having been forcibly abducted and taken to Russian controlled territories, including some 15,000 people from the besieged city of Mariupol.<sup>1</sup> Commentators argued that Russia was engaging not only in the forced removal of populations, but were also guilty of war crimes,<sup>2</sup> including genocide.<sup>3</sup> Russia was quick to claim that any transportations of local nationals out of Ukraine constituted an 'evacuation',<sup>4</sup> but human rights monitors stated at the time that deportees had been stripped of their passports and forced to sign papers saying that they would remain in Russia in the districts that they were moved to for up to two years to work without payment, effectively rendering them as slaves.<sup>5</sup> Many were reportedly moved to economically depressed and remote areas of Russia,<sup>6</sup> away from their resources and support networks. As Ukrainians were forcibly relocated across Russian controlled

---

<sup>1</sup> Blitz, Brad & Lewis, Alexandra. "Putin's Gulag-Based Empire: Of Abduction, Deportation, & Modern Slavery", *Byline Times*, 3 March 2022. Available at: <https://bylinetimes.com/2022/03/31/putins-gulag-based-empire-of-abduction-deportation-and-modern-slavery/>

<sup>2</sup> Human Rights Watch (2022). 'Ukraine: Executions, Torture During Russian Occupation -- Apparent War Crimes in Kyiv, Chernihiv Regions'. 18 May 2022. Available at: <https://www.hrw.org/news/2022/05/18/ukraine-executions-torture-during-russian-occupation>

<sup>3</sup> See. Paladino, Jason (2022). 'Russian filtration camps: "Black holes of human rights abuses" where Ukrainians face torture and loyalty tests', *GRID*, 8 August, 2022. Available at: <https://www.grid.news/story/global/2022/08/08/russian-filtration-camps-black-holes-of-human-rights-abuses-where-ukrainians-face-torture-and-loyalty-tests/>

<sup>4</sup> Interfax. "Over 384,000 people evacuated to Russia from Ukraine, LPR, DPR - Russian Defense Ministry". Available at: <https://interfax.com/newsroom/top-stories/77276/>

<sup>5</sup> Tondo, L. Henley, J. & Boffey, J. (2022). "Ukraine: US condemns 'unconscionable' forced deportations of civilians from Mariupol", *The Guardian*. 20 March 2022. Available at: <https://www.theguardian.com/world/2022/mar/20/russia-bombed-mariupol-art-school-sheltering-400-people-saysukraine#:~:text=Forced%20civilian%20deportations%20from%20Mariupol,of%20the%20devastated%20port%20city>

<sup>6</sup> Bo Lillis, K.; Atwood, K. & Bertrand, N., CNN. "Russia is depopulating parts of eastern Ukraine, forcibly removing thousands into remote parts of Russia", *CNN*, 5 May 2022, Available at: <https://edition.cnn.com/2022/05/26/politics/ukraine-filtration-camps-forcibly-remove-russia/index.html>

territories, Russians citizens, mainly from impoverished areas and ethnic minority backgrounds, were *also* mobilized by the thousands and sent with little to no training to fight in Ukraine.<sup>7</sup> Thus Russia's war offensive has created a two-way human pipeline that serves the state's strategic objectives by means of subjugation and punishment, alongside forced conscription.

This article explores how the legacies of state control over mobility inform our understanding of Russia's conduct of the war in Ukraine, and its reliance on forced labor and transportation. We record how the practices of abduction, recruitment, and forced relocations fit within a wider history and describe how this system operates in both the occupied Donbas and Luhansk regions of Ukraine and in Russia, based on a review of the emerging literature. We suggest that the grand scale commodification of human beings caught within this system evokes the Soviet Union's infamous Gulag system of old. We describe it as a *Ru.Lag* – a Russia-wide Gulag, a system of forced labor and displacement writ large, which covers every facet of the Russian military intervention in Ukraine. This article begins with a review of forced labor and population controls throughout Russia's history, before describing the contemporary governance of oppression. We consider the emerging accounts of serious human rights violations, and chronicle how the Ru.Lag operates, from the abduction of civilians, to their processing in 'filtration camps', and subsequent detention, removal and subjugation in systems of economic and military exploitation. Our central argument is that while Russia's past informs our understanding of the current abuse of human rights, the Putin regime has also instilled distinctly new modes of oppression, which sustain the war effort in Ukraine.

### **Forced Labor and Population Controls in Tsarist Russia and the Soviet Union**

Russia has for generations used deportation and involuntary resettlement as a form of social control, and a means to generate labor. Punishment involving expulsion and exile was used against dissidents and undesirables, all too often followed by further restrictions on personal mobility, including enslavement. Transportation was also used more practically to develop lands or relocate troublesome populations. One need look no further than Russian language classics such as Gogol's *Dead Souls* (1842), Turgenev's *Sketches from a Hunter's Album* (1852) and Dostoyevsky's *Demons* (1871-2) to see that complex debates around national interest versus the immorality of serfdom, slavery and the commodification of people are deeply codified in Russia's cultural heritage and arguably complicated by questions around the needs of collectivism versus individualism, as well as around Orthodox conformity versus multiculturalism. While collectivist values prevailed in Tsarist Russia, they were taken to an extreme after the Bolshevik Revolution. Ostrovsky writes that the Bolshevik dream of utopia was one of 'collective living devoid of any personal habits'.<sup>8</sup> Putin, from his first days in office, has

---

<sup>7</sup> Roth, A. (2022). "It's a 100% mobilisation': day one of Russia's drive to build its army: Reports ethnic minorities may be disproportionately affected while protesters in Moscow drafted on arrest" in *The Guardian*, 22 September 2022. Available at: <https://www.theguardian.com/world/2022/sep/22/russia-mobilisation-ukraine-war-army-drive>

<sup>8</sup> Ostrovsky, A. (2015). *The Invention of Russia: The Journey from Gorbachev's Freedom to Putin's War*, p. 80.

held onto this vision, hailing 'the state as a key driver of success and a force of consolidation'.<sup>9</sup> In Putin's Russia, Ostrovsky argues, strength and security come from 'patriotism, collectivism, *derzhavnost* - a tradition of being a great geopolitical state power that commands the attention of other countries - and *gosudartvennichestvo*, the primacy of the state', not from individual freedoms or deviations.<sup>10</sup> Kliucharev and Muckle agree that:

*'traditional Russian values [include]: community spirit; collectivism; a tough (authoritarian) system of directing society by a centralized state; a striving for justice and fairness; and the prior claim of the spiritual and moral over the material.'*<sup>11</sup>

The primacy of these ideas helps to explain the pernicious lasting legacy of forced labor and population control within Russian politics and penal administration, which are fundamentally utilitarian, involving the removal of threats to Russian order (rather than rehabilitation) and the exploitation of human capital when possible. Russia's current high rate of recidivism,<sup>12</sup> at its base, serves as a reminder that even in the present day prison system, the rehabilitation of offenders is not a genuine objective.

In Imperial Russia, serfdom was presented as ontologically different from slavery, which existed alongside it for centuries. After all, slaves were thought of legally as property, while serfs were defined as people, though this afforded them little advantage. Although the Russians maintained that there was a distinction between slavery and serfdom, this distinction often collapsed in practice. The serf was considered an unfree person who belonged to the land, and could in principle only be sold with it, but landowners found loopholes through which to bypass these laws or falsified records to sell serfs as individuals too. A product of the authority's feudal dependency on peasants, serfdom had existed since the 12th Century, as informed in *Russkaya Pravda*, the legal code of Kievan Rus', and continued into the 19th Century. After Peter 1 abolished slavery in 1723, serfdom became the dominant form of economic oppression, expanding deep into the Russian Empire, including into Ukraine during the reign of Catherine the Great (1762-1796). There is some evidence that while serfs were reserved to the Russian royal family and the landowning class, commercial firms sold serfs as slaves both within Russia and abroad. Being tied therefore to Tsardom, the system was justified culturally as an extension of God's will – for if the Tsar was born into power by Divine design, then the serfs were born to be subjugated. Since suffering brought people closer to God, and the serfs were made to suffer,

---

<sup>9</sup> Ibid, p. 264.

<sup>10</sup> Ibid.

<sup>11</sup> Kliucharev, G. & Muckle, J. (2005) 'Ethical values in Russian education today: a moral maze', *Journal of Moral Education*, 34:4, 465-477, DOI: [10.1080/03057240500412521](https://doi.org/10.1080/03057240500412521), p. 474.

<sup>12</sup> Strzelecki, Jan. "Russia behind bars: the peculiarities of the Russian prison system." *OSW Centre for Eastern Studies* (2019). Available at: <https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-02-07/russia-behind-bars-peculiarities-russian-prison-system>

their exploitation for the collective development of Russia was deemed natural. This continued even after the abolition of trade in African slaves by Emperor Nicholas I in 1842, and only started to see reform in the Baltic provinces in the early 19th Century, before Alexander II emancipated the serfs in 1861.

Serfdom, however, had deep roots and just two generations after it was abolished both Lenin and Trotsky supported the militarization of labor, which entailed converting military units into armies of labor, and pressing industrial workers to carry out particular tasks under military supervision.<sup>13</sup> Although now focused on industrial expansion, it relied on similar forms of coercion previously seen in the Tsarist period, namely the imposition of military rule over the people who were forcibly conscripted and engaged in the state's military-industrial production centers, which made sense to the Bolsheviks within the Russian cultural context. Primary sources on the political development of the first years of the Soviet Union and immediately following the Civil War record how any prospect of enhancing individual rights soon gave way to collectivization and, with that, the return of forced labor. This was especially true under Stalin, who felt that Lenin had made too many concessions to the peasantry to protect rural production during the Russian Civil War (when Lenin had allowed peasants to sell symbolic surpluses of grain to ensure they continued to feed his troops in return). Stalin quickly reversed these alleged capitalist *indulgences*.

