

mixed migration research series
explaining people on the move

Responses to mixed migration in the Horn of Africa & Yemen:

policies and assistance responses in a fast-changing context



RMMS Regional
Mixed Migration
Secretariat



3

Study

August 2013

Responses to mixed migration in the Horn of Africa & Yemen: policies and assistance responses in a fast-changing context

This is the third of a series of studies focusing on different aspects of mixed migration associated with the Horn of Africa and Yemen region.

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The Regional Mixed Migration Secretariat (RMMS).

Formed in 2011 and based in Nairobi, the overall objective of the RMMS is to support agencies, institutions and fora in the Horn of Africa and Yemen sub-region to improve the management of protection and assistance to people in mixed migration flows in the Horn of Africa and across the Gulf of Aden and Red Sea in Yemen. The co-founders and Steering Committee members for the RMMS include UNHCR, IOM, Danish Refugee Council (DRC), INTERSOS and the Yemen Mixed Migration Task Force. The RMMS is therefore a regional hub aiming to provide support and coordination, analysis and research, information, data management and advocacy. It acts as an independent agency, hosted by the DRC, to stimulate forward thinking and policy development in relation to mixed migration. Its overarching focus and emphasis is on human rights, protection and assistance.

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HORN OF AFRICA



- ⊛ National capital
- Town, village
- ✈ Airport
- - - International boundary
- Road
- +— Railroad

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Final boundary between the Republic of Sudan and the Republic of South Sudan has not yet been determined.

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Glossary

Selected definitions from the International Organisation for Migration's Glossary on Migration 2004. (Definitions used here copied without editing: Full Glossary found at http://publications.iom.int/bookstore/free/IML_1_EN.pdf)

abduction

The act of leading someone away by force or fraudulent persuasion.

See also kidnapping, trafficking

assisted voluntary return

Logistical and financial support to rejected asylum seekers, trafficked migrants, stranded students, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin.

See also repatriation, return

asylum seekers

Persons seeking to be admitted into a country as refugees and awaiting decision on their application for refugee status under relevant international and national instruments. In case of a negative decision, they must leave the country and may be expelled, as may any alien in an irregular situation, unless permission to stay is provided on humanitarian or other related grounds.

border officials

A generic term describing those officials whose primary task is to guard the border and enforce the immigration (and possibly customs) laws of the State. Also termed 'border guards', 'border police' or 'aliens police'.

capacity building

Building capacity of governments and civil society through strengthening their knowledge, skills and attitudes. Capacity building can take the form of substantive direct project design and implementation with a partner government, or in other circumstances can take the form of facilitating a bilateral or multilateral agenda for dialogue development put in place by concerned authorities. In all cases, capacity building aims to build towards generally acceptable benchmarks of management practices.

customary law, international

A source of international law. The two criteria for a norm to be recognised as 'customary law' are state practice and *opinio juris* (a conception that the practice is required by or consistent with the prevailing law).

de facto (latin)

Existing as a matter of fact.

See also de jure

deportation

The act of a State in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain.

See also expulsion, refoulement

economic migrant

A person leaving his/her habitual place of residence to settle outside his/her country of origin in order to improve his/her quality of life. This term may be used to distinguish from refugees fleeing persecution, and is also used to refer to persons attempting to enter a country without legal permission and/or by using asylum procedures without *bona fide* cause. It also applies to persons settling outside their country of origin for the duration of an agricultural season, appropriately called seasonal workers.

See also frontier worker, migrant worker, poverty migrant, seasonal worker

internal migration

A movement of people from one area of a country to another for the purpose or with the effect of establishing a new residence. This migration may be temporary or permanent. Internal migrants move but remain within their country of origin (e.g. rural to urban migration).

See also de facto refugees, internally displaced persons, international migration, rural-rural migrants, rural-urban migrants, urban-rural migrants, urban-urban migrants

internally displaced persons/ IDPs

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border (*Guiding Principles on Internal Displacement*, UN Doc E/CN.4/1998/53/Add.2.).

See also displaced person, externally displaced persons

irregular migrant

Someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorised to remain in the host country (also called clandestine/illegal/undocumented migrant or migrant in an irregular situation).

See also clandestine migration, documented migrant, illegal entry, irregular migration, undocumented alien

irregular migration

Movement that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorisation or documents required under immigration regulations to enter, reside or work in a given country. From the perspective of the sending country, the irregularity is for example seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfil the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term 'illegal migration' to cases of smuggling of migrants and trafficking in persons.

See also clandestine migration, irregular migrant, regular migration, undocumented alien

labour migration

Movement of persons from their home State to another State for the purpose of employment. Labour migration is addressed by most States in their migration laws. In addition, some States take an active role in regulating outward labour migration and seeking opportunities for their nationals abroad.

migration management

A term used to encompass numerous governmental functions and a national system of orderly and humane management for cross-border migration, particularly managing the entry and presence of foreigners within the borders of the State and the protection of refugees and others in need of protection.

mixed flows

Complex population movements including refugees, asylum seekers, economic migrants and other migrants.

non-refoulement

A principle laid down in the *Geneva Convention relating to the Status of Refugees, 1951* according to which 'no Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular

social group or political opinion.’ This principle cannot be ‘claimed by a refugee, whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.’ (Art. 33 (1) and (2), *Geneva Convention relating to the Status of Refugees, 1951*).

Palermo Protocols

Supplementary protocols to the *Convention against Transnational Organised Crime (2000)*: *Protocol against the Smuggling of Migrants by Land, Sea and Air*; *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*; and *Protocol against the Manufacturing of and Trafficking in Illicit Firearms, Ammunition and Related Materials*.

prima facie

At first sight; on first appearance but subject to further evidence or information. In the migration context, an application for immigrant status may undergo preliminary review to determine whether there is a prima facie showing of all the basic requirements (often as a condition for receiving financial assistance or a work permit).

ratification

Ratification refers to the ‘acceptance’ or ‘approval’ of a treaty. In an international context, ratification ‘is the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty’ (Art. 2 (1)(b), *Vienna Convention on the Law of Treaties, 1969*). Instruments of ratification establishing the consent of a State take effect when exchanged between the contracting States, deposited with a depositary or notified to the contracting States or to the depositary, if so agreed (Art. 16). In a domestic context, it denotes the process whereby a State puts itself in a position to indicate its acceptance of the obligations contained in a treaty. A number of States have in their Constitutions procedures which have to be followed before the government can accept a treaty as binding.

See also instrument, reservation to a treaty, treaty

refugee (mandate)

A person who meets the criteria of the UNHCR *Statute* and qualifies for the protection of the United Nations provided by the High Commissioner, regardless of whether or not s/he is in a country that is a party to the *Convention relating to the Status of Refugees, 1951* or the *1967 Protocol relating to the Status of Refugees*, or whether or not s/he has been recognised by the host country as a refugee under either of these instruments. *See also refugee (recognised)*

refugee (recognised)

A person, who ‘owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country’ (*Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol*).

refugee status determination

A process (conducted by UNHCR and/or States) to determine whether an individual should be recognised as a refugee in accordance with national and international law.

regular migration

Migration that occurs through recognised, legal channels.

See also clandestine migration, irregular migration

smuggler (of people)

An intermediary who is moving people in furtherance of a contract with them, in order to illegally transport them across an internationally recognised State border.

See also smuggling, trafficking

smuggling

The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (*Art. 3(a), UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organised Crime, 2000*). Smuggling contrary to trafficking does not require an element of exploitation, coercion, or violation of human rights.
See also illegal entry, trafficking

trafficking in persons

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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, for the purpose of exploitation (*Art. 3(a), UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention Against Organised Crime, 2000*).
See also abduction, coercion, exploitation, fraud, smuggling, trafficker

1.0 Introduction

1.1 General overview of mixed migration

The phenomenon of mixed migration¹ reflects the tendency of an increasing number of people to migrate, despite greater risk, in search of a better future in more affluent parts of the globalised world. It also indicates that people are on the move for a combination of reasons that are fundamentally related to safeguarding physical and economic security. Conceptually, mixed migration includes:

- *Irregular migrants*: Migrants dislodged by a real and/or perceived inability to thrive (economic migrants) or driven by aspirations, a desire to unite with other family members or some other factor.
- *Refugees and asylum seekers (forced migrants)*: Migrants in search of asylum from conflict or persecution in their country of origin.
- *Victims of trafficking (involuntary migrants)*: Internal and foreign migrants coerced or deceived into servitude, forced labour or sexual exploitation.
- *Stateless persons*: Migrants without recognised citizenship, placing them in a limbo between different national borders.
- *Unaccompanied minors and separated children and other vulnerable persons on the move*: Migrant children without protection or assistance, in a state of acute vulnerability.

Migration is closely linked to security and livelihood problems caused by multiple and often interconnected issues, including persecution, political turmoil, armed conflict, poverty, natural disaster, resource scarcity, climate change and population pressure. In addition, social issues such as forced marriage or negligent parents, as well as more aspirational attractions for many rural youths and emerging 'cultures of migration'² in certain countries, create compelling push and pull factors affecting the decision to move.

1 The International Organisation for Migration (IOM) describes mixed migration as consisting of complex population movements including refugees, asylum seekers, economic migrants and other migrants (IOM, 2004, p. 42). The United Nations High Commissioner for Refugees (UNHCR) describes it as people travelling in an irregular manner along similar routes, using similar means of travel, but for different reasons (UNHCR, 2011a, p. 8).

2 'In which migration is associated with personal, social and material success, and in which migrating has become the norm rather than the exception, and in which staying at home would be associated with failure'. De Haas, 2006, p.5-6. In societies and communities where a culture of migration has developed, the pressure to migrate is intensified irrespective of the risks (ILO, 2011b, p 8/12).

1.2 Mixed migration in the Horn of Africa and Yemen

Migration issues in the Horn of Africa and Yemen are complex and challenging, comprising large populations of refugees, IDPs, labour migrants and irregular (normally economic) migrants.³ The matrix below provides an overview of the current situation and the main trends. The remainder of this section describes some of the key highlights and current trends with regard to mixed migration, as well as the associated risks and abuses, while the next chapter discusses the responses to mixed migration within the region. Detailed national profiles are provided in the individual country sections in chapter 3.

Mixed migration routes and flows

- *Four primary mixed migration movements have been identified:* the western route (via Sudan, into Libya and across the Mediterranean); the northern route (Egypt and into Israel – severely restricted as of mid-2012); the southern route (down the Eastern Corridor towards South Africa); and the eastern route (into Yemen to Saudi Arabia and beyond).
- *2012 showed an unprecedented exodus along the eastern route:* this makes Yemen a major country of destination and transit (to Saudi Arabia and other Gulf States). In contrast to previous years when Somalis made up the majority of irregular migrants and asylum seekers entering Yemen, Ethiopians – comprising over 78% of new arrivals in 2012 - have dominated this flow in the last two or three years. Most of these irregular migrants leave from Djibouti.
- *Conservative estimates indicate that in the last seven years, nearly 500,000 migrants have made the Red Sea, Gulf of Aden and Arabian Sea crossings:* the vast majority are Somali and Ethiopian in origin.
- *The motivations to migrate are varied:* these include the wish to escape from poverty, violence, insecurity, conflict, persecution, harsh climate conditions and social pressures, as well as the search for better socio-economic opportunities. Unrealistic notions of the costs and benefits of movement, generated in part by unscrupulous smugglers, are also known to influence the aspiration to leave countries of origin.⁴
- *Though in general the number of migrants crossing from the Horn of Africa to Yemen has been rising over the past two years, in recent months the volume has shown a slight decline:* while the last two years (2011/12) have witnessed the highest ever recorded new arrivals in Yemen (over 100,000 per annum), in the first quarter of 2013 a decrease of 12% in the number of migrants making the crossing was observed, compared to the same period the year before. With regard to Somalis this reduction is even more notable, with a total of 4,373 Somalis making the crossing - a 31.4% decline compared to the first quarter of 2012.
- *Since the beginning of 2013, many Somalis have been returning to their country of origin:* between January and May 2013, 18,108 Somali refugees returned from neighbouring countries into Somalia, the large majority (14,353 as of April 2013) from Kenya.⁵ These returns are understood to be attributed to a

3 Bosco, 2010, p. 9.

4 UNHCR and IOM, 2010, p. 24.

5 UNHCR, 2013j; UNHCR, 2013f; there is no separate figure available on returns from Kenya only in May 2013.

Year / Scale and scope of movement	Refugee / asylum seekers	Trafficked persons	Irregular migrant (economic migrant)	IDPs (internally displaced persons)
Yemen	<p>UNHCR were planning to assist almost 248,000 refugees (and persons in 'refugee-like' situations) and asylum seekers in early 2013.</p> <p>As of April 2013, the total was 242,002: Somali: 231,064 Ethiopian: 5,270 Eritrean: 1,127 Iraqi: 3,919 Others: 622</p>	<p>The US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013 list Yemen as an origin and to a much lesser extent transit and destination country for persons subjected to forced labour and sex trafficking.</p> <p>However, increasing reports of abductions of females (to be sold for domestic and sexual servitude) have been recorded in 2011/12.</p>	<p>In 2011, a total of 103,154 migrants crossed the Arabian and Red Seas to Yemen. In 2012 the total rose slightly to 107,532. Current trends suggest a similar flow to Yemen will take place in 2013.</p>	<p>In September 2012 the UNHCR reported over 500,000 registered IDPs. In their planning calculations for 2013, it estimates 390,000 IDPs, 200,000 people in 'IDP-like situations' and 50,000 returnees.</p> <p>As of April 2013 there were 344,019 registered IDPs, and 182,845 returnees.</p>
Ethiopia	<p>UNHCR were planning to assist 395,000 refugees and asylum seekers in early 2013.</p> <p>In 2011, Ethiopia was host to 290,250 refugees and asylum seekers.</p> <p>By April 2013 the number increased to 397,421.</p>	<p>The US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013 list Ethiopia as an origin country for persons subjected to forced labour and sex trafficking. The extensive and regulated market for labour migration through Private Employment Agencies includes a high number of trafficking cases. Child labour within the country is also common.</p>	<p>In 2011, a total of 75,804 Ethiopians crossed the Arabian and Red Seas to Yemen, rising to 84,446 in 2012.</p> <p>Indications from the first quarter suggest a similar number will make the crossing in 2013.</p>	<p>The number of IDPs in Ethiopia has not been independently estimated, but the GoE claimed in late 2012 that there were 200,000 IDPs in-country.</p>
Kenya	<p>UNHCR were planning to assist 649,000 refugees and asylum seekers in early 2013.</p> <p>Since 2011 there have been high increases in Dadaab refugee camp – Africa's oldest and largest camp. Over a period of eight months alone in 2011, almost 115,000 new refugees from Somalia were registered. In 2011 and 2012 over 210,000 Somalis entered Kenya and were registered at the Dadaab refugee camp.</p> <p>Since late 2012 a steady flow of refugees have been leaving the camps to return to Somalia. As of May 2013, there were 596,119 refugees and asylum seekers in Kenya.</p>	<p>The US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013 list Kenya a source, transit and destination a country for persons subjected to forced labour and sex trafficking.</p>	<p>The total number of irregular migrants from Kenya is undetermined. The most popular movements are to the Middle East and Gulf States. It is estimated that there are over 40,000 Kenyan migrant workers in Saudi Arabia, but many of these are regular migrants.</p>	<p>UNHCR uses a benchmark of 300,000 IDPs in their planning estimations for 2013, in addition to 30,000 stateless persons.</p> <p>By the end of 2012, only 6,973 IDPs displaced as a result of the 2007/8 post-election violence were yet to be settled (n.b. according to the Government of Kenya), though other estimates put the figure at 10-30,000 displaced persons were yet to be settled.</p>

Country	Refugees and asylum seekers	Trafficked Persons	Irregular migrants	IDPs (Internally Displaced Persons)
South Central Somalia	<p>UNHCR were planning to assist 13,000 refugees and asylum seekers in early 2013, almost all of them Ethiopian.</p> <p>In 2011, more than 290,000 Somalis fled their country.</p> <p>As of May 2013 there were 1,023,722 Somali refugees, hosted mainly in Kenya, Yemen, Egypt, Ethiopia, Eritrea, Djibouti, Tanzania and Uganda. 11,516 Somalis fled to neighbouring countries between January and April 2013.</p>	<p>Somalia is classified as a special case country in the US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013. It is listed as a source, transit and destination country for persons trafficked for forced labour and sex trafficking. The extent is not known.</p>	<p>In 2011 and 2012 over 210,000 Somalis entered Kenya and were registered at the Dadaab refugee camp, though some migrants have found their way into urban centres and avoid the camps. Rough estimates suggest there may be up to 200,000 Somali unregistered irregular migrants and refugees in Nairobi alone.</p> <p>In 2011, a total of 27,350 Somali migrants crossed the Arabian and Red Seas to Yemen, and 23,086 in 2012.</p>	<p>In 2011, over 1,300,000 Somalis were displaced, mainly due to conflict but also due to the drought.</p> <p>By May 2013, the number of IDPs was estimated to be over 1.1 million.</p>
Djibouti	<p>UNHCR were planning to assist 26,000 refugees and asylum seekers in early 2013 – the majority of whom are Somali.</p> <p>The number of refugees and asylum seekers in Djibouti is 22,234 and has remained relatively stable in the last three years.</p>	<p>The US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013 list Djibouti as source, transit and destination for persons subjected to forced labour and sex trafficking. The extent is not known.</p>	<p>The number of Djiboutian irregular migrants is not known.</p>	<p>In times of severe drought, such as 2011 and early 2012, some Djiboutians move to the towns and in particular Djibouti city, but generally there are no IDPs in Djibouti.</p>
Eritrea	<p>As of January 2013, the number of refugees and asylum seekers in Eritrea is 3,599.</p>	<p>The US State Department's <i>Trafficking in Persons Report</i> for 2011, 2012 and 2013 lists Eritrea as a source country for persons trafficked for forced labour and to a lesser extent sex and labour trafficking abroad.</p>	<p>In 2011 and 2012 it was estimated that 2000-3000 Eritrean migrants entered Eastern Sudan every month. In January 2013 it was reported that the number had dropped to hundreds.</p>	<p>There are no official statistics for IDPs in Eritrea.</p>

Source: UNHCR; US Department of State

number of factors: the positive (though fragile) political and security developments in Somalia, especially Mogadishu; the Kenyan government's directive ordering urban Somali refugees to relocate to Dadaab refugee complex; the dire living conditions and personal security risks facing refugees in the camps; and the pro-return substance of refugee discussions between the Presidents of Kenya and the Federal Republic of Somalia in May 2013 (see the Kenya country section).⁶

Risks and abuse

- *Notwithstanding declining numbers, mixed migrants across the Horn of Africa still face a myriad of human rights abuses:* furthermore, the levels of violence and brutality seem to be rising. Refugees and irregular migrants moving with the 'aid' of smugglers report rough handling, abandonment, lack of food and water or medical support, confinement, beatings, drowning, sexual attacks, extortion, detention, robbery, kidnapping and death.⁷
- *An estimated 2,000 people have died since 2008 while crossing the seas to Yemen⁸:* recently, however, the incidence of migrants being forced off boats mid-voyage to lighten the vessel has dwindled. Boat accidents have also reduced. Lower numbers of migrant deaths or disappearances at sea were recorded in 2012, compared with two years earlier, and in the first quarter of 2013 there were no reported fatalities at sea. One explanation for this reduction is that the life of the migrant has increased in value (see below): this is due to the evolving practice of kidnapping migrants for ransom, as well as subjecting them to extortion.
- *However, although the number of deaths at sea has decreased, reports of violence and abuse during the crossing continue:* in particular, an increasing number of young females face the risk of rape and sexual violence during the sea crossing to Yemen.⁹
- *An increasing number of mixed migrants across the Horn of Africa (Somalis and Ethiopians en route to Yemen, and Eritreans transiting through Sudan and Egypt) are being kidnapped for ransom:* they face extortion, torture, rape, sexual abuse, violent assault and murder. There are also reports of the theft and sale of body parts. The abduction of migrants in Yemen continues, despite some intervention by the country's security apparatus.
- *In addition to the considerable evidence of abuse in Yemen along the eastern route, there are also frequent stories of violent kidnapping and banditry against irregular migrants travelling west to Libya and south to South Africa:* migrants are also regularly detained and deported and sometimes incarcerated by state authorities. Numbers are not known but whenever migrants are interviewed, on the western and southern routes, they reveal a clear and ubiquitous pattern of violence and human rights abuse perpetrated by smugglers, state officials and the communities through which they pass.

6 The directive, as it has been portrayed in public, applies to all urban refugees and not only Somali nationals. In practice, law enforcement agencies in late December and early January focused primarily on Somali refugees and in particular those residing in Eastleigh neighbourhood.

7 Horwood, 2009.

8 According to accumulated data collection from the Mixed Migration Task Force in Yemen.

9 In the month of January, for example, there were at least 36 reported cases of sexual and gender based violence, most of them at sea and perpetrated by the smuggling crew. Almost every female encountered by monitoring teams in Yemen indicated that they either had been the victim of rape or had witnessed rape during the boat journey. Those interviewed in northern Yemen close to the Saudi border had accounts of gang rape, abduction (to unknown whereabouts) and sale of female migrants into private servitude or 'ownership'.

1.3 Objectives of the study and methodology

This publication is the third in a series of studies by the RMMS on specific mixed migration issues in the Horn of Africa and Yemen. It focuses on **responses to mixed migration in the Horn of Africa and Yemen region**, and aims to provide a full and comprehensive overview of responses to mixed migration in the Horn of Africa and Yemen, including regional initiatives, the institutional and legal frameworks, and responses from both governments and non-state actors such as international agencies and NGOs.

Migration flows obviously extend to neighbouring countries outside the Horn and Yemen. Therefore the report also provides a short summary of policy responses to mixed migration in two countries that influence mixed migration flows from the Horn of Africa and Yemen: **the Kingdom of Saudi Arabia** and **Israel**. Moreover, the reports provides a brief overview of the context in four other countries, located in the proximity of the Horn and Yemen, which produce or receive significant mixed migration flows to/ from the Horn of Africa and Yemen: **South Sudan, Sudan, Tanzania** and **Uganda**. Finally, each country section also provides a brief description of de facto responses towards mixed migration. Though not always part of official migration policy, these are often relevant from a protection perspective and are frequently reported by the media or human rights agencies.

The study is based on an extensive literature research conducted by an external consultant between April and May 2013. Information collected through interviews in the context of another RMMS study, conducted by the same consultant, is also used in this report. As an RMMS study, internal data and country profiles, monthly reports and press listings collated by the organisation are used extensively in this report.¹⁰ Finally, the scope and extent of the country/area sections differ. Some countries/areas in the region (such as Kenya) have much more evolved and elaborate legal and policy responses to mixed migration than others (such as Eritrea, Puntland or Somaliland), for various reasons: for example, a longer history of migration, more experience with large mixed migration flows and a more developed legal system in general. These differences are reflected in the content of the various country/area analyses.

¹⁰ RMMS data and texts from country profiles and monthly reports are used freely and frequently throughout this report, without explicit references.

2 Overview of responses to Mixed Migration in the region

overview of responses to mixed migration in the region

There are many regional initiatives with regard to mixed migration. Section 2.1 provides an overview of regional bodies, meetings and other activities, while Section 2.2 summarises responses by non-state actors. Section 2.3 discusses the national responses from an overarching regional perspective, while Section 2.4 outlines implementation of international legislation at a country level.

2.1 Regional initiatives relevant to mixed migration

The following section lists various regional bodies, meetings and cooperation agreements that are directly relevant to mixed migration in the region.

The East African Community (EAC) Common Market Protocol

The *EAC Common Market Protocol* entered into force on July 1, 2010. The Protocol provides for five ‘freedoms’ of movement and two ‘rights’ to be progressively implemented: (i) free movement of goods; (ii) free movement of persons; (iii) free movement of workers; (iv) the right of establishment; (v) the right of residence; (vi) free movement of services; and (vii) free movement of capital.¹¹ Article 104 of the treaty establishing the EAC already provided: ‘Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the community’.¹²

So far the implementation has not been smooth and it will take some time before all the EAC member states fully adhere to free movement of labour, illustrated by the fact that all national labour policy frameworks predate the free movement initiative of the *Common Market Protocol*.¹³

However, according to IOM, there has been some progress towards freer movement of labour. Countries are trying to harmonise all the labour migration policies in the region, a process requiring substantial negotiation. IOM is enhancing the capacity of the EAC to support the mainstreaming of migration issues in the operationalisation and implementation of the *Common Market Protocol*.¹⁴

Intergovernmental Authority on Development (IGAD) RCP

The Intergovernmental Authority on Development (IGAD) works to address various migration management challenges, including human trafficking, smuggling and border management. IGAD has six member states (Kenya, Ethiopia, Uganda, Djibouti, Somalia and Sudan): several countries (the United States, Canada, Australia and a number of European nations) and agencies (AU, EC, IOM, UNDP and World Bank) also hold partner and observer status. In 2009, IGAD established the Regional Consultative

11 Oucho, 2012, p.7-8.

12 Bosco, 2010 p. 2.

13 Oucho, Oucho, and Ong’ayo, 2013, p. 14; Oucho, 2012 provides several explanations for the lack of implementation of the *Common Market Protocol*.

14 IOM, 2011b

Process on Migration (RCP) to foster regional dialogue and cooperation on migration by providing a platform for discussions on various issues. The dialogue is between IGAD member states, transit and destination countries, as well as other stakeholders in migration.

Common Market for Eastern and Southern Africa (COMESA)

The Common Market for Eastern and Southern Africa (COMESA)¹⁵, established in 1993, has as one of its objectives (Article 164) the free movement of persons, labour and services, the right of establishment for investors and the right of residence within the Common Market.¹⁶ In collaboration with EAC and IGAD, COMESA is jointly developing a programme intended to enhance political integration, good governance and human security. One of its main objectives is the development and/or implementation of key regional frameworks on migration management and forced population displacements.¹⁷ Towards the end of 2012, during a meeting of ministers responsible for immigration in the region, COMESA urged for more efforts to strengthen the free movement of persons, through measures such as information sharing and the development of a regional database for migration management, and also address human trafficking, smuggling and other negative aspects of migration.¹⁸

African Union (AU) Migration Policy Framework

The *2006 AU Migration Policy Framework* serves to provide guidelines and principles to assist governments and Regional Economic Communities (RECs, such as the EAC) in the formulation and implementation of national and regional migration policies. It is a comprehensive and integrated reference document, non-binding in nature, scope and content, that provides recommendations on various migration issues: labour migration, border management, irregular migration, forced displacement, human rights of migrants, internal migration, migration data, migration and development, and inter-state cooperation and partnerships.¹⁹ It is assumed that it will ultimately stimulate the systematic development of national migration policies that will in turn facilitate, among other outcomes, the free movement of persons as stipulated in the *EAC Common Market Protocol*.²⁰

Joint Africa-EU Declaration on Migration and Development and the Africa-EU Partnership on Migration, Mobility and Employment

The *2006 Joint Africa-EU Declaration on Migration and Development* recognises the complex socio-economic causes of African migration, and pledged both regions to 'commit to a partnership between countries of origin, transit and destination to better manage migration in a comprehensive, holistic and balanced manner, in a spirit of shared responsibility and cooperation.' In the same year, the African Union agreed

15 Member States of COMESA are: Burundi, Comoros, D.R. Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Seychelles, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Swaziland, Uganda, Zambia, Zimbabwe.