The newly created Soviet system established industrial-scale labor camps and facilities stretching across the far reaches of Russian lands, and eventually into the central Asian Soviet republics. We now have extensive written evidence of the place of the Gulag ('Corrective Labor Camps'), as chronicled by Solzhenitsyn,<sup>14</sup> in the political development of the Soviet Union. Established by Lenin in the 1920s and then greatly extended under Stalin, the Gulag was 'a flourishing system of camps, colonies, prisons, special settlements, and other more fleeting and specialized units of isolation and forced labor'.<sup>15</sup> The Gulag served as an instrument of repression for seemingly random sections of society, accused of political crimes and corruption, who were sent to work in Siberian penal camps and elsewhere under the harshest of conditions. Oleg Khlevniuk argues that the rapid expansion of forced labor throughout the Soviet economy was indicative of the integration of the Gulag economy,<sup>16</sup> though historians argue about the degree to which that economy can be thought to have been truly productive. Healey, for instance, notes that:

---

<sup>13</sup> See Hewes, Amy (1923). "Trade Union Development in Soviet Russia." *The American Economic Review* 13/ 4, pp. 618–37. <http://www.jstor.org/stable/1803875>.

<sup>14</sup> Solzhenitsyn, Alexander. I, *The Gulag Archipelago, 1918-1956: an Experiment in Literary Investigation*. New York :Harper & Row, 1974.

<sup>15</sup> Khlevniuk, Oleg (2015), 'The Gulag and the non-Gulag as one interrelated whole', *Kritika: Explorations in Russian and Eurasian History* 16/3: 479-498. (Translated by Simon Belokowsky)

<sup>16</sup> *Ibid*, p. 488.

*'Many critics of Stalinism have asserted emphatically, with entirely understandable motives, that the Gulag yielded little of value: shallow canals, useless railways, faked production figures. The imperative of punishment and the desperately high cost paid in human lives overwhelmed any genuine value created.'*<sup>17</sup>

Nevertheless, maps produced by the dissident Avraham Shifrin illustrate the reach of the Gulag and suggest how the Communist Party of the Soviet Union drove the expansion of the state right into the lives of workers across the vast territory of the Soviet Union.<sup>18</sup>

**Illustration 1: The Gulag System**



<sup>17</sup> Healey, Dan. "Lives in the Balance: Weak and Disabled Prisoners and the Biopolitics of the Gulag." *Kritika: Explorations in Russian and Eurasian History* 16, no. 3 (2015): 527-556. DOI:10.1353/kri.2015.0047.

<sup>18</sup> See: Shifrin, Abraham. *The First Guidebook to Prisons and Concentration Camps of the Soviet Union*. Bantham Books, 1982.

Obedience was the cardinal virtue. Rural workers toiled under military supervision, urban workers were encouraged to weed out traitors for themselves alongside Stalinist purges that followed.

While the Soviet leader Nikita Khrushchev, as part of his de-Stalinization programme, condemned the use of forced labor, patriotic justifications of forced labor have seemingly won out in the long run under Putin, who has sought to rehabilitate Stalin and encourage a more 'positive' view of Russia's past among Russian children and young people.<sup>19</sup> For example, in 2007, the Kremlin introduced the so-called "Filippov textbooks" to history classrooms across Russia. Designed to teach secondary school students to love their Motherland, the books favored a 'rational' approach to the teaching of Stalinist history, whereby the justifications for his decisions were examined and critiqued based on imagined options that Stalin had available, rather than being evaluated on the basis of any inherent (im)morality. Stalin's 'mobilization system', 'purges and all', was depicted as 'unavoidable'.<sup>20</sup> Gjerde explains that in the books, Stalin himself 'is presented as a normal leader':

*'The text has one single reference to Stalin's rule as "tyranny", but also this reference is firmly embedded in a section where Stalin is given considerable credit for winning the war'.<sup>21</sup>*

Smith asks whether the state's approach to mythmaking and history under Putin 'mean the inevitable rehabilitation of Stalin' in Russian patriotic discourse, and concludes that the answer is 'not necessarily'. Putin, he wrote in 2004, had not overtly praised Stalin's leadership (though an argument could be made based on Putin's most recent speeches that this is no longer true). Nevertheless, Smith conceded, 'the statist motivation does require remembering industrialization and the conduct of World War II at the very least as unmitigated successes'.<sup>22</sup> This motivation has been deliberately integrated into the Russian teaching of Soviet history, and it can be extrapolated from this history that if repressions and forced labor were necessary in the past for the collective good, then they may also be justified for their use in the present within Putin's Ru.Lag.

Khlevniuk clarifies that while millions were incarcerated under Stalin, those outside of the Gulag who were presumed to lead 'notionally free' lives occupied in essence merely a 'non-Gulag' space, and could not be said to enjoy real freedom.

---

<sup>19</sup> Edele, M. 'Fighting Russia's History Wars: Vladimir Putin and the Codification of World War II', *History and Memory* 29, no.2 (2017), p. 105.

<sup>20</sup> Gjerde, K.L. 'The use of history in Russia 2000–2011: the Kremlin and the search for consensus', *East European Politics*, 31:2 (2015), 149-169, DOI: [10.1080/21599165.2015.1035779](https://doi.org/10.1080/21599165.2015.1035779) p. 159.

<sup>21</sup> Ibid, p. 160.

<sup>22</sup> Smith, K.E. 'Whither Anti-Stalinism?', *Ab Imperio*, 4 (2004), 433-448. DOI: [10.1353/imp.2004.0099](https://doi.org/10.1353/imp.2004.0099). p. 446.



*'Between 1930 and 1952, judiciary and extrajudiciary organs issued nearly 30 million sentences (including repeat sentences for "recidivists") for punishments that fell short of imprisonment. These were largely sentences of corrective labor without confinement to a camp or colony. In many cases, those receiving such sentences faced grim conditions, and the punitive garnishment of wages pushed their families to the brink of starvation.'*<sup>23</sup>

He notes that given the diversity of Gulags, and the prevalence of poverty in Russia, sometimes life inside the Gulag was considered to provide better living conditions. Still, in the totalitarian Stalinist system, there was little basis for distinction between the Gulag and non-Gulag spaces. As Jacques Rossi in his *Gulag Handbook* records, inmates referred to their camps as the 'small zone' (*malaiia zona*), and life outside in the Soviet Union was the 'large zone' (*bol'shaia zona*).<sup>24</sup> He writes:

*'In attempting precisely to delineate the boundaries between Gulag and non-Gulag, we are forced instead to recognize their close interconnection. Residential buildings and prisons were located side by side, and the space between them was minimal in both a geographical and a legal sense. An impenetrable wall separated Gulag and non-Gulag, punctuated by legal gates and semilegal breaches. Conceding this much is merely a starting point for the historian.'*<sup>25</sup>

Martin Kragh supports this claim, and argues that at its peak in 1940, 'the Soviet industrial labor force was the most regimented in the world, blurring usual distinctions between free and forced labor.'<sup>26</sup> Again, this was achieved through an entrenched system of 'authoritarian ethics', which were codified within Soviet culture through education and propaganda to promote 'self-sacrifice and collective responsibility' for the sake of a brighter tomorrow.<sup>27</sup> In his iconic *Everything was forever, until it was no more*, Yurchak notes that even if the 'notionally free' population of the Soviet Union did not all by the final years of the USSR uniformly believe in the state's vision of utopia, their conformity with it was codified and heavily ritualized through daily participation and repetition of behavior and work practices that signaled acquiescence. Given the brutally repressive character of the state, and its history of issuing punishments not

---

<sup>23</sup> Khlevniuk, 'The Gulag and the Non-Gulag as One Interrelated Whole'. p 482.

<sup>24</sup> See: Rossi, J. *The Gulag Handbook: An Historical Dictionary of Soviet Penitentiary Institutions and Terms Related to the Forced Labour Camps*. Paragon House, 1989.

<sup>25</sup> Ibid. p. 485.

<sup>26</sup> Kragh, M. 'Free and Forced Labour in the Soviet Economy: An Uncertain Boundary' in Hansen, Julie and Rogachevskii, Andrei (eds)., 'Punishment as a Crime? Perspectives on Prison Experience in Russian Culture, Uppsala Studies on Eastern Europe, University of Uppsala, 2014.

<sup>27</sup> Arkhangelskiy, A. 'The Black Hole Where Russia's Ethics Should Be'. Moscow: Carnegie Moscow Centre, 2016. Available at:

only for explicit deviance or criminality, but more often seemingly for no reason at all, the acceptance of collectivist values became for many a means of survival. As Piacentini summarizes: 'the Soviet regime manufactured deviance through the subversion of ideology in order to create a factory of workers' and 'dispensed fear through the arbitrary use of crime legislation' as part of the Gulag Archipelago.<sup>28</sup>

While there is no agreement on the numbers who were sent to the Gulags and perished there, historians estimate that between 1928–53, about 14 million prisoners passed through the system of Gulags, in addition to millions of others sent to satellite camps, labor settlements, and prisons; though there are debates as to whether these figures reflect capacity or actual victims.<sup>29</sup> In spite of the wealth of evidence, official Russian history minimizes the scale of abuse and tends to focus only on the 4 million deemed politically oppressed, excluding the wider millions imprisoned for criminal offenses – in the non-Gulag space – which shines a light on the politicized manner in which criminality is defined in Russia, then and now.<sup>30</sup> Discussions around the prevalence of the Gulag also fail to note that rates of incarceration in Russia have only increased under Putin, or that many of Russia's prisons are built on top of sites where Gulags once stood.<sup>31</sup>

Yet, even within the Soviet Union, after Khrushchev dissolved the Gulag system in 1960 and most of the prison camps in Siberia were emptied and prisoners released, the state relied on systems of surveillance, residency and mobility controls to prevent movements between cities and to manage industrial production, and these methods also had lasting legacies. The *Propiska* literally means "record" and was used to designate an individual's place of residence in the internal passport required by Soviet law from 1932 onwards. While the propiska stamp had its antecedents in Tsarist Russia, when residency permits were used to tie serfs to the land,<sup>32</sup> the propiska system came into effect during the height of Stalin's programs of industrialization and collectivization. The formal function of the propiska, namely, registration, quickly served to record the movement of people within the Soviet Union and demarcate those fit for inclusion or exclusion in the greater Socialist project. It did so by restricting access to scarce resources, including food and housing. Even though it had no constitutional foundation, the propiska

---

<sup>28</sup> Piacentini, Laura Francesca. 'Work to live: The function of prison labour in the Russian prison system', PhD Thesis, Bangor University (2002), p.3.

<sup>29</sup> See the debate between Robert Conquest and Stephen Wheatcroft, Conquest, Robert. 'Victims of Stalinism: A Comment', *Europe-Asia Studies*, 49/7, 1997.

<sup>30</sup> This is not unique to Russia. Criminal statistics are heavily politicised in all settings. For example, in conflict affected states, homicides are often subsumed into battle casualty statistics to inflate the perceived need for foreign military support. See Lewis, A. *Violence and Fragility: A Study of Violent Young Offending in Yemen and Other Conflict-Affected States*. York: University of York, 2012.

<sup>31</sup> Pallot, Judith. "The Gulag as the crucible of Russia's 21st-century system of punishment.' *Kritika: Explorations in Russian and Eurasian History* 16, no. 3 (2015), 681-710. DOI:[10.1353/kri.2015.0044](https://doi.org/10.1353/kri.2015.0044). p. 688.

<sup>32</sup> See Matthews, M. *The Passport Society: Controlling Movement in Russia and the USSR* (Boulder, CO: Westview (1993).

epitomized the extension of the state into the lives of everyday Soviets, and by the 1950s it had expanded across the former Soviet Union.<sup>33</sup> During phases of intensive economic development and agricultural collectivization, the propiska was used to curb the flight of migrants from rural areas to the growing industrial centers.<sup>34</sup> Since only those who were able to secure the official stamp enjoyed access to civil, social and political rights such as employment and voting in key regions, the propiska acted as a precondition to settlement and also controlled social relations. It enabled the authorities to track the whereabouts of residents, and also functioned as a part of a broader campaign of internal security and terror.<sup>35</sup> The propiska became central to the state's obsession with socially engineering Soviet citizens. According to David Shearer its surveillance function reflected Stalin's preoccupation with borders and territorial security and was a vital part of the state apparatus that enabled the Soviet leadership to redistribute resources, colonize land, identify, control and exterminate specific populations.<sup>36</sup> It remained unchallenged until 1991 after which it was later abolished and replaced by a system of registration controls which had many similar characteristics and continued to regulate the right to residency, even after the demise of Communism.

### **Enduring Legacies: Oppression, Surveillance, Transportation and Forced Labor in Putin's Russia**

Today, we find continuities with both the Gulag system of mass incarceration, as well as the system of residency controls. Strzelecki notes that most of the prison colonies and prisons that continue to be in use now in Russia were built under Stalin's regime.<sup>37</sup> Both philosophically and quite literally *physically* the contemporary Russian penal system is built from the bones of the Gulag Archipelago and serves a similar role in society as a threat of arbitrary and degrading punishment that demands 'discipline' and conformity in the Foucauldian sense. This is not always evident from the literature: early works from the immediate post-Soviet years in particular denote concern for ongoing human rights violations in Russia's prisons, but such concern is generally tempered by an undercurrent of optimism for the possibility of reform. The 1990s and early 2000s brought extreme socio-cultural change for Russia, during which the country reached for a new national trajectory following the collapse of the Soviet Union in 1991, and it looked for a time as though that trajectory would involve a turn towards Europe through

---

<sup>33</sup> Schiabe, D. S. Life in Russia's "closed city": Moscow's movement restrictions and the Rule of Law, *New York University Law Review*, 76, (2001): 344–373.

<sup>34</sup> Matthews, *The Passport Society*.

<sup>35</sup> Blitz, B. K. 'Decentralisation, Citizenship and Mobility: Residency Restrictions and Skilled Migration in Moscow'. *Citizenship Studies*, 11, no 4 (2007). 383-404.

<sup>36</sup> Shearer, D. 'Elements near and alien: passportization, policing, and identity in the Stalinist state, 1932–1952', *Journal of Modern History*, 76, (2001), 835–881.

<sup>37</sup> Strzelecki, J. (2015). 'Russia behind bars', p. 9.

the introduction of new and more liberal prison standards. Piacentini & Katz note for example that:

*'when Russia joined the Council of Europe in 1996 it did indeed accede to a series of Council of Europe Conventions immediately including new Criminal and Procedural Codes and a Criminal Correctional Code with the legal obligation to integrate European standards and principles into all legislation covering places of confinement and the European Prison Rules'.<sup>38</sup>*

Yet these changes would not last. The 1990s were beset by gangster economics and rampant corruption that emerged out of the sudden liberalization of the Russian economy, which undermined the country's path to democratization following the collapse of the USSR. Putin rose to power in 1999 on a platform of strong governance to combat emerging disaffection among the general population, who had begun to lose faith in Russian so-called liberalism under Yeltsin. After over twenty years in power, Putin's politics have become increasingly anti-Westernist and anti-democratic.<sup>39</sup> An extreme masculinization of Putin as a 'strong man' and leader can be traced in state-controlled media, where he is pictured standing in opposition to 'Gayropa' (i.e. 'Gay Europe') – a 'degenerate' Europe 'manifested in the collapse of the traditional gender order' and 'the triumph of homosexuals and feminists'<sup>40</sup>. In this discourse, Russia is 'a bastion of "moral principles"' that stands against the corrosive influence of 'such values as tolerance, secularism, and, above all, democracy'.<sup>41</sup> The decline of individual freedoms and the return of Gulag-thinking in the penal sector have emerged as a natural by-product of this authoritarian turn, and reforms have been curtailed.

As Judith Pallot argues, 'despite shifts in penal policy after the Revolution, in the immediate post-Stalin period, and between 1984 and 1993, the pillars on which the current Russian system of punishment is constructed have remained remarkably constant over time.'<sup>42</sup> To illustrate this point, she calls attention to contemporary examples of forced labor. In 2021, Pallot informed that the FSIN (the Russian Federal Corrections Service) was negotiating a contract with the Russian Railway Authority to deploy penal labor to work on the Baykal-Amur railway project. Pallot described this as a provocative development, writing,

---

<sup>38</sup> Piacentini, L., & Katz, E. 'Carceral framing of human rights in Russian prisons', *Punishment & Society*, 19, no. 2 (2017), 221–239. <https://doi.org/10.1177/1462474516665609> p. 227.

<sup>39</sup> Lewis, A. & Lall, M. (forthcoming) From Decolonisation to Authoritarianism: The Co-option of the Decolonial Agenda by Elites in Russia and India.

<sup>40</sup> Riabov, R. & Riabova, T. 'The Remasculinization of Russia? Gender, Nationalism, and the Legitimation of Power Under Vladimir Putin', *Problems of Post-Communism*, 61, no 2 (2014), pp. 23-35. p. 29.

<sup>41</sup> Ibid.

<sup>42</sup> Pallot, J. (2015). 'The Gulag as the Crucible of Russia's 21st-Century System of Punishment.'

*'the Baikal Amur Corrective Labor Camp, known as BAMLAG, was once the largest of the 1930s camps. At its height in 1938, it held 20% of all gulag prisoners. By that same year, it had accounted for 40,000 deaths, including 837 executions'.*<sup>43</sup>

She further registered her surprise that the right to subcontract to this private company was legally permissible. For this reason, Pallot concluded that this experiment was 'an extension of the punishment of forced labor as an alternative to deprivation of freedom.'<sup>44</sup> Strzelecki comes to a similar conclusion in his analysis of the Russian prison system, believing that 'Despite several attempts to reform the prison system in Russia, they still resemble the Soviet Gulag', precisely because of persisting 'human rights violations and torture', which are common, and the reality that the 'prison service is a machine that knows well how to hide pathologies and earn extra money' through the exploitation of inmates.<sup>45</sup> As we have argued throughout, this demonstrates a continued state-driven emphasis on the culture of collectivism, which demands a removal of threats and deviance, the punishment of offenders, and utilitarian exploitation of human capital as an added bonus when this is deemed possible.

In November 2022, fresh evidence of incarceration and forced labor appeared in both the Russian and international press with journalists recording an announcement by the FSIN for the Sverdlovsk region that some 250 people had been sentenced to 'obligatory work' in Nizhny Tagil, and would serve out their sentences at the Uralvagonzavod industrial plant. What was significant about this news item was that the production site was both a cargo-train manufacturer and a producer of tanks and armored vehicles for the Russian military.<sup>46</sup>

*'Convicts will work as machine operators, turners, milling and drill operators, grinders, electric welders, mechanics, and crane operators. The state garnishes between four and 20 percent of the salaries earned by people sentenced to forced labor. Still, FSIN officials emphasize that only convicts who are eager to "reform" themselves are eligible for these industrial jobs.'*<sup>47</sup>

These recent reports suggest that, once again, forced labor is central to present-day Russia's political and military infrastructure and that the state continues to use it in order to exact punishment, and drive forward industrial production. It comes as no surprise therefore that

---

<sup>43</sup> Pallot, J. (2021), 'The cold logic of forced labour in Russia'. *Riddle*. Available at: <https://ridl.io/the-cold-logic-of-forced-labour-in-russia/>

<sup>44</sup> Ibid.

<sup>45</sup> Strzelecki, J. (2015). *Russia behind bars: the peculiarities of the Russian prison system*, p. 9.

<sup>46</sup> Yahoo News. '250 convicts will serve forced-labour sentences at Nizhny Tagil tank and armored-vehicle construction plant', *Meduza*, 29 November 2022. Available at: <https://meduza.io/en/news/2022/11/29/250-convicts-will-serve-forced-labour-sentences-at-nizhny-tagil-tank-and-armored-vehicle-construction-plant>

<sup>47</sup> Ibid.

prisoners across Russia may also now choose to have their sentences commuted if they volunteer to join the war effort in Ukraine, where joining the military carries with it a presidential pardon after six months of service and a promised salary of 100,000 Rubles per month.<sup>48</sup> As many as 11,000 prisoners signed up for the opportunity when it was introduced in September 2022, and their number has since been growing.<sup>49</sup>

Yet this is not where the comparison to the Gulag ends. Key to Russia's penal history are the symbolic role of geography and the opportunities that landscape provides for isolation, punishment and forced labor. Laurelle, who has written extensively on the topics of Russian identity and culture, writes that, while for Europeans, a key construction of identity is history, many Russian thinkers and philosophers have sought to define the Russian nation geographically<sup>50</sup> through three metanarratives, each providing Russia a component of its uniqueness:

1. Eurasianism – the idea that ‘Russia’s territory is larger than other countries in the world and forms a specific continent’<sup>51</sup>;
2. Cosmism – the idea that Russia, being the first in space, has the highest reach into the universe (and is by implication closer to an Orthodox God); and,
3. Arctism – that Russian character is informed by the country having the furthest reach into the harsh landscapes of the North.