16 COMESA Treaty; 1. The Member States agree to adopt, individually, at bilateral or regional levels the necessary measures in order to achieve progressively the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence by their citizens within the Common Market. 2. The Member States agree to conclude a Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Right of Residence. 3. The Member States agree that the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements within the PTA adopted under the PTA Treaty shall remain in force until such time that a Protocol on the Free Movement of Persons, Labour, Service, Right of Establishment and Residence enters into force.' COMESA Treaty, Article 164. Currently, only Burundi, Kenya, Rwanda and Zimbabwe have ratified the Protocol.

17 COMESA Peace and Security Mandate; <http://programmes.comesa.int/>.

18 COMESA, 2012.

19 AU, 2006, p. 1-2.

20 Oucho, 2012, p.13.

on a *Common Position on Migration and Development* and a *Migration Policy Framework* (as described above).²¹ The Africa-EU Partnership on Migration, Mobility and Employment was established in 2007 to improve migration management and to ensure its contribution to Africa's efforts to achieve the Millennium Development Goals (MDGs). It consists of three priority actions²²:

- Realise the *Declaration of the Tripoli Ministerial Conference on Migration and Development*;²³
- Implement the *EU-Africa Plan of Action on Trafficking of Human Beings*;
- Put into place the *2004 Ouagadougou Declaration and Action Plan on Employment and Poverty Alleviation in Africa*.²⁴

League of Arab States (LAS)

The League of Arab States (LAS)²⁵ has a Migration and Arab Expatriates Department (MAED) and strives to develop more effective policies for utilising migration in favour of Arab regional development, integration and international cooperation. The LAS published reports and organises meetings on international migration, including a Regional Consultative Meeting (RCM) for the Arab Region in June 2013 ahead of the *Second UN High Level Dialogue on Migration and Development* in October 2013.²⁶ The LAS has supported the international humanitarian response in the region: however, unlike in Africa, the Middle East has never had a regional refugee convention that adapts the *1951 Convention* to regional specificities (such as the *OAU Refugee Convention*) or a regional instrument relating to internal displacement (such as the *Kampala Convention*).²⁷

Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region to Southern Africa

On 6 and 7 September 2010, the Government of the United Republic of Tanzania, with the support of UNHCR and IOM, hosted the *Regional Conference on Refugee Protection and International Migration*. This provided a platform for governments and civil society to discuss the rights of migrants, irrespective of their legal status, and the expansion of legal avenues of migration to reduce reliance on smugglers. The delegates' recommendations included enhanced regional cooperation, policy and legislative review, and improved border management.²⁸

21 UNHCR and IOM, 2010, p. 28.

22 EC, 2007.

23 Of which the objectives are: 'to facilitate mobility and free movement of people in Africa and the EU and to better manage legal migration between the two continents; to address the root causes of migration and refugee flows; to find concrete solutions to problems posed by illegal or irregular migratory flows; to address the problems of migrants residing in EU and African countries.'

24 Of which the objective is to create more productive and better quality jobs in Africa, in particular for youth and women, in line with the UN 'Decent Work for All' Agenda.

25 Also known as the 'Arab League'. Among the countries covered in this report, the LAS includes Yemen, Djibouti, Sudan and Somalia as member states.

26 UN DESA, 2012.

27 Koser, 2012.

28 The action plan that was developed as a follow-up to the conference included several legislative reforms such as: 'implement the guidelines of the ILO's *2005 Multilateral Framework on Labour Migration*, regularisation programmes for long-staying irregular migrants, integrate migration into national development policies and poverty reduction strategies to enhance the development impact of migration, license and regulate employment agencies in countries of origin and destination to avoid exploitation of migrants; formulate national migration policies in accordance with the African Union continental migration policy frameworks.' IOM and UNHCR, 2010, p. 1-4.

Regional Mixed Migration Committee for Horn of Africa and Yemen

The Regional Mixed Migration Committee was established following a regional consultation held in Djibouti in December 2011. The committee has so far focused on rescue at sea, human trafficking and smuggling, and the creation of Migration Response Centers (see below). The committee held its second meeting in September 2012, hosted by Djibouti, organised by IOM and attended by delegations from Djibouti, Ethiopia, Somaliland, Puntland and Yemen. Egypt, Eritrea, Saudi Arabia, IGAD, the AU, UNHCR and other NGOs attended in an observer capacity. The meeting aimed to improve coordination among governments in the region, enhance the management of migration and strengthen protection for migrants.²⁹

Regional Mixed Migration Secretariat (RMMS)

The RMMS was formed to enhance coordination among protection actors addressing mixed movement in the Horn of Africa. As well as collecting, analysing, synthesising and managing data on mixed migration, RMMS also provides a link between the Mixed Migration Task Forces (see below) in the region. Relevant agencies rely on current RMMS information to craft appropriate humanitarian responses.

Mixed Migration Task Forces (MMTFs)

The first MMTF was established in Nairobi for Somalia under the auspices of the Inter Agency Standing Committee in 2007. Subsequently other MMTFs have been established for Kenya, Bossaso-Puntland, Somaliland, Yemen and Djibouti. The MMTFs, co-chaired by UNHCR and IOM, constitute UN agencies, NGOs and in some instances government and donor representatives. The MMTF strategy aims to develop a rights-based approach and expand coordinated humanitarian intervention in order to improve human rights protection for migrants and refugees. Its core pillars are prevention, response, data collection and analysis, and regional coherence. The MMTFs link to the Regional Mixed Migration Secretariat.

UNHCR 10-Point Plan of Action for Refugee Protection and Mixed Migration

UNHCR launched a *10-Point Plan of Action for Refugee Protection and Mixed Migration* in 2006.³⁰ The plan highlights key protection priorities and aims to address mixed migration in a comprehensive manner.³¹

29 IOM, 2012a.

30 UNHCR, 2011a.

31 The 10 points are: '1. Cooperation among key partners; 2. Data collection and analysis; 3. Protection-sensitive entry systems; 4. Reception arrangements; 5. Mechanisms for profiling and referral; 6. Differentiated processes and procedures; 7. Solutions for refugees; 8. Addressing secondary movements; 9. Return arrangements for non-refugees and alternative migration options; 10. Information strategy.'

2.2 Responses to mixed migration by non-state actors

Across the region, numerous non-state actors - hundreds in some countries, when including local non-governmental stakeholders - are involved in mixed migration issues, such as specific mandated international agencies and certain dedicated NGOs that also concentrate on these issues.³² In this section, a short overview of non-state actors' activities in the region is provided.³³ Each of the country sections also includes a profile of non-governmental responses at a national level, again not seeking to provide a comprehensive overview but rather a thematically clustered illustration of the specific issues these actors address.³⁴

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United Nations High Commissioner for Refugees (UNHCR)

UNHCR is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. UNHCR 'strives to ensure that everyone can exercise the right to seek and enjoy asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country.' In all countries in the region, UNHCR is involved in the area of mixed migration, in particular from the aspect of its mandate responsibilities related to protection of asylum-seekers and refugees and IDPs. Its responsibilities include Refugee Status Determination (RSD), the hosting of refugee camps, the protection of refugees, the provision of services and humanitarian assistance, identification and pursuit of durable solutions, including voluntary repatriation, refugee resettlement and local integration, capacity building and policy discussions on mixed migration.

International Organisation for Migration (IOM)

IOM is the leading inter-governmental organisation in the field of migration. IOM's mission is 'help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people.' Although it has no legal protection mandate, IOM works closely with governmental, intergovernmental and non-governmental partners in all countries covered in this report on a range of mixed migration related activities, such as:

- *Awareness raising*: to educate migrants and potential migrants on the dangers of irregular movements.
- *Capacity building*: for example, of coast guards and immigration officers in Djibouti, Puntland and Somaliland.
- *Assistance to migrants*: for instance, through the Migration Response Centres (MRCs) established by IOM, in cooperation with government authorities, in Djibouti, Somaliland and Puntland.
- *Assisted Voluntary Return*: in several countries in the region, such

32 Eritrea is a notable exception, as the Eritrean government closed all international NGO offices in recent years and placed restrictions on UN operations in Eritrea (although the government decided to resume development cooperation with UN agencies in 2013 and beyond; see Eritrea section).

33 It is beyond the scope of this study to list them all and describe their work in the 13 countries/areas covered in the report, especially as it is a dynamic and constantly changing environment. The report therefore does not seek to provide a comprehensive and exhaustive overview of all non-state actors in each of the countries/areas. It does, however, provide noteworthy examples of non-state actors' responses, while acknowledging that there are many other non-state actors addressing mixed migration issues and that the ones mentioned often employ more activities in more countries than stated in this report.

34 An overview of the websites used for the section below is included in the bibliography.

as Djibouti and Yemen, IOM runs Assisted Voluntary Return (AVR) programmes of migrants, in particular Ethiopians.

- *Resettlement*: after submission of refugees for resettlement by UNHCR, IOM provides resettlement services such as case processing, health assessment, pre-departure orientation and movement.

Given their specific mandate (UNHCR) and / or international recognition of their expertise on migration (IOM), both agencies are very active across the region and feature more prominently than other organisations in the country sections in this report.

Other international agencies

As a third category, a range of other international agencies indirectly address mixed migration issues as part of their broader mandate, although they are not specifically focused on assisting migrants in mixed migration flows. Examples are:

- *United Nations Children's Fund (UNICEF)*: works in refugee camps on issues such as education, nutrition, unaccompanied minors and child trafficking, in all countries in the region.
- *United Nations Office for Drugs on Crime (UNODC)*: works on human trafficking and migrant smuggling as one of its focus areas, in all countries in the region.
- *United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA)*: focuses on a range of humanitarian affairs, including displacement, in Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Yemen.
- *International Labour Organisation (ILO)*: addresses issues such as labour migration (policy and practice), decent work conditions for migrant workers, child labour and human trafficking, in several countries in the region (Kenya, Ethiopia³⁵, Uganda, South Sudan, Somalia and Yemen).
- *The World Food Programme (WFP)*: provides food assistance, in all countries in the region except Eritrea.
- *United Nations Development Programme (UNDP)*: works to support vulnerable communities and to improve security and protection, in all countries in the region.
- *The World Health Organisation (WHO)*: the directing and coordinating authority for health within the UN system, implementing crisis and emergency programmes.
- *The United Nations Human Settlements Programme (UN-HABITAT)*: the UN agency for human settlements. It is mandated by the UN General Assembly to promote socially and environmentally sustainable towns and cities, with the goal of providing adequate shelter for all. Examples of UN-HABITAT's work in the region include the construction of permanent housing and provision of social infrastructure and skills training for IDPs in Somalia and enhancing capacity to address IDP populations in Sudan.³⁶

International and local NGOs

Finally, a plethora of international and local NGOs address mixed migration issues in the region. Some are directly focused on migration and refugees; others are focused on one aspect of mixed migration, such as human

³⁵ ILO's regional office for Africa is located in Addis Ababa.

³⁶ UN-HABITAT, 2013.

trafficking; and finally, many international and local NGOs are involved in mixed migration issues as part of their broader mission or through their work in refugee camps in the region. Below is a short overview of some examples, including their focus areas and countries of operation:

- *The International Rescue Committee (IRC)*: focuses on child protection, education, Gender Based Violence (GBV), health, livelihoods, protection, and water and sanitation in different refugee camps in Ethiopia and Kenya, including Dadaab refugee complex and urban areas such as Nairobi.
- *The Norwegian Refugee Council (NRC)*: an independent, humanitarian non-governmental organisation which provides assistance, protection and durable solutions to refugees and internally displaced persons worldwide. NRC provides water and sanitation, education, food, livelihoods and shelter, in the Kenyan camps of Dadaab and Kakuma as well as various refugee camps in Ethiopia.
- *The Danish Refugee Council (DRC)*: its mandate is to provide direct assistance to conflict-affected populations – refugees, internally displaced people (IDPs) and host communities – across the world. DRC works in Ethiopia, Kenya, Somalia and Yemen on a variety of issues such as WASH, shelter and non-food items, protection, income generation, food security and education.
- *Médicins Sans Frontières (MSF)*: provides medical services to displaced populations and refugees in several countries in the region. In Ethiopia, for example, MSF set up a medical screening unit at the refugee reception point at Dollo Ado refugee camp and enrolled thousands of children in nutrition programmes, run in partnership with the Government of Ethiopia, UNHCR and other organisations. In Kenya's Dadaab refugee complex, in particular Dagahaley camp, MSF is the main provider of healthcare for more than 100,000 registered refugees. It also delivers a full range of health services to displaced people in Somalia.
- *The International Committee of the Red Cross (ICRC)*: provides humanitarian help for people displaced by conflict and armed violence. The ICRC regional delegation in Nairobi carries out humanitarian activities in Kenya, Djibouti and Tanzania, and is the logistical centre for operations in Somalia: for example, it assists in the return of Somali IDPs and provides food, shelter and other essential items. ICRC also facilitates family tracing and reunification for refugees and immigrants in Kenya, Tanzania and Djibouti.
- *The International Federation of Red Cross and Red Crescent Societies (IFRC)*: includes migration as one of its main focus areas, providing protection and assistance to vulnerable migrants in all countries within the region. The National Societies provide food, shelter, clothing, healthcare, first aid and psychosocial support to migrants throughout their journey. They also work with the ICRC to restore links between migrants and their families, and to protect migrants in detention.
- *ZOA*: provides food, water, sanitation and health care for IDPs, refugees and host populations in Ethiopia, Uganda, Sudan, South Sudan and Yemen.
- *FilmAid International*: provides information on health, HIV/AIDS and prevention of GBV through programmes in refugee camps in

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Kenya (Kakuma and Dadaab) and Tanzania (Mtendeli and Nduta), as well as short term projects in Sudan, Uganda and Yemen.