Laurelle explains:

*In their own ways, these three metanarratives all involve spatial criteria: the territorial dimension and the location between Europe and Asia (Eurasianism); the conquest of space as a new way of continuing territorial expansion that has messianic meaning (Cosmism); and the Nordic location of Russia as the revenge over the lost Soviet territories (Arctism).<sup>52</sup>*

Thus, a persisting tradition of Russian punishment from Tsarist times into the present day has been the threat of being sent away, either into exile, into Siberia, or into a distant penal

---

<sup>48</sup> *Guardian*, ‘“We thieves and killers are now fighting Russia’s war”: how Moscow recruits from its prisons’, *The Guardian*, 20 September 2022. Available at: <https://www.theguardian.com/world/2022/sep/20/russia-recruits-inmates-ukraine-war-wagner-prigozhin>

<sup>49</sup> *Ibid.*

<sup>50</sup> Laruelle, M. *Russian Eurasianism: An Ideology of Empire*, Washington DC: Johns Hopkins University Press. 2008, p. 31.

<sup>51</sup> Laruelle, M. *Russian Nationalism: Imaginaries, Doctrines, and Political Battlefields*, London: Routledge. 2019, 39.

<sup>52</sup> *Ibid.*

colony, of which the long degrading journey remains a key feature of the suffering of prisoners, which is created through the deliberate 'impairment' of their sense of geography.<sup>53</sup> Badcock & Pallot note that in Putin's Russia, the rail journey to prison:

*'remains traumatic for many. In the decades after the death of Stalin conditions in transport improved. The reduction in numbers of prisoners having to be moved meant that purpose-built carriages could be used which had bathroom facilities, fixed bunks and better ventilation. However, the overcrowding, poor food, overlong journeys and the convoy guards' degradation rituals that had developed during the gulag years were to endure. ... Just as in the Soviet period, lack of knowledge about the destination is central to exiles' pains of punishment.'*<sup>54</sup>

Given persisting legislative and practical restrictions on social mobility in Russia, the vastness of the country, and its cultural diversity, transportation from one facility to another can feel like transportation to a foreign country and has the effect of totally isolating some prisoners from their families and loved ones:

*'When, for example, prisoners talk in interviews about going to "another country" or insist that it is normal for Russians "to be sent to katorga" or that women from the south are "in exile" in colonies in the North and Siberia, they are positioning themselves within an historical stereotype about Russian incarceration as exile.'*<sup>55</sup>

That transportation is understood by researchers of prison conditions to be frightening, disorienting, isolating and dehumanizing for Russian prisoners puts into sharp relief the potential weaponization of this tool as a system to punish Ukrainian civilians and prisoners of war for resisting Putin's expansionist agenda, as the following section explores.

### **The Governance of Oppression: Abduction, Removal, Incarceration and Forced Labor**

Putin's war machine depends on state direction, not only of the military-related industries but also of legislative and judicial institutions. We argue that the current war in Ukraine has given rise to a new form of governance characterized by a set of laws, policies, and practices that can be introduced at will through presidential decrees, and marshalled to create a state-wide system of oppression – a Ru.Lag.

---

<sup>53</sup> Pallot, J. 'The Gulag as the crucible of Russia's 21st-century system of punishment', p. 700.

<sup>54</sup> Badcock, S. & Pallot, J. 'Russia and the Soviet Union from the Nineteenth to the Twenty-First Century', *A Global History of Convicts and Penal Colonies*. Ed. Clare Anderson. London: Bloomsbury Academic, 2018. p. 285.

<sup>55</sup> Ibid.

A central plank of Putin's war machine is the attempt to control information and discourse on the war in Ukraine. With this aim in mind, on 4 March 2022 the Kremlin introduced a series of administrative and criminal laws,<sup>56</sup> prohibiting anti-war statements, criticism of the Russian military and state bodies, as well as any support for the application of sanctions on the Russian state. The introduction of these laws precipitated the outflow of foreign media from Russia, but they have since been used to silence domestic critics, as evidenced in the arrest and imprisonment of Ilya Yashin, who spoke out against the war and was sentenced to 8 years on 9 December 2022.<sup>57</sup>

In October, the Kremlin extended its control over the occupied territories in Ukraine, with the imposition of martial law in Donetsk, Kherson, Luhansk and Zaporizhzhia regions, where Russia seized existing prisons and established new ones for the processing of Ukrainian civilians and combatants. This legislation, which was approved by the upper house of the Russian Duma, suggested that further restrictions were in train, including further attempts to curb civil liberties and rights to travel, gather in public, as well as stricter censorship and greater powers granted to law enforcement agencies. Unlike the Gulag of Soviet times, which depended on repression and fear, the Ru.Lag's reliance on law presents an alternative system which allows the Kremlin to create a prison state writ large. Hence, the Ru.Lag touches every facet of Russian society.

Central to the Ru.Lag is the threat of arrest, detention and removal, and forced labor, including in closed cities, as well as forced conscription. Most worrying, the Ru.Lag reaches all present on Russian-controlled territories, regardless of their nationality, and is leading to the arbitrary arrest and deportation of Ukrainian civilians and combatants out of Ukraine and into Russia. At time of writing, over one million Ukrainians and at least 240,000 children have been confirmed to have been sent to Russia, but the actual numbers are estimated to be far higher.<sup>58</sup> Although the mass deportation of foreign nationals is prohibited under international humanitarian law and Article 49 of Geneva Convention IV specifically prohibits the deportation of protected persons, there is much evidence of serious human rights violations and contraventions of these laws. As legal scholar Michael N. Schmitt argues, most of the individuals Russia allegedly deported do qualify as protected persons, especially the thousands of children. Generally, while reports of torture, rape and acts of genocide in Ukraine abound and are

---

<sup>56</sup> Administrative Law No.31-FZ, Law No. 62-FZ; and, criminal laws No. 32-FZ, Law No. 63-FZ.

<sup>57</sup> BBC News, 'Kremlin critic Yashin jailed for 8 years for 'fake news' on Russia war', *BBC News*, 9 December 2022. Available at: <https://www.bbc.co.uk/news/world-europe-63915301>

<sup>58</sup> Al Jazeera. Ukrainians allege abuse, beatings at Russian 'filtration' camps. *Al Jazeera*, 05 December 2022. Available at: <https://www.aljazeera.com/news/2022/12/6/ukrainians-allege-abuse-beatings-at-russian-filtration-camps>



evidenced by Ukrainian bodies left behind in the wake of Russian retreats,<sup>59</sup> those who have been deported are a category of 'invisible victims'. Kluth explains:

*'We can unearth the mass graves left in Ukraine by retreating Russian troops. ... But we can't contact the Ukrainian women and children whom the invaders have abducted and taken far into the interior of Russia.'*<sup>60</sup>

Particularly troubling are the opportunities for undocumented violations that this reality has afforded. Given the massive extension of Russia's propaganda and censorship campaign at home, the country's vibrant network of social movements, human rights advocates, independent scholars and journalists, which emerged out of the collapse of the Soviet Union, has now been virtually destroyed. Those who would ordinarily be in positions to probe questions surrounding the transportation of Ukrainian prisoners within Russia have as of 2022 either fled or been silenced.

Another central weapon in the Kremlin's arsenal has been citizenship. While this is presented as a paternalistic face of protection, abductees are encouraged to elect 'voluntary naturalization', which renders Ukrainians into Russians and further conceals them from view.<sup>61</sup> We note that in May 2022, Putin passed an order to fast-track Russian citizenship for residents in Kherson and Zaporizhzhia regions. One additional fear is that as Putin turns to mass naturalization as a means of repopulating a demographically challenged Russian workforce, debates over the status of recently deported Ukrainians may frustrate the possibility of their return.<sup>62</sup>

Yet, the conditions attached to citizenship of Russia, mean that the offer of state protection can also be revoked. Alongside the March 2022 laws described above, in November 2022 the Kremlin introduced a bill to strip their citizenship from 'anti-patriotic' Russians, and those found guilty of discrediting Russia, or sharing 'fake news'. We note the high-profile court rulings which permitted the state to strip prominent climate activist Arshak Makichyan of his Russian citizenship, and also deport a Moldovan TikTokker who had parodied a Russian soldier

---

<sup>59</sup> Dickinson, P. 'Vladimir Putin's Ukrainian Genocide: Nobody can claim they did not know', *Atlantic Council*, 1 December, 2022. Available at: <https://www.atlanticcouncil.org/blogs/ukrainealert/vladimir-putins-ukrainian-genocide-nobody-can-claim-they-did-not-know/>

<sup>60</sup> Kluth, A. 'Russia's mass abductions are genocide'. *The Japan Times*, 20 November 2022. Available at: <https://www.japantimes.co.jp/opinion/2022/11/30/commentary/world-commentary/russia-ukraine-genocide/>

<sup>61</sup> See Birrell, I. 'Hours on trucks, interrogated in camps... Ian Birrell sees the hell of forced deportation faced by brave Ukrainians who sheltered for weeks from Russian shelling in Mariupol', *Daily Mail*. 27 March 2022. Available at: <https://www.dailymail.co.uk/news/article-10657825/IAN-BIRRELL-sees-hell-forced-deportation-faced-brave-Ukrainians.html>

<sup>62</sup> Schmitt, M. N. 'Deportation of Ukrainian Civilians To Russia: The Legal Framework', *Lieber Institute West Point*, Mar 24, 2022. Available at: <https://lieber.westpoint.edu/deportation-ukrainian-civilians-russia-legal-framework/>

filmed disposing of grenades dropped from a Ukrainian drone.<sup>63</sup> Further, as in Soviet times, Russians themselves are encouraged to demonstrate their acquiescence with the system at home by practicing what Putin terms 'self-cleansing' and reporting on their neighbors to eliminate dissent and feed the machine. Thus the Ru.Lag is built into the Russian social fabric.

The process of removal of Ukrainians into Russia begins with abduction by Russian military and paramilitary forces, as described in survivors' accounts.

*'At first, the occupiers went to the houses to check whether anyone lived there. If so, the letter Z was placed on the fence or the building itself. Subsequently, at the beginning of March, residents who [ ]interested [ ]them were called to the village club for a conversation. About 30 people, mostly young men, local businessmen, relatives of Ukrainian military servicemen and police officers, gathered such people. Law enforcement officers of the so-called "DNR" came to the village club for questioning and began asking people about their alleged connection with the armed forces of Ukraine, the SBU, and the police.'*<sup>64</sup>

Those abducted include men of military age, women, children and the elderly.<sup>65</sup> Abduction is then followed by interrogation, which is usually conducted in irregular settings, including in 'filtration camps'.

According to Ukraine's Commissioner for Human Rights, Lyudmyla Denisova, some 84,000 children were among those abducted in the early days of the invasion alone.<sup>66</sup> At least 1,000 of these children were taken directly from schools and orphanages in the Kherson region. In fact, the problem of kidnapping in that region has been so widespread that Kherson hospital staff falsified medical records to pretend that children were too unwell to be moved by Russian soldiers, while members of the community at large hid orphaned children in their homes during the Russian occupation.<sup>67</sup> With children being taken from schools in occupied territories, even

---

<sup>63</sup> *Moscow Times*, 'Putin Submits Bill to Denaturalize Anti-War Russians', *Moscow Times*. 14 November 2022. Available at: <https://www.themoscowtimes.com/2022/11/14/putin-submits-bill-to-denaturalize-anti-war-russians-a79363>

<sup>64</sup> Lopatina, I. (2022). 'How people are kidnapped during the occupation and what happens to the prisoners in Donetsk — testimony of a Ukrainian who escaped' 6 May 2022. NV (New Voice of Ukraine). Available at: <https://nv.ua/ukr/ukraine/events/shcho-vidbuvayetsya-z-ukrajincyami-v-sizo-ta-koloniyah-tak-zvanoji-dnr-rozpovid-ochevidcya-50239703.html>

<sup>65</sup> Kluth, A. 'Russia's mass abductions are genocide'.

<sup>66</sup> Sarkar, A. R. "Ukraine: Russia accused of abducting 400,000 civilian 'hostages': Ukraine alleges civilians were taken hostage to force President Volodymyr Zelensky to surrender", *The Independent*, 23 March 2022. Available at: <https://www.independent.co.uk/news/world/europe/ukraine-russia-war-civilians-hostage-b2043797.html>

<sup>67</sup> NPR. 'Ukrainians say they hid orphaned children from Russian deportation', *NPR*. 5 December 2022. Available at: <https://www.npr.org/2022/12/05/1140669751/ukrainians-say-they-hid-orphaned-children-from-russian-deportation>

those living with parents have been taken and labelled as orphans.<sup>68</sup> Many of these children have since been reportedly cycled through fast-track adoption processes in Russia,<sup>69</sup> erasing their Ukrainian and family identities, and making it virtually impossible for their relatives to find them in future because their names have been changed. Though Russia's Children's Rights Commissioner, Maria Lvova-Belova, claims the 'hundreds' of children she has personally helped through the adoption process are given a choice to return to Ukraine and refuse to do so, her words are not verifiable.<sup>70</sup> The British Government is treating these adoptions as abductions and has issued sanctions against her, claiming she has assisted in the removal of 2,000 children from Ukraine.<sup>71</sup> Accounts from teenagers who have successfully returned to Ukraine following deportation indicate that, even in those small cases where their parents are identified and able to officially request their return, children are pressured to remain in Russia in exchange for toys, gadgets or other bribes, to maintain the Government's narrative that their evacuation is a kindness.<sup>72</sup>

Possibilities for abuse also abound during the transportation process, which is concealed in the filtration system. Filtration is used to separate out men, women and children into distinct processing streams. The principal filtration camps are located in the occupied Donbas region. Satellite imagery confirms both the pace and pattern of abductions as Mariupol in particular was the site of mass deportations of Ukrainian civilians who were sent by force to filtration camps in Taganrog, 100km away.<sup>73</sup> The camps are often make-shift constructions or sites where Ukrainians are photographed, interrogated about their history of serving in the Ukrainian army, their fingerprints taken, and their phones are examined to check for numbers and social media accounts. The process also involves strip searching, where bodies are examined for tattoos that

---

<sup>68</sup> Bubola, Emma. 'Using Adoptions, Russia Turns Ukrainian Children Into Spoils of War'. *New York Times*, 22 October 2022. Available at: <https://www.nytimes.com/2022/10/22/world/europe/ukraine-children-russia-adoptions.html>

<sup>69</sup> Al Jazeera. "UN says 'credible' reports Ukraine children transferred to Russia". *Al Jazeera*, 8 September 2022. Available at: <https://www.aljazeera.com/news/2022/9/8/un-says-credible-reports-ukraine-children-transferred-to-russia#:~:text=US%20ambassador%20tells%20UN%20Security,to%20Russia%20in%20July%20alone.&text=The%20United%20Nations%20said%20there,forced%20relocation%20and%20deportation%20programme>.

<sup>70</sup> NPR. 'Ukrainians say they hid orphaned children from Russian deportation'.

<sup>71</sup> Associated Press. 'UK Sanctions Russian Orthodox Head; Decries Forced Adoption', *Associated Press*, 16 June 2022. Available at: <https://www.voanews.com/a/uk-sanctions-russian-orthodox-head-decries-forced-adoption-/6620033.html>

<sup>72</sup> Bubola, Emma. 'Using Adoptions, Russia Turns Ukrainian Children Into Spoils of War'.

<sup>73</sup> Kirby, D. (2022), 'Satellite images show Russian tent camp for Ukrainians near Mariupol as claims of forced deportations grow- Investigation: Russia may have constructed 'filtration' camps inside Ukraine as it did in Chechnya', *I news*. 26 March 2022. Available at: <https://inews.co.uk/news/ukraine-russia-war-putin-mariupol-deportations-filtration-camps-1539050-1539050>

might indicate a link to Ukrainian nationalist organizations.<sup>74</sup> Survivors also shared tales of being interrogated under torture before being sent to pre-trial detention centers, and then to correctional 'colonies' near Donetsk.<sup>75</sup> From there, deportees may then be sent to multiple locations in occupied Ukraine or Russia, including economically depressed Russian cities, though some continue their journeys voluntarily. While the Gulags were often the end point in a system of incarceration, filtration camps today serve as processing centers to control hostile populations, as seen in the recent conflicts in Chechnya and Georgia.<sup>76</sup> Paladino argues that the filtration camps designed for Ukrainians are also a means of testing one's loyalty to Russia:

*'The filtration camps appear to serve purposes similar to Russian and Soviet camps in earlier conflicts, from World War II to the Chechen wars of the 1990s: to identify civilians who they believe can assimilate into Russian culture and Russian rule, and punish or remove those who won't.'*<sup>77</sup>

Human rights monitors record that, in addition to signing loyalty statements, some of the individuals abducted were pressed to say they had witnessed war crimes committed by Ukrainian forces.<sup>78</sup> Such declarations are then used to further the propaganda effort in Russia, where support for the war is in flux. After interrogation, individuals may be transferred to distant locations, and placed in institutions more reminiscent of the Siberian Gulags.

Yale researchers working out of the Conflict Observatory have identified 21 such filtration sites in Donetsk oblast, which have been used for civilian interrogation, processing, holding, secondary interrogation and detention.<sup>79</sup> The Observatory note that Ukrainians are detained in Russian controlled territories, taken to filtration, interrogated and then either released, held, re-interrogated, sent to a detention center, or sent on to Russia. The filtration sites they have catalogued are surrounded by disturbed earth, evidence commensurate with the digging of mass graves.

The treatment of those crossing the border into Russia has varied widely. The emerging accounts of those abducted sustain the charge of gross abuses of human rights conducted by the occupying Russian forces. Skeletal images of POWs detained suggest a pervasive culture of torture in detention, sparking global outrage when some of these POWs have been released and

---

<sup>74</sup> Beard, Nadia. 'Ukrainians who fled to Georgia reveal details of Russia's 'filtration camps', *The Guardian*, 12 June 2022.

<sup>75</sup> Lopatina, 'How people are kidnapped during the occupation'.

<sup>76</sup> See Paladino, 'Russian filtration camps'.

<sup>77</sup> Ibid.

<sup>78</sup> Human Rights Watch. "'We Had No Choice': 'Filtration' and the Crime of Forcibly Transferring Ukrainian Civilians to Russia", *Human Rights Watch*, September 1, 2022. Available at: <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians>

<sup>79</sup> Conflict Observatory. *Mapping the Filtration System in Donetsk Oblast*. Yale University.

pictured in the news. By contrast, those Ukrainian deportees with relatives in Russia have been permitted to travel to stay with them. Some of those who 'willingly' crossed the border have been well treated and have been featured on Channel 1 in Russia,<sup>80</sup> as illustrative examples of the war's 'humanitarian' drive. Russia's narrative of the invasion has steadfastly remained that it is protecting Russian speaking civilians from Ukrainian aggression. Positive stories of well-treated refugees play into that propaganda. In fact, prior to the invasion, Russia had been actively engaging in passportization in contested regions where, as in Georgia and now in the Donbas and Luhansk regions of Ukraine, presidential decrees were used to create Russian citizens as a prelude for military intervention.<sup>81</sup> However, the vast majority of civilians transported to Russia have simply disappeared.