- *The Lutheran World Federation*: supports refugees in camps in Kenya (Dadaab and Kakuma) and Tanzania (Ali Addeh and Hol Hol) and assists with the return and resettlement of refugees in Somalia and South Sudan.
- *INTERSOS*: an Italian NGO involved in the protection of vulnerable groups, including women, children and the elderly. For example, it provides IDPs in Central and Southern Somalia with medical, psychosocial and material support. INTERSOS also implements family tracing projects. In Yemen, it is particularly involved in assisting refugees through social welfare centres, where they take care of the victims of violence, especially women and children, to whom INTERSOS offers legal aid and safe housing.
- *The Society of Humanitarian Solidarity (SHS)*: carries out several activities in Yemen focused on refugees. Besides working in Kharaz refugee camp, SHS performs coastal patrols to provide water, nutrition, first aid and transportation to refugees who arrive on the Yemeni coast, as well as protection from attacks. It also contributes to UNHCR's refugee resettlement project by coordinating transport. Moreover, SHS manages four refugee reception centres: Mayfa'a (currently together with DRC and INTERSOS), Ahwar, Mayfa' Hagar Accommodation Center and Kiada Refugees Transit Center.
- *Save the Children*: operates in all countries in the region, for example by providing clean water and health care to young children and mothers in Somalia, Kenya and Ethiopia. In Somaliland, Save the Children also runs the Refugee Welfare Centre (funded by UNHCR). In Yemen, Save the Children provides basic health, protection and education services, both at the Kharaz refugee camp and among the host population in several communities in Yemen.
- *Welthungerhilfe*: provides water and sanitation in Dadaab refugee complex.
- *Don Bosco*: focuses, among other groups, on refugees and displaced youths in East Africa.
- *Action Against Hunger*: specialises in malnutrition in Somalia, Kenya, Djibouti and Ethiopia, including the Dollo Ado refugee camp.
- *The International Federation of Women Lawyers (FIDA)*: a non-profit, women-led organisation for women's rights in Kenya. It was involved in the development and drafting of the *Counter Trafficking in Persons Act 2010*.
- *CRADLE*: a child-focused NGO in Kenya, committed to the protection, promotion and enhancement of the rights of children. One of its objectives is the eradication of violence to and exploitation of minors, including child trafficking.
- *Kituo cha Sheria*: Kenyan NGO, assisting refugees with legal issues and obtaining work permits. The organisation has also played a major role in appealing punitive legal measures against migrants in the country, such as the December 2012 encampment directive (see section 3.4).
- *The Refugee Consortium of Kenya (RCK)*: a national NGO, working with refugees and other forced migrants. Its activities include: protection monitoring in border towns, providing legal assistance to refugees, preparing them for RSD, securing their release from

police stations and representing them in court. It also conducts public and community based forums aimed at informing refugees and other stakeholders about refugee rights, advocacy, capacity building and research.

Cooperation between non-state actors and governments

Despite marked differences between countries in the region in the scale and nature of cooperation between governments and non-state actors³⁷, there are many positive examples of partnerships between government and non-state actors on issues such as Refugee Status Determination (RSD), capacity building, awareness raising, voluntary returns and emergency assistance. Many governments in the region appear to be responsive to the assistance well-established non-state actors can offer to improve the institutional, policy and legal framework to effectively manage migration.

Donors, however, sometimes seem to struggle with how to respond to mixed migration, especially when it involves economic migrants in emergency situations. They are unsure whether irregular migrants in crisis - such as the large number of Ethiopian migrants currently stranded in Northern Yemen - falls under development or humanitarian aid allocations.³⁸

37 In some countries, most notably Eritrea and parts of Somalia, the security situation and bans/restrictions on NGOs by authorities or Al-Shabaab make it almost impossible for non-state actors to work in certain areas.

38 RMMS, 2013c.

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2.3 National responses to mixed migration from a regional perspective

National responses and challenges to mixed migration in the region can be summarised as:

- Countries *overwhelmed by the scale and nature* of mixed migration flows;
- Countries with *considerable information deficits*;
- Countries with *contradictory responses to labour migration*;
- Countries with *inadequate responses to mixed migration issues*, paving the way for human rights violations and criminalisation of migrants;
- Countries with *incoherent or incomplete migration policies and frameworks*;
- Countries with *inadequately implemented mixed migration legislation*.

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Overwhelming scale and nature of mixed migration

Across the region, states face enormous challenges with regard to mixed migration issues. Many, whether predominantly countries of transit (Djibouti, Puntland), destination (Kenya) or both (Yemen), are overwhelmed by the scale and scope of the phenomenon. This leads to a constantly changing set of *de facto* responses as countries struggle to develop appropriate strategies.

Information deficits

Many governments in the region are not well aware of the scale and nature of mixed migration movements due to a lack of reliable and comparable data. This uncertainty surrounding the volume of migrants entering or leaving, regularly or irregularly, undermines their ability to develop policies that reflect the actual situation. As mixed migration movements in this region are complex and rarely 'one-way' or unambiguous movements between the sending and receiving countries, these information deficits make it increasingly difficult for states to adequately respond to mixed migration flows.

Contradictory responses to labour migration

Countries in the region struggle with regular labour migration, in particular striving for balance between the benefits of labour migration - cheap labour for receiving countries, remittances for sending countries - with the need to protect their own labour markets and the rights of migrant workers abroad. In principle, the countries that belong to the EAC endorse the free movement of workers as stipulated in the *EAC Common Market Protocol*. In practice, however, there are several examples of countries undermining this framework by imposing new and stringent restrictions on foreign workers. In particular, a large portion of Kenyan labour migrants in the EAC region are highly-skilled workers and so take up key positions in neighbouring states: this has led to resentment and fear of the protocol in other countries.³⁹

³⁹ ACP, 2013, p. 4.

Human rights violations and criminalisation of migrants

The clearest illustration of the inadequate framework in many countries towards mixed migration is the lack of protection and vulnerability of migrants: this paves the way for all sorts of harassment, abuses and human rights violations by criminal gangs, smugglers or government authorities.⁴⁰ Moreover, while there are many examples of migrants being criminalised and arbitrarily detained, the incidence of migrant smugglers or human traffickers being similarly arrested and prosecuted is much lower.

Inadequate migration policies and frameworks

The difficulties in developing adequate responses to mixed migration across the region are exacerbated by the incoherent and incomplete migration policies and frameworks in most of the countries. The majority do not have a clear and overarching vision on migration that incorporates its many different aspects and forms, nor is migration effectively mainstreamed into other policy areas such as employment. This is illustrated by the fact that in each of the EAC countries, the national labour policy frameworks predate the free movement initiative of the *Common Market Protocol*. Currently, however, several governments are seeking to address these inadequacies by developing new national immigration policies and legislation.

Insufficient implementation of migration legislation

In many countries in the region, recent migration related legislation is neither well known nor effectively enforced. While many countries now do have anti-trafficking laws, for instance, these are poorly implemented: besides Israel, all the countries covered in this report are ranked as either Tier 2⁴¹ or Tier 3⁴² on the US Department of State's *Trafficking in Persons Report* Watch List. This means that none of them are considered to be sufficiently and effectively combating the practice.⁴³

40 The country/area sections in this report offer detailed examples of these abuses.

41 Djibouti, Kenya, Ethiopia, Tanzania, Uganda.

42 Eritrea, Saudi Arabia, South Sudan, Sudan, Yemen; as a Special Case, Somalia (including Puntland and Somaliland) is not classified in the US Department of State report.

43 US Department of State, 2012a.

2.4 International legislation

The table below provides an overview of the most important international conventions and the status of ratification by the countries in the region.

Poor ratification of the Kampala convention

The *Kampala Convention* has important implications for the protection of all those uprooted from their homes and livelihoods as a result of violence,

international
legislation

	Convention relating to the Status of Refugees	Protocol relating to the Status of Refugees	OAU Convention 1969 Convention Governing Specific Aspects of Refugee Problems in Africa	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ⁴⁴	United Nations Convention against Transnational Organised Crime	Protocol against the Smuggling of Migrants	Protocol to Prevent Suppress and Punish Trafficking in Persons	AU Convention on the Protection and Assistance of Internally Displaced People ⁴⁵
Djibouti	d9/8/1977	d9/8/1977	s15/11/2005		a20/5/2005	a20/4/2005	a20/4/2005	s23/10/2009
Eritrea			s25/04/2012					s25/04/2012
Ethiopia	a10/11/1969	a10/11/1969	s10/09/1969 r15/10/1973		s14/12/2000 r23/7/2007	a22/6/2012	a22/6/2012	s23/10/2009
Israel	s1/8/1951 r1/10/195	a14/6/1968			s13/11/2000 r27/11/2006		s14/11/2001 r23/7/2008	
Kenya	a16/5/1996	a13/11/1981	s10/09/1969 r23/06/1992		a16/6/2004	a5/1/2005	a5/1/2005	
Saudi Arabia					s12/11/2000 r18/1/2005	s10/12/2002 r20/7/2007	s10/11/2002 r20/7/2007	
Somalia ⁴⁶	a10/10/1978	a10/10/1978	s10/09/1969					s23/10/2009
South Sudan								
Sudan	a22/2/1974	a23/5/1974	s10/09/1969 r24/12/1972		s15/12/2000 r10/12/2004			
Tanzania	a12/5/1964	a4/9/1968	s10/09/1969 r10/01/1975		s13/11/2000 r24/5/2006	s13/12/2000 r24/5/2006	s13/11/2000 r24/5/2006	s08/12/2010
Uganda	a27/9/1976	a27/9/1976	s10/09/1969 r24/07/1987	a14/11/1995	s12/11/2000 r9/3/2005	s12/12/2000	a12/11/2000	s23/10/2009 r29/01/2010
Yemen	a18/1/1980	a18/1/1980			s15/12/2000 r8/2/2010			

d succession | s signature | r ratification | a accession⁴⁷

⁴⁴ Also known as the *Migrant Workers Convention*.

⁴⁵ Also known as the *Kampala Convention*.

⁴⁶ According to the *Constitution of the State of Puntland*, the Puntland government maintains the international conventions and treaties that the pre-1991 Somali Republic convened with foreign governments, provided such conventions are not contradictory to Shari'a law or the interests of Puntland. Similarly, according to Article 10 of the *Constitution of Somaliland*, the government maintains the international conventions and treaties that the pre-1991 Somali Republic convened with foreign governments, provided such conventions are not contradictory to Shari'a law or the interests of Somaliland.

conflict, development and environmental factors.⁴⁸ Despite the region's long-standing history of large-scale internal displacement, the convention – which came into force on 6th December 2012, after its ratification by Swaziland as the 15th state – has limited impact in this part of Africa. Although several countries have signed, they are not yet legally bound to the convention: only Uganda has formally ratified. Kenya was heavily involved in the negotiations, but eventually pulled out.⁴⁹

Reported cases of refoulement by Sudan and Israel

While Sudan and Israel are legally bound (either by accession or ratification) by the *Convention relating to the Status of Refugees*, which explicitly prohibits refoulement, alleged incidents by both states have been reported. If these accusations are valid, then both countries are acting in violation of their international obligations.

Eritrean exceptionalism

Eritrea did not ratify any of the listed conventions and the section on Eritrea in this report describes the lack of refugee and asylum laws in the country. On the 25th of April 2012, however, Eritrea signed both the *OAU Refugee Convention* and the *Kampala Convention*.

Varying levels of commitment to international legislation within the region

The countries in the region differ in terms of their adherence to these conventions. For some, such as Uganda, almost all the legislation except for the *Protocol against the Smuggling of Migrants* is legally binding. Others, such as Eritrea, Saudi Arabia and Somalia, are less willing (or lack the capability) to commit to these conventions. It should be noted that South Sudan, which has not ratified any of them, is a special case as a young state. In its short history as an independent nation, it has already ratified seven ILO conventions and the *Geneva Conventions*, and it is expected that it will soon also ratify the *Kampala Convention*.

Lack of implementation of the Migrant Workers Convention in the region

On 1 July 2003, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* – also known as the *Migrant Workers Convention* – entered into force. With 46 countries party (accession, ratification or succession) to it, the convention focuses on the protection of migrant labourers, to support a framework for rights-based migration.⁵⁰ It also offers guidance on the development of national

47 'Accession' is an act by which a State signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature; 'Ratification' is an act by which a State signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the State first signs it and then fulfils its own national legislative requirements; 'Signature' of a treaty is an act by which a State provides a preliminary endorsement of the instrument. Signing does not create a binding legal obligation but does demonstrate the State's intent to examine the treaty domestically and consider ratifying it. 'Succession' occurs when one State is replaced by another in the responsibility for the international relations of territory. Generally, a newly independent State which makes a notification of succession is considered a party to a treaty from the date of the succession of States or from the date of entry into force of the treaty, whichever is the later date; United Nations Treaty Collection Glossary (<http://treaties.un.org>).