Press reporting, and investigative accounts by human rights authorities have called attention to the forcible transfer of populations to Russia,<sup>82</sup> and the fact of their disappearance. Evidence of inhuman treatment, torture, and mass murder of prisoners of war (where the distinction between civilians and combatants has not been determined) also abounds, as documented by Yale's researchers.<sup>83</sup> These accounts have been contested by the Russian government,<sup>84</sup> which has engaged in an active war of disinformation to create confusion, in addition to the destruction of evidence. In April 2022, Russian forces were accused of using mobile crematoria to prevent future forensic scrutiny of their crimes.<sup>85</sup> Thus, gathering accurate and up to date information on the scale of removals is especially difficult. Nonetheless, investigative journalists and the government of Ukraine have suggested that the number of removals, including the abduction of children, could be considerably higher than reported. The US Secretary of State, Anthony Blinken, announced in July 2022 that:

---

<sup>80</sup> Сануева, А. "Беженцы с Украины в России могут начать жизнь, в которой нет места обстрелам и взрывам" ("Refugees from Ukraine in Russia can start a life in which there is no place for shelling and explosions.") *Tv1. Ru*. 7 August 2022. Available at: [https://www.1tv.ru/news/2022-08-07/435191-bezhentsy\\_s\\_ukrainy\\_v\\_rossii\\_mogut\\_nachat\\_zhizn\\_v\\_kotoroy\\_net\\_mesta\\_obstrelam\\_i\\_vzryvam](https://www.1tv.ru/news/2022-08-07/435191-bezhentsy_s_ukrainy_v_rossii_mogut_nachat_zhizn_v_kotoroy_net_mesta_obstrelam_i_vzryvam)

<sup>81</sup> *Presidential Decree of The Russian Federation of April 24, 2019 No. 183, About determination in the humanitarian purposes of categories of persons having the right to file applications for admission in citizenship of the Russian Federation in the simplified procedure (as amended on 11-07-2022)*. Available at: <https://cis-legislation.com/document.fwx?rgn=115237>

<sup>82</sup> Human Rights Watch, "We had no choice"; Paladino, 'Russian filtration camps'.

<sup>83</sup> Humanitarian Research Lab. *Mapping the Filtration System in Donetsk Oblast*. New Haven: Yale University Press.

<sup>84</sup> Russian Broadcast Company (RBC), 'FSB responded to complaints of refugees from Ukraine to filtration points', Подробнее на РБК: Available at: <https://www.rbc.ru/politics/24/06/2022/62b5a4ed9a79479a7db11145>

<sup>85</sup> Lonas, L. 'Donestk official: Russia using mobile crematoriums to dispose of bodies', *The Hill*. 12 April 2022. Available at: <https://thehill.com/policy/international/3264666-donestk-official-russia-using-mobile-crematoriums-to-dispose-of-bodies/>

*'Estimates from a variety of sources, including the Russian government, indicate that Russian authorities have interrogated, detained, and forcibly deported between 900,000 and 1.6 million Ukrainian citizens, including 260,000 children, from their homes to Russia – often to isolated regions in the Far East.'*<sup>86</sup>

Writing in *Grid*, which claims to have reviewed first-hand accounts from local news reports, Ukrainian and Russian government statements, international human rights reports, intelligence reports, and Maxar satellite imagery, and videos posted to social media, Jason Paladino clarified Blinken's assessment.

*'Since Russia's invasion of Ukraine, both sides have inflated statistics and exaggerated claims to suit their narratives. But in terms of the sheer number of Ukrainians who have been "forcibly deported" (according to Ukraine) or "emigrated" (according to Russia), there is some agreement. In May, a Russian official acknowledged that "1,426,979 people, of which 238,329 are children," had been "evacuated from dangerous areas of the republics of Donbas and Ukraine to the territory of the Russian Federation." It's broadly assumed that the Russians delivered most civilian deportees to filtration camps.'*<sup>87</sup>

Human Rights Watch records can also be used to evidence a discrepancy in the total numbers of civilians reported to have been moved into Russia, reporting in June 2022, the claim by Ukraine's Deputy Prime Minister, Iryna Vereshchuk, that 1.2 million Ukrainians had been deported against their will. One month later, the Russian News Agency (TASS) claimed that over 2.8 million Ukrainians had *entered* Russia.<sup>88</sup> The discrepancy comes not only in the number of people who have crossed the border, but in the narratives surrounding their border crossings, with Russia painting all movements as a *voluntary migration* in search of safety, and Ukraine classing most of these movements as abductions. We recognize that there is some truth in both accounts: some civilians have fled to Russia willingly, while thousands of others have been taken against their will.

In addition to the challenges of gathering testimonies during a period of intense conflict, and the reliance on satellite imagery, which may only document events in specific locations, we note that the picture is further complicated by the multi-directional nature of flows into and out of Russia, even if they describe different trends. On the one hand, we record outflows of Ukrainian victims following their abduction and deportation to Russia. On the other we find

---

<sup>86</sup> US Department of State (2022), 'Russia's "Filtration" Operations, Forced Disappearances, and Mass Deportations of Ukrainian Citizens', Press Statement, Antony J. Blinken, Secretary of State, July 13, 2022. Available at: <https://www.state.gov/russias-filtration-operations-forced-disappearances-and-mass-deportations-of-ukrainian-citizens/>

<sup>87</sup> Paladino 'Russian filtration camps'.

<sup>88</sup> Human Rights Watch, "We Had No Choice".

mobilized Russians being transported, through a policy of forced conscription and settlement, as part of a dynamic population exchange conduit. We record the following flows:

1. Ukrainians with family members in Russia, who may enter easily.
2. Abducted Ukrainian civilians who are processed through 'filtration camps' in the occupied Donbas region before being forcibly transferred to locations inside Russia.
3. Ukrainian children removed from Ukraine, and fast-tracked for adoption.
4. Prisoners of war detained in Russian controlled territories in Donbas or inside Russia.
5. Refugees who have sought asylum in Russia.
6. Volunteers, mercenaries and conscripts who have been sent from Russia to fight in Ukraine.
7. Prisoners from Russia who have been 'released' to fight in Ukraine.

Some of the flows into filtration camps and counter-flows of Russian conscripts are illustrated in Figure 1 below. They seem to indicate a possible underlying strategy of Putin's regime – to win the war by emptying Ukraine of Ukrainians, while converting as many of them as possible into 'Russians' (starting with the re-education of adopted children), and filling occupied territories with Russian bodies to hold them while the military regroups for further onslaughts.

Figure 2: Visualizing the Ru.Lag



## Conclusion

Piacenti notes in her review of the Russian penal system, that since the collapse of the Soviet Union Russia has ‘experienced legislative and penal reform, and’ what she generously terms ‘a genuine political and social commitment to “ending the Gulag”’.<sup>89</sup> Yet she concludes that ‘opportunities for modernization and a conceptual and meaningful re-mapping of penal ideology have come to very little, due largely to the often-reported swing toward more centralized political governance’ under Putin.<sup>90</sup> She goes on to give examples of policy makers and prison administrators who began their careers on platforms of reform being quietly dismissed from their posts. With past liberalizing reforms having also been driven largely by Western funding (for instance from the UK’s former Department for International Development, now the Foreign Commonwealth and Development Office<sup>91</sup>) or European and international demands for human rights compliance,<sup>92</sup> the prospects for change have also diminished since the cutting of diplomatic ties following Russia’s (re)invasion of Ukraine in 2022. From 2013 to the present, the Russian prison-industrial complex has only grown, while the repressive arm of the state has permeated every aspect of Russian social life. Historians studying the Soviet Union under Stalin have, as we have shown, had difficulty delineating Gulag and non-Gulag spaces. Similarly, we see a Ru.Lag rapidly expanding the state’s system of control into Russian private life under Putin today.

A historical perspective helps to synthesize across these continuities and make sense of contemporary accounts of abduction, transportation, forced labor, incarceration and abuse. Taking a long view of Russian and Soviet history in particular, we can see how Putin’s actions fit within the historical context. Most significant is the use of forced labor in both military conscription and industrial production, and the attempt to control information and discourse through the introduction of emergency laws and propaganda. Yet, while there are undoubtedly echoes of both Tsarist and Soviet experiments in the use of forced labor, recent reports from Ukraine that this is happening again also signal something disturbingly new.<sup>93</sup> The deportation is now a means of re-stocking the labor force, and enabling the export-orientated regime to survive under crushing sanctions. In this context, Putin’s venture into modern slavery brings Russia

---

<sup>89</sup> Piacentini, L. ‘The Russian Penal System’, in Ruggiero, V., Ryan, M. (eds) *Punishment in Europe* (pp. 157-182). Palgrave Macmillan, London, 2013, p.158. [https://doi.org/10.1057/9781137028211\\_8](https://doi.org/10.1057/9781137028211_8)

<sup>90</sup> Ibid.

<sup>91</sup> Kalinin, Y. I. *The Russian penal system: past, present and future*. King’s College, London: International Centre for Prison Studies, 2002.

<sup>92</sup> Piacentini, L.). Human rights in Russia in the shadow of the gulag: penal transitology as bureaucratic drama. *Law & Social Inquiry*. 2022. (in press)

<sup>93</sup> Letter from Ambassador Bathsheba Nell Crocker U.S. Representative to the Office of the United Nations and Other International Organizations in Geneva to High Commissioner Bachelet, 21 February 2022. Available at: [https://www.washingtonpost.com/context/read-u-s-letter-to-the-u-n-alleging-russia-is-planning-human-rights-abuses-in-ukraine/93a8d6a1-5b44-4ae8-89e5-cd5d328dd150/?itid=lk\\_inline\\_manual\\_4](https://www.washingtonpost.com/context/read-u-s-letter-to-the-u-n-alleging-russia-is-planning-human-rights-abuses-in-ukraine/93a8d6a1-5b44-4ae8-89e5-cd5d328dd150/?itid=lk_inline_manual_4)



closer to China, where deported Uighurs have been sent to camps in Xinjiang, to harvest cotton, and produce goods like personal protective equipment (PPE) for export.<sup>94</sup>

The scale of the state apparatus that is currently being marshalled against Ukrainians, is also harder to define, in contrast to previous repressive instruments. While the Gulag system was mapped, we remain at a loss to identify the many filtration camps, and the receiving points inside Russia where displaced Ukrainians may be sent as punishment. We further suggest the Gulag has been replaced in favor of a dispersed system of Kremlin dominance that functions across the economy and is concentrated in the hands of remarkably few individuals, in the government and private sector, as we see in Baykal-Amur and Nizhny Tagil.

This episode does not neatly fall into the literature on modern slavery, which prioritizes economic incentives over political motive, and therefore tends to assume that export-based, state-managed, economies operate like demand-driven market systems. This tendency creates an unhelpful paradigm, which assumes that systems of exploitation are comparable to those that emerged from colonialism and imperialism, including in states which now occupy a central place as centers of global production and extraction. Russia, of course, had its own history of imperialism, and during the period of the Soviet Union, its dominance over the other republics ensured their integration in the vast command economy that employed various forms of forced labor throughout the 70-year experiment. Yet, even within the more specialist body of writing on forced labor, we find that the emphasis on penal economies either focuses on some of the great crimes of the 20<sup>th</sup> century, above all Nazism and Stalinism, or on closed hybrid economies, for example Vietnam. As we suggest, this is only part of the story. Decades after the Gulag, we find in the Ru.Lag, another potent example of an authority-based system where forced labor is central to its political legitimacy, alongside demonstrations of absolute loyalty, under the threat of imprisonment, occupation and deportation, and enslavement. That we should return to these practices today, just as a member of the Russian Duma calls openly for Putin to set aside the title of President to pick up the mantle of Tsar or Emperor, is equally telling.<sup>95</sup>

Featured in both the historic institution of serfdom and the present system of quasi-serfdom are an absolute loss of freedom and self-determination. Then, as now, forced labor has chiefly served a political goal. That Putin's aim to control the presentation of the war in Ukraine, aligns with the wish to restock labor in penal economies, only reaffirms how totalitarian and mercantilist legacies have been repackaged to advance the Kremlin's goal of preserving power within its sphere of influence, both inside the Russian state, and over territories in its sights. As this article records, the long view of Russian history presents a multigenerational relationship

---

<sup>94</sup> House of Commons, Business, Energy and Industrial, Strategy Committee (2021), Uyghur forced labour in Xinjiang and UK value chains, Fifth Report of Session 2019–21. Available at: <https://committees.parliament.uk/publications/5095/documents/52855/default/>

<sup>95</sup> *Lenta News*, 'Жириновский предложил переименовать должность Путина' (Zhirinovsky proposed to rename Putin's post - The leader of the Liberal Democratic Party Zhirinovsky proposed to rename the post of President of Russia as Emperor) , *Lenta News.Ru*, 25 January 2022. Available at: <https://lenta.ru/news/2022/01/25/imperator/>

with forced labor, which remains to this day under a political command structure that operates in a contemporary export-based globalized economy.

## References

- Al Jazeera. "UN Says 'Credible' Reports Ukraine Children Transferred to Russia." 2022. [www.aljazeera.com](https://www.aljazeera.com/news/2022/9/8/un-says-credible-reports-ukraine-children-transferred-to-russia#:~:text=US%20ambassador%20tells%20UN%20Security). Accessed December 16, 2022. <https://www.aljazeera.com/news/2022/9/8/un-says-credible-reports-ukraine-children-transferred-to-russia#:~:text=US%20ambassador%20tells%20UN%20Security>
- Arkhangelskiy, Andrey. 2016. "The Black Hole Where Russia's Ethics Should Be." Carnegie Moscow Center. <https://carnegie.ru/commentary/64062>
- Badcock, Sarah, and Judith Pallot. "Russia and the Soviet Union from the Nineteenth to the Twenty-First Century." *A Global History of Convicts and Penal Colonies*. Ed. Clare Anderson. London: Bloomsbury Academic, 2018. 271–306. Bloomsbury Collections. Web. 20 Jul. 2021.
- BBC News. 2022. "Kremlin Critic Yashin Jailed for 8 Years for 'Fake News' on Russia War," December 9, 2022, sec. Europe. <https://www.bbc.co.uk/news/world-europe-63915301>.
- Beard, Nadia. 2022. "Ukrainians Who Fled to Georgia Reveal Details of Russia's 'Filtration Camps.'" 2022. The Guardian. June 12, 2022. <https://www.theguardian.com/world/2022/jun/12/ukrainians-who-fled-to-georgia-reveal-details-of-russias-filtration-camps>.
- Birrell, Ian. 2022. "Hours on Trucks, Interrogated in Camps... IAN BIRRELL Sees the Hell of Forced Deportation Faced by Brave Ukrainians Who Sheltered for Weeks from Russian Shelling in Mariupol," Daily Mail. March 27, 2022. <https://www.dailymail.co.uk/news/article-10657825/IAN-BIRRELL-sees-hell-forced-deportation-faced-brave-Ukrainians.html>.
- Blinken, Anthony. US Department of State, "Russia's 'Filtration' Operations, Forced Disappearances, and Mass Deportations of Ukrainian Citizens." July 13, 2022. United States Department of State. <https://www.state.gov/russias-filtration-operations-forced-disappearances-and-mass-deportations-of-ukrainian-citizens/>.
- Blitz, Brad K. "Decentralisation, Citizenship and Mobility: Residency Restrictions and Skilled Migration in Moscow." *Citizenship Studies* 11, no 4 (2007): 383–404. <https://doi.org/10.1080/13621020701476277>

- Blitz, Brad. & Lewis, Alexandra. 2022. "Putin's Gulag-Based Empire of Abduction, Deportation, and Modern Slavery." *Byline Times*. March 31, 2022. <https://bylinetimes.com/2022/03/31/putins-gulag-based-empire-of-abduction-deportation-and-modern-slavery/>.
- Katie Bo Lillis, Kylie Atwood and Natasha Bertrand. 2022. "Russia Is Depopulating Parts of Eastern Ukraine, Forcibly Removing Thousands into Remote Parts of Russia." *CNN*. <https://edition.cnn.com/2022/05/26/politics/ukraine-filtration-camps-forcibly-remove-russia/index.html>.
- Bubola, Emma. 2022. "Using Adoptions, Russia Turns Ukrainian Children into Spoils of War." *The New York Times*, October 22, 2022, sec. World. <https://www.nytimes.com/2022/10/22/world/europe/ukraine-children-russia-adoptions.html>
- Conflict Observatory. 2022. *Mapping the Filtration System in Donetsk Oblast*. Yale University. <https://hub.conflictobservatory.org/portal/apps/sites/#/home/pages/filtration-1>
- Conquest, Robert. "Victims of Stalinism: A Comment." *Europe-Asia Studies* 49, no. 7 (1997): 1317–19. <http://www.jstor.org/stable/154087> .
- Dickinson, Peter. 2022. "Vladimir Putin's Ukrainian Genocide: Nobody Can Claim They Did Not Know." *Atlantic Council*. December 1, 2022. <https://www.atlanticcouncil.org/blogs/ukrainealert/vladimir-putins-ukrainian-genocide-nobody-can-claim-they-did-not-know>.
- Edele, Mark. 2017. "Fighting Russia's History Wars: Vladimir Putin and the Codification of World War II." *History and Memory* 29 (2): 90. <https://doi.org/10.2979/histmemo.29.2.05>.
- Gjerde, Kristian Lundby. "The Use of History in Russia 2000–2011: The Kremlin and the Search for Consensus." *East European Politics*, 31, no 2 (2015): 149–69. <https://doi.org/10.1080/21599165.2015.1035779>.
- The Guardian. 2022. "'We Thieves and Killers Are Now Fighting Russia's War': How Moscow Recruits from Its Prisons." 2022. *The Guardian*. September 20, 2022. <https://www.theguardian.com/world/2022/sep/20/russia-recruits-inmates-ukraine-war-wagner-prigozhin>.
- Healey, Dan. "Lives in the Balance: Weak and Disabled Prisoners and the Biopolitics of the Gulag." *Kritika: Explorations in Russian and Eurasian History* 16, no 3 (2015): 527–56. <https://doi.org/10.1353/kri.2015.0047>.

- Hewes, Amy. "Trade Union Development in Soviet Russia." *The American Economic Review* 13, no. 4 (1923): 618–37. <http://www.jstor.org/stable/1803875>.
- House of Commons, Business, Energy and Industrial, Strategy Committee. 2021. "Uyghur Forced Labour in Xinjiang and UK Value Chains Fifth Report of Session 2019-21 Report, Together with Formal Minutes Relating to the Report." 2021. <https://committees.parliament.uk/publications/5095/documents/52855/default/>.
- Human Rights Watch. 2022. "Ukraine: Executions, Torture during Russian Occupation." 2022. Human Rights Watch. May 18, 2022. <https://www.hrw.org/news/2022/05/18/ukraine-executions-torture-during-russian-occupation>.
- Interfax. "Over 384,000 People Evacuated to Russia from Ukraine, LPR, DPR - Russian Defense Ministry." March 23, 2022. Interfax.com. Accessed December 16, 2022. <https://interfax.com/newsroom/top-stories/77276/>.
- Kalinin, Yuri Ivanovich. 2002. *The Russian penal system: past, present and future*. King's College, London: International Centre for Prison Studies.
- Khlevniuk, Oleg, and Simon Belokowsky. "The Gulag and the Non-Gulag as One Interrelated Whole." *Kritika: Explorations in Russian and Eurasian History* 16, no. 3 (2015): 479-498. doi:10.1353/kri.2015.0043.
- Kirby, Dean. 2022. "Satellite Images Show Russian Camp for Ukrainians near Mariupol as Deportation Claims Grow." Inews.co.uk. March 26, 2022. <https://inews.co.uk/news/ukraine-russia-war-putin-mariupol-deportations-filtration-camps-1539050-1539050>.
- Kireççi, M. Akif, and Selim Tezcan. "The Predicament of the Crimean Tatars, past and present." *Bilig* 77 (2016): 1-26.
- Kliucharev, Grigory, and James Muckle. 2005. "Ethical Values in Russian Education Today: A Moral Maze." *Journal of Moral Education* 34 (4): 465–77. <https://doi.org/10.1080/03057240500412521>.
- Kluth, Andreas. 2022. "Russia's Mass Abductions Are Genocide." *The Japan Times*. November 30, 2022. <https://www.japantimes.co.jp/opinion/2022/11/30/commentary/world-commentary/russia-ukraine-genocide/>.