48 Sheekh, Atta-Asamoah, and Sharamo, 2012, p.4.

49 According to the Refugee Consortium of Kenya (RCK), Kenya put a hold on ratifying all international instruments, pending the enactment of the treaties bill. With this bill and with the passing of the *2010 Constitution*, all international conventions ratified by Kenya will form part of Kenyan law. As the Kenyan parliament is the legislator, a way must first be found to involve the parliament in the process of ratification. Interview with RCK, March 15, 2013, conducted by the consultant in the context of the recently published RMMS study on Mixed Migration in Kenya.

50 UN OHCHR, 2005, p. 1.

and international migration policy frameworks, and outlines measures to protect migrants from human rights abuses.⁵¹

However, despite widespread reports of exploitation and abuse of migrant workers from the Horn of Africa in the Gulf States, no country in the region (with the exception of Uganda) has signed the *Migrant Workers Convention*. Worldwide, the countries that have so far ratified are primarily countries of origin for migrant workers such as Mexico, Morocco and the Philippines⁵² for whom it is an important vehicle to protect citizens living and working abroad. With labour migration within and from the region expected to rise, together with increasing reports of abuse of migrant workers, the non-ratification of the convention in the region is a major obstacle to the development of a more coherent and rights-based migration framework in the region. If more states were willing to commit to the convention, the protection environment could improve significantly for the growing number of migrant workers originating from the Horn of Africa.

international
legislation

51 Migrantsrights.org.

52 However, the convention has not been ratified by any of the migrant receiving countries in Western Europe, North America or the Gulf.

3.0 Country/Area sections

3.1 Djibouti

country sections

Djibouti

Overview of mixed migration⁵³

- *Transit migration through Djibouti:* migrants, in particular from Ethiopia and Somalia, travel through Djibouti en route to Yemen. In 2012, over 80,000 migrants – 78% of all arrivals in Yemen – entered via Djibouti. Most depart from the vicinity of the small portal town of Obock or, increasingly, from remote coastal locations as smugglers try to avoid patrols by Djiboutian authorities. The volume of migrants entering Yemen from Djibouti has risen from 34,894 in 2010, to 72,142 in 2011 and 80,564 in 2012. However, the majority are transit migrants from outside the country: despite poverty, few Djiboutians have been documented leaving their country.
- *The role of smuggling:* during 2012, a total of 1,213 smuggler boats made the crossing from Djibouti. A recent RMMS study estimated the migrant smuggling business in Djibouti to be worth USD 11-12.5 million to the handful of boat owning smugglers just for the sea crossing alone.⁵⁴
- *Djibouti as a country of destination:* many migrants heading to the country are Somali, Eritrean and Ethiopian. The Ali Addeh refugee camp, in the south-east of the country, hosts approximately 22,000 refugees. The Oromia Support Group also estimates that there are several thousand undocumented migrants from Ethiopia (5,000 Oromo and 6,000 Amhara) in Djibouti City.⁵⁵

Institutional framework

The following agencies in Djibouti are involved in migration and refugee affairs:⁵⁶

- *Commission Nationale d'Éligibilité des Réfugiés (CNE)* conducts Refugee Status Determination (RSD) under the auspices of UNHCR.
- *Organisation National d'Assistance aux Réfugiés et Sinistrés (ONARS)* is located within the Ministry of the Interior (*Ministère de l'Intérieur*) and manages the refugee camps.

Legislation⁵⁷

The following legislation is of particular importance in the area of mixed migration:

- *International conventions:* Djibouti is party to the *United Nations Convention against Transnational Organised Crime* and the *Palermo Protocols* (by accession), as well as a signatory to the *OAU Refugee Convention* and the *Kampala Convention*. By means of succession, Djibouti is also a party to the *Convention relating to the Status of Refugees and its Protocol*.
- *National legislation (immigration):* *Act No. 201/AN/07/5ème* was adopted in 2007 by the National Assembly and sets the conditions for entry and residence in the Republic of Djibouti.

⁵³ The matrix in section 1.2 provides an overview of mixed migration trends and figures in Djibouti.

⁵⁴ RMMS, 2013e.

⁵⁵ Oromia Support Group, 2012, p. 28.

⁵⁶ Ngunyi and Oucho, 2012, p.106-110.

⁵⁷ For an overview of international legislation to which Djibouti adheres, see section 2.4.

- *National legislation (asylum): Ordinance No.77-053/PR/AE* is the primary law on refugees. According to Article 1, the law is in line with the international legislation Djibouti is a party to. However, Article 4 states that refugees can be expelled if they pose a threat to national security. Article 7 also stipulates that, with regard to engaging in professional activities, those with a refugee status are treated the same as other foreigners in Djibouti.
- *National legislation (smuggling and trafficking): Act No. 210/AN/07/5ème on Combating Trafficking in Human Beings* was adopted in 2007 and applies to any person who may be a victim of trafficking, with a focus on vulnerability due to age (under 18), sex (women) or physical and/or mental health. Part IV of the Act (Article 7) provides that the penalty for any person engaged in, or complicit to a person engaged in, trafficking in human beings is 2-5 years in prison and a fine of 500,000 to 1,000,000 Djiboutian Francs (DJF).⁵⁸ In severe cases of trafficking - for example, when the act involves violence, kidnapping, the worst forms of child labour or was the work of an organised group - the penalty is 10-15 years' imprisonment and a fine of 500,000 to 5,000,000 DJF. Penalties are doubled when the trafficking results in the disappearance or death of the victim.⁵⁹

Government policy

Refugee and asylum policy

Djibouti offers most asylum seekers from Somalia refugee status on a *prima facie* basis⁶⁰, while those from Eritrea, Ethiopia and other neighboring countries undergo individual RSD. UNHCR runs a reception centre at the Loya'ada border, where most Somalis enter (from Somaliland) and are registered. After screening, they are transported to the Ali Addeh refugee camp, located approximately three hours away (by bus/car) in a remote part of the desert. Nevertheless, it is common knowledge that many of those registered move on to Yemen, resulting in fairly static or slow-growing numbers of refugees resident at the camp.

As Ali Adeh has exceeded its full capacity - initially designed for a caseload of less than 7,000, it now hosts a total of 22,000 refugees and asylum seekers - in early 2011 the Djibouti government authorised UNHCR to re-open the former site of this location. So far, 1,200 refugees have been transferred to Holl-Holl, which offers more space and safe drinking water. UNHCR plans to transfer more than 7,000 people to Holl-Holl camp in 2013.⁶¹

Irregular migration and smuggling

Ethiopian migrants in Djibouti are regarded as irregular/illegal migrants. Following the heightened securitisation in the region, linked to the Somali-based Al-Shabaab militant movement, Djibouti has imposed security restrictions on Somalis (particularly single males) entering its territory despite their *prima facie* refugee status. According to UNHCR, the decision of the authorities to deny access to 18-40 year old Somali males usually followed instances where Al-Shabaab threatened countries in the region, including Djibouti. Restrictions were often lifted two to three weeks later once the country's authorities judged that the risk had passed.⁶²

58 Ngunyi and Oucho, 2012, p.106-111.

59 Approximately USD 2,800-5,600, exchange rate of 1 DJF = 0.00556757 USD as of March 26, 2013.

60 In February 2012, it was reported that Djibouti authorities had suspended registration at the Loya'ada border post and turned Somali new arrivals away. However, in April 2012 Djiboutian authorities resumed *prima facie* registration of Somalis at the Loya'ada border point.

61 UNHCR, 2012c, p. 54-57.

62 UNHCR, 2012b, p. 4.

Smuggling and trafficking are illegal by Djiboutian law and Djibouti ratified the *Protocol against the Smuggling of Migrants by Land, Sea and Air* on 20 April 2005. Nevertheless, Djibouti is a major transit country for irregular migrants, most of them leaving from Obock or nearby coastal points to sail to Yemen. The authorities, in an attempt to reduce this, arrest migrants travelling through Djibouti without proper documentation and frequently intercept boats full of smuggled people, as demonstrated by a number of incidents towards the end of 2012:

- *November 2012*: the Djibouti security forces mounted a campaign against migrant smuggling resulting in multiple detentions and deportations back to the Ethiopian border. On November 20, security agents also arrested 300 illegal migrants around the Obock port area and transported them to Djibouti town for possible repatriation and deportation.
- *December 2012*: approximately 3,533 irregular migrants were intercepted and 'rescued at sea' as they were being smuggled on boat trips to Yemen. Intercepted migrants are normally returned to Djibouti and sent to detention facilities or local prisons to await deportation.

At the same time, the authorities have also tried to positively assist migrants. In September 2012, for example, IOM reported that the Djibouti government had increased its provision of emergency support to at-risk migrants, including health care and voluntary return assistance.⁶³

De facto responses

Arbitrary arrests

There have been several recent reports of arbitrary arrests of migrants in Djibouti. For example:

- *May 2012*: authorities in Djibouti carried out two round ups in Obock, during which they reportedly arrested approximately 100 migrants on each occasion. UNHCR negotiated with the authorities for a 72-hour 'grace period' to allow those in need of international protection to seek asylum before the migrants were transported to the borders of their respective countries.
- *June 2012*: an Ethiopian migrant reported, during a focal group discussion session facilitated by the Danish Refugee Council (DRC) with new arrivals in Kharaz, that he had fled from Djibouti to Yemen to seek asylum as he feared possible refoulement. He claimed that fellow Oromos had been deported as part of an agreement between the Djiboutian and Ethiopian government.
- *September 2012*: Somalis in Yemen reported that, while in Djibouti, they were arrested, detained and ill-treated after they were suspected of being linked to the Al-Shabaab group. Somali migrants arriving in Yemen often report being arrested as they journey through Djibouti. As detention facilities and other resources in Djibouti are limited, the arrests appear to be arbitrary and not systematic.⁶⁴
- *January 2013*: the Human Rights League of the Horn of Africa (HRLHA) reported that the Government of Djibouti had arbitrarily arrested 43 refugees from Ethiopia (Oromo and Ogdenian) and deported them to Ethiopia. HRLHA forwarded the information to UNHCR for intervention.⁶⁵

⁶³ IOM, 2012e.

⁶⁴ RMMS Monthly Summary, September 2012.

⁶⁵ Human Rights League of the Horn of Africa.

Collusion and corruption

As elsewhere in the region, there are alleged instances of collusion between smugglers and authorities, including official corruption. Migrants in Yemen who have transited through Djibouti report that in some cases boat owners and captains had paid the coast guards to continue their journey. Somali new arrivals in Yemen also reported being arrested in Djibouti by the authorities and only released upon payment of a bribe of approximately USD 50.

Non-state actors

Various non-state actors – international organisations (mainly IOM and UNHCR) and international and local NGOs such as the International Committee of the Red Cross (ICRC), Save the Children, Action Against Hunger, *the Association pour la protection et l'épanouissement de la famille*, Care International, the Lutheran World Federation and the *Union nationale des femmes Djiboutiennes*– work on mixed migration issues and provide assistance to migrants.⁶⁶ Some examples of non-state actors' responses in Djibouti are clustered thematically below:⁶⁷

Refugees

In line with its mandate, UNHCR runs the two refugee camps (Ali Addeh and Holl-Holl) in Djibouti, performs RSD together with the *Commission Nationale d'Éligibilité des Réfugiés* (CNE) and registers asylum seekers at the border (Loyade). It also identifies people of concern among the migrants and offers them protection and assistance.⁶⁸ The Lutheran World Federation also assists refugees in Ali Addeh and Hol Hol.

Capacity building

IOM attempts to strengthen the capacity of Djiboutian authorities to deal with mixed migration. In 2012, for example, it instructed representatives from various ministries in migration management issues, including migrant rights, international law, protection and counter-human trafficking. IOM also provided coast guards with training for rescue-at-sea operations, as well as theoretical instruction on migrant rights to enhance their protect and assistance capacity.⁶⁹

Awareness raising

IOM also has programmes to inform migrants about the risks they face on the journey to Yemen through roadside notice boards, the Migration Response Centres and direct outreach. IOM reported that many prospective migrants do not have sufficient knowledge about what to expect during their journey and onward travel: some are even unaware that they have to cross the Red Sea in order to reach Yemen.⁷⁰ In partnership with IOM and the Government of Djibouti, UNHCR established the Mixed Migration Taskforce (MMTF): this focuses on mitigating the effects of smuggling and human trafficking by advising people about the dangers of attempting to cross the Red Sea through irregular means.

Emergency assistance

IOM provides emergency assistance in Djibouti, in accordance with the response matrix developed by the Djibouti MMTF and in coordination

66 UNHCR, 2012c, p. 54-57.

67 As in most countries/areas, there are more agencies and organisations working on mixed migration: the selection presented here is not exhaustive. Furthermore, the organisations mentioned do more than the activities described in this report. The purpose here is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing a definitive overview of all actors and all activities; see also section 2.2.

68 UNHCR, 2012c, p. 54-57.

69 IOM, 2012a.

70 Ibid.

with the Migration Response Centre (MRC) in Obock. The emergency assistance consists of non-food items, medical assistance, referral and Assisted Voluntary Return (AVR).⁷¹ IOM helps the Government of Djibouti manage migration in the area around Obock through the MRC. However, in October 2011 it was reported that the MRC was failing to record the bulk of migrants departing by boat, with many circumventing the town by using departure points further along the coast. As the MRC is regarded as a government linked agency, it is not surprising that smugglers and migrants travelling clandestinely do not voluntarily present themselves except for emergency assistance. As a response to this, in 2012 MRC-Obock began doing mobile registration, awareness raising, and provision of NFIs at points of embarkation where migrants congregate along the coastal area north of Obock.

Resettlement

According to UNHCR, there are no possibilities for local integration in Djibouti.⁷² Urban refugees in Djibouti City are commonly undocumented and lead a marginal existence, due to high unemployment and exploitation of cheap casual labour⁷³. Resettlement remains the only available durable solution for refugees living in camps.

In 2011, a total of 177 refugees departed from Djibouti to be resettled in a third country.⁷⁴ UNHCR is planning to substantially increase the number of resettlement applicants in 2013: its target is that at least 700 out of 12,000 people in need of resettlement will be relocated to third countries.⁷⁵

Access to basic services

UNCHR also runs projects for urban refugees in Djibouti, including services in water, sanitation, health, nutrition, education and security. In addition, it also manages projects addressing sexual and gender-based violence (SGBV) and child protection, and also supports programmes to provide independent livelihoods for refugees.⁷⁶

Assisted Voluntary Return

IOM operates Assisted Voluntary Return (AVR) of Ethiopians from the MRC in Obock. In the first three months of 2013, IOM helped 161 Ethiopians to return home - a significant increase from the 69 voluntarily repatriated over the whole of 2012.⁷⁷

71 IOM, 2011c.

72 UNHCR, 2012c, p. 54-57.

73 Oromio Support Group, 2012, p. 3.

74 UNHCR, 2011b, p.79.

75 UNHCR, 2012c, p. 54-57.

76 Ibid.

77 IOM, 2013c.

3.2 Eritrea

Overview of mixed migration⁷⁸

- *Major drivers of migration:* Besides being one of the poorest countries in the world, Eritrea is also a closed and highly securitised state under an authoritarian government. Consequently, most Eritreans leave illegally, without obtaining the required exit permit/visa: many do so to evade the country's compulsory national service. The number of forced and economic migrants leaving Eritrea have, according to estimates by UNHCR, been in the range of 2,000-3,000 persons a month at some points over the last three years and continuing.
- *Main regional migration routes:* Eritrean migrants travel south to Ethiopia or west into Sudan: some of them head further on to Israel, Egypt, Libya and Europe. As many as 80,000 Eritrean refugees have been hosted in the Shagarab refugee camp in Eastern Sudan, although in 2012 the numbers dropped significantly (to approximately 30,000), partly due to migrant fears of kidnapping and abduction.
- *Reduced migration flows into Israel:* Israel was previously a major country of destination for Eritrean migrants. Between 2006 and 2011, the number of Eritreans crossing the border from Sinai to Israel increased significantly from 1,348 to 17,175.⁷⁹ However, stringent Israeli measures have now reduced this number to almost zero (see Israel section).
- *Emigration of Eritrean nationals to Europe:* Europe is increasingly popular as a destination for Eritrean migrants. Switzerland, Sweden, Norway, France and Germany are among the main destination countries for Eritrean asylum seekers,⁸⁰ and the number trying to enter Europe illegally is also rising⁸¹, with countries such as the UK, Switzerland and parts of Scandinavia reporting that Eritreans currently form the largest caseload of irregular migrants trying to enter their countries.
- *The threat of abduction:* Eritreans are increasingly vulnerable to kidnapping for ransom in Sudan, Northern Ethiopia and Egypt in the Sinai desert. Abductions are mainly organised and controlled by Rashaida (Bedouin) tribes who demand exorbitant ransoms from the victim's family for their release - as much as USD 30-50,000 per individual. Smugglers are also known to abduct refugees from camps in Eastern Sudan and Northern Ethiopia. Large numbers of Eritreans have died while being held hostage.⁸² The removal and sale of body parts has also been reported on numerous occasions, although hard evidence has not been established. Abduction of Eritreans captured within their country and sold to Sudanese and Eritrean smugglers/extortionists are becoming more and more common.
- *The role of smuggling:* The information available on migrant smuggling from Eritrea is insufficient to make accurate calculations of its economic scale. It is a lucrative business, however, given that

78 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Eritrea.

79 Humphris, 2013, p. 1.

80 From 7,865 in 2010 to 10,058 in 2011 to 11,449 in 2012. Federal Office for Migration, 2012; UNHCR, 2012a;

81 FRONTEX (The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) reports an increase from 321 in the first quarter of 2012, to 525 in the second, 771 in the third quarter of 2012 and 1,300 in the fourth quarter of 2012; FRONTEX, 2012; Frontex, 2013.

82 van Reisen, Estefanos and Rijken, 2012, p. 1.

migrants are charged an average of USD 3,000 for short distances into Sudan and fees as high as USD 15,000 to reach Israel.⁸³

Institutional framework

Eritrea does not have well-established institutional structures with regard to immigration. The following agencies in Eritrea are involved in migration and refugee affairs:

- *The Ministry of Labour and Human Welfare* handles returnee issues and oversees the government's trafficking portfolio.⁸⁴
- *The Office of Refugee Affairs* is responsible for refugees, asylum seekers and stateless people.⁸⁵

Legislation⁸⁶

- *International conventions*: As outlined in the matrix in section 2.4, Eritrea is not a signatory to the *1951 Refugee Convention* or its *1967 Protocol*. It is also not a party to the *Palermo Protocols*. However, Eritrea recently signed the *OAU 1969 Convention*.⁸⁷
- *National legislation (asylum)*: Eritrea's laws do not provide for the granting of asylum or refugee status.⁸⁸
- *National legislation (smuggling, trafficking and forced labour)*: The *Eritrean Transitional Criminal Code* includes laws against trafficking in women and young persons for sexual exploitation, as well as laws prohibiting slavery. Laws forbidding forced labour are also contained in the national constitution. However, the latter has been suspended and there have been no known cases where these have been used to prosecute those involved in human trafficking.

Government policy

Refugees and asylum seekers

Although Eritrea does not have asylum or refugee laws, it does in practice offer protection to some individuals from neighbouring countries, predominantly Somali refugees.⁸⁹ As of January 2013, Eritrea hosted 3,599 refugees and asylum seekers: of these, 3,440 are Somalis. While Somali refugees are based in Umkulu camp in the Northern Red Sea region, Sudanese, South Sudanese and Ethiopian refugees are located in the urban areas of the Gash Barka region and Asmara.⁹⁰

Emigration by Eritrean nationals

Freedom of movement in and out of Eritrea is extremely restricted. Eritreans under the age of 50 are rarely given permission to go abroad.⁹¹ Those who do travel without the correct documentation – passports and exit visas, which are very difficult to obtain – face imprisonment. Eritrean authorities reportedly adopt a shoot-on-sight policy towards people found in locations which are off-limits, such as areas close to the national borders, or intercepted 'escaping' by sea. Eritrean refugees and asylum seekers who are repatriated from other countries are also detained, as they are

83 RMMS, 2013e.

84 US Department of State, 2012b, p. 152; however, individual cases of human trafficking are reportedly handled by the Eritrean embassy in the country of destination.

85 UNHCR, 2007, p. 232.

86 For an overview of international legislation to which Eritrea adheres, see section 2.4.

87 UNHCR, 2007, p. 229.

88 US Department of State, 2012b.

89 Ibid.

90 UNHCR, 2013a.

91 Freedom House, 2013.

considered traitors:⁹² they may even face life imprisonment or the death penalty as a result. Consequently, for the majority of Eritreans no legal migration channels exist, which forces them to use illegal routes. Moreover, return is almost impossible. Nevertheless, as Freedom House states: ‘these strict penalties fail to deter thousands of people from risking their lives to escape the country each year’.⁹³

Eritrean authorities also keep a close watch on Eritrean emigrants in another way. Eritrean diaspora groups are obliged to pay a 2% tax on all the income they earn: tax collectors are known to make door-to-door collections. Failure to comply may have dangerous consequences for family members who remain behind or prevent emigrants from returning to visit their homeland in the future.

While official censure on leaving the country is strict, the UN Security Council Monitoring Group on Somalia and Eritrea has suggested that senior members of the regime – especially military commanders – directly control the trafficking and movement of migrants (as well as arms) from Eritrea, some of whom are sold to smugglers/traffickers outside the country.⁹⁴

Trafficking

Eritrea is ranked Tier 3 in the US Department of State’s *Trafficking in Persons Report 2012*: it is described as a source country for individuals subjected to labour and sexual exploitation. The Government of Eritrea has provided no information on any efforts that it has taken to combat trafficking. The fact that it limits NGOs and international organisations from operating (see below) means protection for victims cannot be monitored or provided.⁹⁵

However, in early 2013 the President of Eritrea asked the UN to initiate an investigation on the trafficking of Eritreans out of the country and underlined the commitment of the government to halting the practice. According to UNHCR, this could represent an important milestone in the government’s commitment to combating the practice.⁹⁶

De facto responses

Corruption

As mentioned above, members of both the Eritrean military and government are allegedly complicit in smuggling. Given the restrictions on Eritreans leaving the country, it seems that smuggled migrants currently face higher risks of prosecution by the government than the smugglers themselves, who allegedly include high-placed state officials.⁹⁷ According to Freedom House, senior military officials have been accused of profiting by providing illicit services to Eritreans wishing to flee the country.⁹⁸

Non-state actors

The Government of Eritrea clamped down on NGOs in 2005 and in the following years closed all international NGO offices. There are few civil society organisations in Eritrea and their capacity is limited, apart from those with official affiliations with the government. The government also placed

92 From late 2011 on, there have been increasing reports of forcible returns of Eritreans by the Sudanese Government. Amnesty International urged Sudan to comply with its international legal obligations and stop all forced returns of refugees and asylum seekers to Eritrea. Amnesty International, 2012.

93 Freedom House, 2013.

94 UN Security Council, 2012.

95 US Department of State, 2012a, p. 151.

96 UNHCR, 2013a.

97 UN Security Council, 2012.

98 Freedom House, 2013.

restrictions on UN operations in the country: for example, by requiring UN organisations to obtain permission for travel outside the capital. It also denies visits to prisoners and provides limited cooperation to UNHCR to deliver protection and assistance.⁹⁹ In short, due to government policy, non-state actors play a very limited role in Eritrea.

UNHCR reports that the Government of Eritrea decided to resume development cooperation with UN agencies in 2013 and beyond. UNHCR expects that the cooperation with governmental departments, IOM, ICRC and UN agencies such as UNFPA, UNICEF, UNDP, WHO, FAO, OCHA and UNAIDS will be improved as a result of this decision. In particular, on 28 January 2013 the UN RC/Humanitarian Coordinator and the Government of Eritrea signed the *'Strategic Cooperation Partnership Framework (SCPF 2013-2016)*: this acknowledges the importance of mainstreaming refugees into national decision making.¹⁰⁰

99 Freedom House, 2013; US Department of State, 2012b.
100 UNHCR, 2013a.

3.3 Ethiopia

Overview of mixed migration¹⁰¹

- *Drivers of migration:* Despite remarkable economic growth and improved social welfare, Ethiopia remains one of the poorest and least developed countries in the world, suffering from climate change, drought, population density, soil degradation, inflation and, reportedly, high taxation. Furthermore, the ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) has reportedly remained repressive since the 2005 elections, with critics or 'banned organisations' of the regime reportedly facing arrest, detention and even killing by members of the regime's security apparatus.¹⁰² In particular, Ethiopians of persecuted ethnicity are prominent in the wider group that wish to leave the country.¹⁰³
- *Migration to Yemen:* Ethiopians dominate irregular migration flows into Yemen: over 78% of new arrivals in the country are from Ethiopia. The number has rapidly increased from 34,422 in 2010 to over 84,000 in 2012. The cumulative volume of Ethiopians arriving in Yemen since 2006 is at least 230,000.¹⁰⁴ Most use the Djiboutian port of Obock and its surrounding coastal areas as a point of departure.
- *Transit migration of Ethiopians through Kenya and Somaliland:* undocumented Ethiopian migrants are also found living in Kenya and Somaliland in substantial numbers – most en route to South Africa.¹⁰⁵
- *The role of smuggling:* the business of smuggling Ethiopian migrants to Yemen in 2012 was worth over USD 9-11 million, excluding the value of overland smuggling. In addition, there is the substantial industry along the southern route to South Africa: in 2009, this was estimated to be worth USD 25-30 million. Ethiopians pay over USD 1,000 to be smuggled to Tripoli (Libya) and then fees up to USD 5,000 to cross the Mediterranean. The smuggling business in Ethiopia is therefore worth tens of millions of dollars.¹⁰⁶
- *Labour migration to the Gulf States:* Ethiopia is a major source country for labour migration to the Arabian Peninsula and Middle East. In the first half of 2012 alone, over 160,000 maids - 10 times the number of the previous year - migrated to Saudi Arabia to work in the domestic sector, using the services of Private Employment Agencies.
- *Ethiopia as a country of asylum:* Ethiopia has the third largest refugee population in the region (397,421), consisting mainly of Somalis (236,702; 60%), Sudanese (89,366; 22%) and Eritreans (67,211; 17%).¹⁰⁷ The Dollo Ado refugee camp population

country sections

Ethiopia

101 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Ethiopia.