- Kragh, Martin. 'Free and Forced Labour in the Soviet Economy: An Uncertain Boundary' in Hansen, Julie and Rogachevskii, Andrei. Eds. *Punishment as a Crime? Perspectives on Prison Experience in Russian Culture*. University of Uppsala, Uppsala Studies on Eastern Europe, 2014.
- Laruelle, Marlène. *Russian Eurasianism: An Ideology of Empire*, translated by Mischa Gabowitsch. Washington DC: John Hopkins University Press, 2008.
- Laruelle, Marlène. *Russian Nationalism: Imaginaries, Doctrines, and Political Battlefields* London: Routledge, 2019.
- “Жириновский предложил переименовать должность Путина.” Zhironivsky has recommended a change to Putin's title). January 25, 2022. Lenta.RU. Accessed December 16, 2022. <https://lenta.ru/news/2022/01/25/imperator/>.
- Crocker, Bathsheba Nell. 2022. “U.S. Letter to the U.N. Alleging Russia Is Planning Human Rights Abuses in Ukraine.” February 21, 2022. Washington Post. [https://www.washingtonpost.com/context/read-u-s-letter-to-the-u-n-alleging-russia-is-planning-human-rights-abuses-in-ukraine/93a8d6a1-5b44-4ae8-89e5-cd5d328dd150/?itid=lk\\_inline\\_manual\\_4](https://www.washingtonpost.com/context/read-u-s-letter-to-the-u-n-alleging-russia-is-planning-human-rights-abuses-in-ukraine/93a8d6a1-5b44-4ae8-89e5-cd5d328dd150/?itid=lk_inline_manual_4).
- Lewis, Alexandra. *Violence and Fragility: A Study of Violent Young Offending in Yemen and Other Conflict-Affected States*. York: University of York. 2012.
- Lewis, Alexandra & Lall, Marie. (Forthcoming). From Decolonisation to Authoritarianism: The Co-option of the Decolonial Agenda by Elites in Russia and India.
- Lonas, Lexi. 2022. ‘Donestk official: Russia using mobile crematoriums to dispose of bodies’. The Hill. April 12, 2022. Available at: <https://thehill.com/policy/international/3264666-donestk-official-russia-using-mobile-crematoriums-to-dispose-of-bodies/>
- Loratina, Irina. 2022. “Як викрадають людей в окупації і що відбувається з полоненими у Донецьку — свідчення українця, який вирвався (‘How people are kidnapped during the occupation and what happens to the prisoners in Donetsk — testimony of a Ukrainian who escaped). May 6, 2022. Nv.ua. Accessed December 16, 2022. <https://nv.ua/ukr/ukraine/events/shcho-vidbuvayetsya-z-ukrajincyami-v-sizo-ta-kolonyah-tak-zvanoji-dnr-rozpovid-ochevidcya-50239703.html>.
- Matthews, Mervyn. *The Passport Society: Controlling Movement in Russia and the USSR*. Boulder, CO. Westview, 1993.

“Russian Prisoners Sent to Factory to Build Tanks.” n.d. News.yahoo.com. Accessed December 16, 2022. <https://news.yahoo.com/russian-prisoners-sent-factory-build-173205586.html>.

The Moscow Times. 2022. “Putin Submits Bill to Denaturalize Anti-War Russians.” The Moscow Times. November 14, 2022. <https://www.themoscowtimes.com/2022/11/14/putin-submits-bill-to-denaturalize-anti-war-russians-a79363>.

NPR. 2022. “Ukrainians Say They Hid Orphaned Children from Russian Deportation.” NPR, December 5, 2022, sec. Ukraine invasion — explained. <https://www.npr.org/2022/12/05/1140669751/ukrainians-say-they-hid-orphaned-children-from-russian-deportation>.

Ostrovsky, Arkady. *The Invention of Russia: The Journey from Gorbachev's Freedom to Putin's War* London: Atlantic Books, 2015.

Paladino, Jason. “Russian Filtration Camps: ‘Black Holes of Human Rights Abuses’ Where Ukrainians Face Torture and Loyalty Tests.” August 8, 2022. Grid News. Accessed December 16, 2022. <https://www.grid.news/story/global/2022/08/08/russian-filtration-camps-black-holes-of-human-rights-abuses-where-ukrainians-face-torture-and-loyalty-tests/>.

Pallot, Judith.. “The Gulag as the Crucible of Russia’s 21st-Century System of Punishment.” *Kritika: Explorations in Russian and Eurasian History* 16, no 3 (2015): 681–710. <https://doi.org/10.1353/kri.2015.0044>.

Pallot, Judith. 2021. “The Cold Logic of Forced Labour in Russia.” n.d. Riddle Russia. Accessed December 16, 2022. <https://ridl.io/the-cold-logic-of-forced-labour-in-russia/>.

Piacentini, Laura. *Work to live: The function of prison labour in the Russian prison system*. Ph.D. thesis, Bangor University, 2002.

Piacentini, Laura. ‘The Russian penal system’. In Ruggiero, V., Ryan, M. eds. *Punishment in Europe* (pp. 157-182). Palgrave Macmillan, London, 2013. [https://doi.org/10.1057/9781137028211\\_8](https://doi.org/10.1057/9781137028211_8)

Piacentini, Laura. ‘Human rights in Russia in the shadow of the gulag: penal transitology as bureaucratic drama’. *Law & Social Inquiry*. 2022. [in press].

- Piacentini, Laura, and Elena Katz. "Carceral Framing of Human Rights in Russian Prisons." *Punishment & Society* 19, no 2 (2016): 221–39. <https://doi.org/10.1177/1462474516665609>.
- "Presidential Decree of the Russian Federation 'about Determination in the Humanitarian Purposes of Categories of Persons Having the Right to File Applications for Admission...'" n.d. Cis-Legislation.com. Accessed December 16, 2022. <https://cis-legislation.com/document.fwx?rgn=115237>.
- Riabov, Oleg, and Tatiana Riabova. "The Remasculinization of Russia?" *Problems of Post-Communism* 61, no 2: 2014: 23–35. <https://doi.org/10.2753/ppc1075-8216610202>.
- Rodrigues, Charlene. 2022. "Ukrainians Allege Abuse, Beatings at Russian 'Filtration' Camps." [www.aljazeera.com](http://www.aljazeera.com). Accessed December 16, 2022. <https://www.aljazeera.com/news/2022/12/6/ukrainians-allege-abuse-beatings-at-russian-filtration-camps>.
- Rossi, Jacques. *The Gulag Handbook: An Historical Dictionary of Soviet Penitentiary Institutions and Terms Related to the Forced Labour Camps*. Saint Paul, MN. Paragon House, 1989.
- Roth, Andrew. "'It's a 100% Mobilisation': Day One of Russia's Drive to Build Its Army." 2022. *The Guardian*. September 22, 2022. <https://www.theguardian.com/world/2022/sep/22/russia-mobilisation-ukraine-war-army-drive>.
- Russian Broadcast Company (RBC). "ФСБ ответила на жалобы беженцев с Украины на фильтрационные пункты." (FSB responded to complaints of refugees from Ukraine to filtration points'), June 24, 2022. РБК. Accessed December 16, 2022. <https://www.rbc.ru/politics/24/06/2022/62b5a4ed9a79479a7db11145>.
- Сануева, Алина (Sanyeva, Anna) "Беженцы с Украины в России могут начать жизнь, в которой нет места обстрелам и взрывам. Новости. Первый канал." ("Refugees from Ukraine in Russia can start a life in which there is no place for shelling and explosions.") August 7, 2022. [www.1tv.ru](http://www.1tv.ru). Accessed December 16, 2022. [https://www.1tv.ru/news/2022-08-07/435191-bezhentsy\\_s\\_ukrainy\\_v\\_rossii\\_mogut\\_nachat\\_zhizn\\_v\\_kotoroy\\_net\\_mesta\\_obstrelam\\_i\\_vzryvam](https://www.1tv.ru/news/2022-08-07/435191-bezhentsy_s_ukrainy_v_rossii_mogut_nachat_zhizn_v_kotoroy_net_mesta_obstrelam_i_vzryvam).

- Sarkar, A. R. "Ukraine: Russia accused of abducting 400,000 civilian 'hostages': Ukraine alleges civilians were taken hostage to force president Volodymyr Zelensky to surrender". *The Independent*, 25/03/2022. <https://www.independent.co.uk/news/world/europe/ukraine-russia-war-civilians-hostage-b2043797.html>
- Schiaible, Damian. S. 'Life in Russia's "closed city": Moscow's movement restrictions and the Rule of Law'. *New York University Law Review*, 76, no 1 (2001): 344–373. <https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-76-1-Schiaible.pdf>
- Schmitt, Michael N. 2022. "Deportation of Ukrainian Civilians to Russia: The Legal Framework - Lieber Institute West Point." Lieber Institute West Point. March 24, 2022. <https://lieber.westpoint.edu/deportation-ukrainian-civilians-russia-legal-framework/>.
- Shearer, David. 2004. "Elements near and Alien: Passportization, Policing, and Identity in the Stalinist State, 1932–1952." *The Journal of Modern History* 76 (4): 835–81. <https://doi.org/10.1086/427570>.
- Shifrin, Avraham. *The First Guidebook to Prisons and Concentration Camps of the Soviet Union*. New York: Bantam Books, 1982.
- Smith, Kathleen E. 2004. "Whither Anti-Stalinism?" *Ab Imperio* 2004 (4): 433–48. <https://doi.org/10.1353/imp.2004.0099>.
- Solzhenitsyn, Alexander. I, *The Gulag Archipelago, 1918-1956: an Experiment in Literary Investigation*. New York: Harper & Row, 1974.
- Strzelecki, Jan. 2019. "Russia behind Bars: The Peculiarities of the Russian Prison System." OSW. February 7, 2019. <https://www.osw.waw.pl/en/publikacje/osw-commentary/2019-02-07/russia-behind-bars-peculiarities-russian-prison-system>.
- Tondo, Lorenzo. Henley, Jon. & Boffey, Daniel. "Ukraine: US Condemns 'Unconscionable' Forced Deportations of Civilians from Mariupol." 2022. *The Guardian*. March 20, 2022. <https://www.theguardian.com/world/2022/mar/20/russia-bombed-mariupol-art-school-sheltering-400-people-says-ukraine#:~:text=Forced%20civilian%20deportations%20from%20Mariupol>.
- Voice of America. "UK Sanctions Russian Orthodox Head; Decries Forced Adoption." 2022. VOA. Accessed December 16, 2022. <https://www.voanews.com/a/uk-sanctions-russian-orthodox-head-decries-forced-adoption-/6620033.html>.



Wille, Belkis. 2022. “We Had No Choice.” *Human Rights Watch*, September. <https://www.hrw.org/report/2022/09/01/we-had-no-choice/filtration-and-crime-forcibly-transferring-ukrainian-civilians#6352>.