102 Human Rights Watch, 2013c, p.114/118; Freedom House, 2013; Amnesty International, 2013b, p.94-96.

103 Between April and June 2012, the proportion of Oromos among Ethiopian new arrivals in Yemen was 43%. MMTF Yemen, 2012. In the first quarter of 2013 the proportion was significantly higher (closer to 60%).

104 The actual number may be even higher, taking into account monitoring limitations and the fact that many do not register and are transported away towards Saudi Arabia by smuggling networks as soon as they land on the shores of Yemen. DRC and RMMS, 2012, p. 37.

105 A 2008/09 calculation estimated that 17-20,000 smuggled migrants enter South Africa every year, of which a significant share were of Ethiopian origin (Horwood, 2009). Given the increasing Ethiopian flows to Yemen, this figure may have risen as well, but up-to-date and precise data are unavailable. As the southern passage can take many months, crossing many different countries (Kenya, Tanzania, Malawi, Zimbabwe, Zambia and Mozambique), the first choice may now be Yemen and by extension the Gulf States.

106 RMMS, 2013e.

107 As of April 2013; UNHCR, 2013h.

surpassed 170,000 individuals, making it the second largest camp in the world after the Dadaab refugee complex in Kenya.

- *Countries of asylum for Ethiopian refugees:* in the region, the main countries of destination for Ethiopian refugees are Kenya (23,031),¹⁰⁸ South Sudan (5,890),¹⁰⁹ Sudan (5,000)¹¹⁰ and Yemen (5,270¹¹¹). Small numbers of Ethiopians apply for asylum in Europe, the United States or Canada.¹¹²

Institutional framework

The following agencies in Ethiopia are involved in migration and refugee affairs:¹¹³

- *The Ethiopian Immigration Department* deals with non-Ethiopians coming into Ethiopia.
- *The Ethiopian Administration for Refugee and Returnee Affairs* (ARRA; within the Immigration Department) is the main section for refugee affairs.
- *The Ministry of Labour and Social Affairs* is responsible for checking on labour conditions and ensuring fair employment contracts for Ethiopians who wish to work abroad.
- *The General Directorate in charge of Ethiopian Expatriate Affairs* (EEA; within the Ministry of Foreign Affairs) is also involved in the affairs of Ethiopians abroad.

Legislation¹¹⁴

The following legislation is of particular importance in the area of mixed migration:

- *International conventions:* Ethiopia is a party to the *1951 Refugee Convention*, its Protocol, the *OAU Refugee Convention* and the *Palermo Protocols*. Ethiopia signed the *Kampala Convention*.
- *National legislation (immigration):* *Immigration Proclamation No. 354/2003* is the main immigration law in Ethiopia. It also includes a section on refugees, stating that foreigners who are recognised as refugees by the Government of Ethiopia and UNHCR are not required to register.¹¹⁵ *Labour Proclamation No.377/2003* deals with labour migration, both into and out of Ethiopia. Article 174 provides that foreigners may only be employed in Ethiopia if they possess a work permit issued by the Ministry of Labour and Social Affairs. Article 175 allows for an Ethiopian national to be employed outside the country provided that the Ministry has secured a satisfactory guarantee that his rights and dignity will be protected.¹¹⁶
- *National legislation (asylum):* *Refugee Proclamation No. 409/2004* is the main law dealing with refugees. Article 4 includes the definition of refugees, based on the *1951 Refugee Convention*, the *1967 Protocol* and the *OAU Refugee Convention* (governing the specific aspects of refugee problems in Africa); Article 9 addresses non-refoulement; Article 10 provides that a refugee who is lawfully resident in Ethiopia shall not be expelled except on the grounds of

108 As of May 2013; UNHCR, 2013e.

109 As of May 2013; <http://data.unhcr.org/SouthSudan/country.php?id=251>.

110 As of January 2013; UNHCR, 2012c.

111 As of April 2013; UNHCR 2013f.

112 In 2011, 2,016 Ethiopians applied for asylum in Europe and 1,318 Ethiopians applied for asylum in the United States and Canada. In 2012, there were 2,070 asylum applications by Ethiopians in Europe and 1,391 in the United States and Canada; UNHCR, 2013d.

113 Ngunyi and Oucho, 2012, p. 39.

114 For an overview of international legislation to which Ethiopia adheres, see section 2.4.

115 Ngunyi and Oucho, 2012, p. 40-41

116 *Ibid*, p. 42-43.

national security and public order; Article 23 addresses the right of refugees to voluntary repatriation.¹¹⁷ Refugee registration is also outlined in the *Immigration Proclamation No. 354/2003* (see above).

- *National legislation (smuggling and trafficking):* The *Criminal Code of Ethiopia, Proclamation No. 414/2004* applies to trafficking in persons. Articles 597 and 635 specifically address trafficking in women and children. This offence is punishable with 5-20 years' imprisonment and a fine of up to 50,000 Birr.¹¹⁸

Government policy

Emigration by Ethiopian nationals

Ethiopian law provides for freedom of movement within the country, foreign travel, emigration, and repatriation.¹¹⁹ It is therefore relatively easy for Ethiopians to obtain a national passport. Ethiopia has also committed to free movement treaties with neighbouring countries in the region. In particular, Ethiopia has a bilateral open border policy with Kenya, allowing citizens to cross without visas. Ethiopia is also a member state of the African Union and therefore a participant of the *Joint Africa-EU Declaration on Migration and Development* (see section 2.1). This states that signatories will 'commit to a partnership between countries of origin, transit and destination to better manage migration in a comprehensive, holistic and balanced manner, in a spirit of shared responsibility and cooperation'.¹²⁰

The Ethiopian embassies are also concerned about the substantial number of Ethiopians that suffer abuse, become destitute or are detained as irregular migrants.¹²¹ At the same time, the regime does not accept that Ethiopians need to claim asylum abroad: the government in fact encourages neighbouring countries not to accept Ethiopian refugees.¹²²

Smuggling and trafficking

The Ethiopian government considers human smuggling as a crime on the same level as human trafficking. Smugglers and traffickers do receive prison sentences when caught: according to the US State Department's *Trafficking in Persons Report 2012*, the government has also taken some measures in recent years to strengthen its law enforcement agencies to combat trafficking. Nevertheless, significant gaps remain. A 2011 International Labour Organisation (ILO) study on Ethiopia's response to trafficking included the following findings:¹²³

- *Inadequate legal and policy context:* the Ethiopian framework is not sufficient to define and develop a comprehensive strategic and operational approach to combat human trafficking.
- *Poor coordination:* though Ethiopia established a National Taskforce on Trafficking, it has not met in more than two years. Efforts of stakeholder institutions such as the Ministry of Labour and Social Affairs, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of Women Affairs are not effectively integrated and managed.

117 Ngunyi and Oucho, 2012, p. 42-43.

118 Ibid, p. 42-43. Approximately USD 2,700, exchange rate 1 ETB = 0.0540647 USD, as of March 30, 2013.

119 CMRS, 2012, p. 2.

120 EU-AU, 2006, p. 5.

121 The section on Yemen describes the situation of the increasing number of stranded, destitute migrants in the country and the repatriations that are currently ongoing.

122 There are reports of repeated deportations of Ethiopians over the past years from Saudi Arabia (DRC and RMMS, 2012, p. 7), Somaliland (MMTF Somaliland, 2012), Yemen (RMMS, 2013, p. 76) and Djibouti (DRC and RMMS, 2012, p. 7).

123 ILO, 2011b, p. 11-12.

- *Limited implementation: Proclamation No.632/2009*, providing for the establishment of a National Committee for the improvement of migration administration, has still not been set into motion despite entering into force a year ago. As a result, there is an absence of oversight concerning the proper implementation of the proclamation; the delivery of awareness raising, rehabilitation and resettlement programmes; the prosecution and resolution of rights violations and abuses; and the creation of a national database.
- *Ineffective monitoring*: the Ministry of Labour and Social Affairs (MoLSA), in cooperation with the Ministry of Foreign Affairs, has made efforts to monitor Private Employment Agencies (PEAs). MoLSA holds PEAs fully accountable for the operations of these representatives outside the country, even though PEAs themselves complain that they do not have the authority to control their representatives' activities.

New developments in the Ethiopian approach to human trafficking

With growing recognition of the problem of human trafficking in Ethiopia, political will within Ethiopia to address the practice has increased, reflected in a number of recent developments:

- *The National Taskforce to prevent human trafficking*, described above, has initiated its activities.
- The Government of Ethiopia recently established a *national council to coordinate programmes and raise citizen awareness*. The council is chaired by the Deputy Prime Minister and is composed of 14 Federal Ministries, nine regional state and two town administrations, as well as Civil Society Organisations and religious leaders. The council conducted its first and second meetings in July 2012 and January 2013, formed a technical working group and prepared a strategic document outlining key interventions to be implemented against human trafficking and irregular migration.
- Regional states also formed *coordination bodies and regional councils* of their own, some with IOM support, and adopted the national strategy to their context to prevent irregular migration and human trafficking at a grassroots level.
- The national council organised a *National Mass Mobilisation forum* on 7-8 June, 2013, which was attended by over 4,000 people, including government officials, religious leaders, regional heads of states, representatives from CSOs and other stakeholders. IOM provided technical and financial support for the council by organising the national mass mobilisation forum.¹²⁴
- In March 2013, IOM and the Government of Ethiopia signed a Memorandum of Understanding (MoU) to implement a two-year project intended to enhance national capacities and cooperation for the prevention of trafficking, as well as ensure the protection of victims and prosecution of traffickers in Ethiopia. The MoU was signed by Ethiopia's Minister of Labour and Social Affairs and the IOM Ethiopia Chief of Mission. The government expressed its commitment to engage more actively in effective migration management and the fight against human trafficking in Ethiopia, stressing the need to strengthen community-based

¹²⁴ Based on e-mail correspondence between the consultant and IOM Addis Ababa office on 29th of May, 2013; Federal Democratic Republic of Ethiopia, Ministry of Foreign Affairs (<http://www.mfa.gov.et/>).

awareness raising activities throughout the country. The project aims to enhance the capabilities of the national Anti-Human Trafficking Committee, with a focus on prosecution of offenders, identification of victims and better coordination at a country level.¹²⁵

Abuse of Ethiopian labourers in Saudi Arabia and the Gulf States

Every year Ethiopia encourages and facilitates labour migration for thousands of its citizens, especially into the Gulf States, as remittances represent a significant income source for the country: as much as USD 359 million in 2009, or 2.0% of GDP.¹²⁶ However, in the last few years there has been a growing number of incidents of Ethiopian migrant workers being abused and subjected to degrading, cruel and inhumane treatment in the United Arab Emirates (UAE) and Saudi Arabia. Between 1999 and 2005, the Quarantine Office of the Addis Ababa International Airport reported 129 female bodies returned from Jeddah, Dubai and Beirut.¹²⁷

In the summer of 2012, following these reports, Ethiopia banned its citizens from applying for domestic and blue-collar jobs in the UAE. The Ethiopian authorities have justified this suspension on the basis that many recruitment agencies work illegally and the rights of migrants are not protected. Earlier, the UN Office for Drugs and Crime (UNODC) expressed concerns that non-registered recruitment companies could use Saudi Arabia's large demand for migrant domestic workers to send Ethiopian girls and women to Saudi Arabia in conditions which turn out to be trafficking. Although the ban is still in place, as of early 2013, the Ethiopian Ministry of Labour and Social Affairs (MoLSA) has started talks with the Government of the UAE to lift it.¹²⁸

In an effort to combat abuse and human trafficking the Government of Ethiopia has tried to regulate the labour migration sector through the following measures and procedures:

- *Registration of employment agencies*: these must be registered and are officially accountable to those they recruit into employment abroad. By the end of 2011, approximately 120 agencies had been officially recognised. Those who recruit without official approval are liable to be prosecuted under anti-trafficking legislation.¹²⁹
- *Vetting and training of prospective migrants*: those who wish to migrate abroad to work must apply for approval at the Ministry of Labour and Social Affairs. The Ministry also assists with pre-departure orientation and training on aspects such as legal rights, content and terms of employment and whom to contact in case of any problems.¹³⁰

However, outright bans or increased regulation often result in migrants simply attempting to navigate these restrictions. Previously, most Ethiopian women flew directly from the Addis Ababa airport: however, due to the establishment of an immigration checkpoint at the airport where permits must be shown prior to departure, it is now more common for people to go to neighbouring countries before heading on to the Gulf. This makes it

125 IOM, 2013a.

126 UNDP, 2009.

127 Fransen and Kuschminder, 2009, p. 19.

128 Capital Ethiopia, 2013.

129 Ngunyi and Oucho, 2012, p. 39.

130 Ibid.

difficult for the government to track their movements.¹³¹ As the ILO puts it: 'poverty on one hand, and the increasing demand for cheap labour, on the other, with the cumulative effect of strict border controls and entry requirements of some countries, have fuelled irregular migration in general and trafficking in persons in particular.'¹³²

Memorandum of Understanding with the ILO

In March 2013, the Government of Ethiopia and the ILO signed a Memorandum of Understanding (MoU) in Addis Ababa to implement an EU-funded project designed to develop a tripartite framework for the support and protection of Ethiopian women migrant domestic workers to Lebanon, Sudan and the GCC (Gulf Cooperation Council) States, which include Saudi Arabia, Qatar, UAE, Oman, Bahrain and Kuwait. This project, with input from the Ethiopian Employers' Federation and the Confederation of Ethiopian Trade Unions, aims to support Ethiopia's efforts in strengthening the policy and operational framework to ensure secure and legal routes for domestic workers to the Gulf, and improve the protection and reintegration of returnees as part of the national socio-economic development agenda.¹³³

De facto responses

Return of Somali refugees

The Ethiopian Prime Minister announced at an AU Summit in January 2013 that Somali refugees should return to their homeland. However, a regular two-way by refugees between the Dollo Ado refugee camp and Somalia has been evident. It has been speculated that the Somali refugees may be moving back to the camp to benefit from food rations.

IDPs

The Ethiopian government has generally been reluctant to state the number of IDPs in their country, but recently one ministry claimed that there were at present over 200,000 IDPs. In many instances, internal displacement is the direct result of government decision making, in particular the practice of forced 'villagisation'. This practice began in the famines of the 1980s in an effort, ostensibly, to move people from the less fertile and overpopulated northern areas to the less populated south and west.¹³⁴ The Ethiopian government reportedly plans to relocate up to 1.5 million people under its current 'villagisation' programme.¹³⁵ Supposedly, this is designed to improve access to basic services by moving people to new villages in Ethiopia's five lowland regions¹³⁶. According to Human Rights Watch, forced displacement continues to take place without consultation and compensation of those affected. There are also increasing reports of displacement due to 'land grabbing' by the state in favour of large land leasing to multinational companies and external state enterprises.¹³⁷ In South Omo, for example, around 200,000 indigenous peoples are being relocated and their land expropriated to make way for state-run sugar plantations.¹³⁸

Non-state actors

Many non-state actors work on mixed migration issues and provide assistance to migrants. The Government of Ethiopia cooperates with

131 Fransen and Kuschminder, 2009, p.19.

132 ILO, 2011b, p. 25.

133 ILO, 2013a.

134 Human Rights Watch, 2012a, p. 12-13.

135 Ibid.

136 Gambella, Benishangul-Gumuz, Afar, Southern Nations Nationalities and Peoples' Region (SNNPR), and Somali Region.

137 Human Rights Watch, 2012, p. 54-60. Some of the findings have been denied by the Ethiopian MFA, see <http://www.mfa.gov.et/weekHornAfrica/morewha.php?wi=502#502>

138 Human Rights Watch 2013c, p. 117-118.

UNHCR, UNDP, IOM, ILO and other humanitarian organisations in assisting refugees and returning citizens.¹³⁹ A range of international NGOs, including the International Rescue Committee (IRC), Norwegian Refugee Council (NRC), Danish Refugee Council (DRC), Médecins Sans Frontières (MSF), ZOA, Save the Children, CARE, GOAL and the International Medical Corps (IMC) carry out protection and assistance activities for refugees and migrants in Ethiopia. Some examples of responses from non-state actors are clustered thematically below:¹⁴⁰

Assisted voluntary return

Currently, there are an estimated 25,000 Ethiopians who, having failed to cross into Saudi Arabia, are now stranded in and around Haradh in North West Yemen.¹⁴¹ IOM is especially involved in the assisted voluntary return (AVR) of Ethiopian migrants: in 2011, it helped over 7,000 Ethiopian migrants to return home from Haradh (Yemen) and in 2012 assisted 2,815 Ethiopian migrants to return home from Yemen¹⁴².

Emergency Assistance

IOM has partnered with the Government of Ethiopia in addressing protection concerns and vulnerabilities of migrants crossing the Afar region of Ethiopia on foot, en route to Djibouti. Several incidents of stranded migrants getting lost or abandoned in this desert region led to the establishment of basic emergency services for this migrant corridor from the town of Mile. MMTFs in Somaliland and Bosasso have developed a response matrix and also respond to emergency needs (injured or sick migrant, deaths at sea, children being trafficked, stranded UAM such as injured or sick migrants, deaths at sea, children being trafficked or stranded underage minors etc) on an *ad hoc* basis according to their agreed responsibilities in the response matrix and funding permitting.

Awareness raising

IOM is also involved in awareness raising activities in Ethiopia. In August 2012, for example, together with the local government authorities in Amhara, Oromia and Tigray National Regional States, IOM launched a forum theatre entitled 'Mutach' (the Last One). This production is aimed at communicating the negative consequences of irregular migration in rural Ethiopia, targeting areas that are known to be places of origin.

The ILO Regional Office for the Arab States, in collaboration with the Ministry of Labour Affairs of Lebanon, prepared an information booklet in Amharic for migrant domestic workers in the country. The booklet briefs prospective migrant workers on important areas of their lives in Lebanon, including their rights and duties, emergency procedures and how to get acquainted with the local culture.¹⁴³

Refugees

UNHCR coordinates protection and delivery of services to refugees in collaboration with the Ethiopian Administration for Refugee and Returnee

¹³⁹ CMRS, 2012, p. 2.

¹⁴⁰ As in most countries/areas, there are other agencies and organisations also working on mixed migration: those mentioned do more than what is stated here. The purpose is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing an exhaustive overview of all actors and all activities. See also section 2.2.

¹⁴¹ IOM, 2013d. See the textbox 'The growing humanitarian crisis in Yemen' in the Yemen section for more details on this group and current return operations to Ethiopia.

¹⁴² Reliefweb, 2012; Immap, January 13, <http://www.immap.org>. Early in 2012, the return operation was suspended due to lack of funding. This slowed the repatriation process, but a subsequent grant from the Dutch government meant that repatriation was able to resume for some migrants, in particular women, children, the elderly, unaccompanied minors and other priority vulnerable groups. IOM, 2012b.

¹⁴³ ILO, 2011b, p. 65.

Affairs (ARRA) and co-chairs (together with ARRA) the Standing Task Force on Refugees. This Task Force brings together a number of NGO, donor and UN partners, and has been the main body coordinating emergency responses and contingency planning.¹⁴⁴ UNHCR, again with ARRA and other partners, has established 17 refugee camps and two community support centres in Ethiopia.¹⁴⁵

144 UNHCR, 2012c, p. 58-62.

145 UNHCR, 2013c.

3.4 Kenya

Overview of mixed migration¹⁴⁶

- *Kenya as a migration hub:* as a country of destination and transit, Kenya is a major centre for mixed migration in the region.
- *Kenya as a country of asylum:* Kenya hosts the largest population of Somali refugees and asylum seekers in the world (492,738) as well as a high number of Ethiopians (31,795) and South Sudanese (41,835). Kenya's two large refugee camp complexes - Dadaab and Kakuma – accommodate 424,787 and 119,537 refugees/asylum seekers respectively.¹⁴⁷
- *Internal displacement within Kenya:* 10-30,000 IDPs are still displaced today as a result of the 2007-8 Post-Election Violence.¹⁴⁸ Additional numbers are being displaced due to environmental and development causes and inter-communal conflicts. In 2012 floods displaced around 100,000 people¹⁴⁹ and 118,000 people were uprooted by inter-communal conflict in parts of the country, such as in Tana River County.¹⁵⁰
- *The role of smuggling:* Kenya is a regional hub for smuggling. Many Ethiopians and Somalis enter as irregular migrants and settle in parts of Nairobi with the intention of looking for work or moving on to other countries such as South Africa. Not much is known about the value of the smuggling business, though reportedly the fee to be smuggled on a truck from the border with Ethiopia to Nairobi is about USD 600-700. The cost from Nairobi to South Africa is between USD 1,100-1,500.¹⁵¹ In 2009, the annual revenue of smuggling Ethiopians and Somalis along the southern route to South Africa was estimated to be approximately USD 40 million.¹⁵²
- *Emigration of Kenyan nationals:* Kenyans who leave the country as emigrants are in general highly skilled, leaving at least initially through legal channels to seek training or work in different countries including Uganda, Tanzania, South Africa, the USA, Europe, the Arabian Peninsula and the Middle East.

Institutional framework

The following agencies in Kenya are involved in migration and refugees affairs:¹⁵³

- After the enactment of the new constitution in August 2010, the *Kenyan Parliament* is charged with the responsibility of passing legislation relevant to migration.
- Migration falls under the following Ministries: the *Ministry for Immigration* (including the *Department of Refugee Affairs; DRA*), *Ministry of Foreign Affairs*, *Ministry of EAC and Regional Integration*, *Ministry of Labour*, *Ministry of Internal Security* and *Ministry of Defence*.¹⁵⁴

146 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Kenya. For a more detailed overview, including government and non-state actor responses, please refer to the recently published RMMS (2013) study *Mixed Migration in Kenya: The Scale of Movement and Associated Protection Risks*.

147 As of May 2013; UNHCR, 2013k.

148 RMMS, 2013f, p. 58. The Government of Kenya estimates that 6,973 IDPs displaced as a result of the 2007/8 post-election violence were yet to be settled.

149 Ibid.

150 IDMC, 2012, p. 5.

151 RMMS, 2013e, p. 51.

152 Horwood, 2009.

153 Ngunyi and Ocho, 2012, p. 81-83.

154 Ibid, p. 81. However, the administrative framework has been changing as a result of the process of devolution following the most recent elections and the implementation of the *Kenya Constitution, 2010*. As a result new Ministries have been formed. For instance, a new Ministry of Interior and Coordination of National Government has been formed with a portfolio covering border control management points, citizenship and immigration policy and services, and management of boundaries.

- The DRA is headed by a *Commissioner of Refugees* and is charged with overall responsibility for all administration, coordination and management of refugee matters.¹⁵⁵
- The Kenyan government handed over the responsibility of Refugee Status Determination (RSD) to *UNHCR*. The government takes a more legal and supervisory role, while non-state actors handle day to day issues with refugees and IDPs.¹⁵⁶
- The *Protection Working Group on Internal Displacement* (PWGID) serves as a national platform for cooperation on IDP issues. It was formed in 2008 and is jointly chaired by the *Ministry of Justice, National Cohesion and Constitutional Affairs* and the *Kenya National Commission on Human Rights* (KNCHR).¹⁵⁷

Legislation¹⁵⁸

The following legislation is of particular importance in the area of mixed migration:

- *International conventions*: Kenya is a party to the *Convention relating to the Status of Refugees* and its *Protocol*, the *OUA Refugee Convention* and the *Palermo Protocols*. Kenya did not sign the *Kampala Convention* or the *Migrant Workers Convention*.
- *National legislation (immigration)*: The *Citizenship and Immigration Act* (2011) addresses all matters of migration and citizenship, in line with the new Constitution and ratified international conventions.¹⁵⁹ The *Kenya Citizens and Foreign Nationals Management Service Act* (2011) established the Kenya Citizens and Foreign Nationals Management Service, which is responsible for the administration of the laws relating to (among other areas) registration of citizens, immigration and refugees.¹⁶⁰
- *National legislation (asylum)*: The *Refugee Act 2006* and the associated *The Refugee (Reception, Registration and Adjudication) Regulations, 2009*, categorise refugees as either statutory or *prima facie*. With regard to statutory refugees, it adopts the definition from the *1951 Convention* with the addition of sex as a ground for persecution.¹⁶¹ The act established the Department of Refugee Affairs (DRA) within the Ministry of Immigration, replacing the Refugee Secretariat previously set up under the Ministry of Home Affairs.¹⁶² Currently, the *2011 Refugees Bill* – the successor to the *Refugee Act 2006* - is under consideration.
- *National legislation (internal displacement)*: The *Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities (IDP Act)* provides a comprehensive approach to addressing internal displacement caused by conflict, other forms of violence, natural disasters and development projects, irrespective of the location and tribal affiliation of IDPs. The *IDP Act* outlines the institutional framework, roles and responsibilities for state and non-state parties.¹⁶³ The Ministry of State for Special Programmes (MoSSP) was designated as the institutional focal point, including for the resettlement of IDPs and the coordination of disaster risk reduction programmes.¹⁶⁴

155 RCK, 2012, p. 21.

156 Ngunyi and Oucho, 2012, p. 81.

157 PWGID was initially formed as a Protection Cluster during the Post Election Violence 2007/2008 response. In 2009/2010 it transitioned into the PWGID

158 For an overview of the international legislation to which Kenya adheres, see section 2.4.

159 Ngunyi and Oucho, 2012, p. 80-85.

160 Ibid, P. 86.

161 RCK, 2012, p.21.

162 Ibid.

163 IDMC, 2012, p. 8.

164 Ibid.

- *National legislation (smuggling and trafficking):* The *Counter-Trafficking in Persons Act* lays down stringent punishments for those involved in such crimes. According to the act, offences include the promotion of trafficking, acquisition of travel documents by fraud or misrepresentation, facilitation of entry into or exit from Kenya, interference with documents and travel effects, and trafficking in persons for organised crime. Victims of trafficking shall, according to Section 14, not be criminally liable for any offence related to being in Kenya illegally or any act that was a direct result of being trafficked.¹⁶⁵ The act became operational in October 2012 and has been in use since then.

Government policy

Trafficking

Despite passing the *Counter-Trafficking in Persons Bill*, the US Department of State places the Government of Kenya on its Tier 2 Watch List for a number of reasons:¹⁶⁶

- *Limited prosecution of traffickers:* Kenya only prosecuted just two cases of trafficking during the reporting period, which is insufficient given the high numbers of migrants and the trafficking that takes place through and on its territory.
- *Ongoing official complicity in human trafficking:* Kenya has yet to take meaningful action against the active involvement of some law enforcement officials in trafficking.¹⁶⁷ Corruption or complicity by officials makes it easy for trafficking agents and unsuspecting victims to obtain travel documents, including registration of false marriages, to aid acquisition of passports.¹⁶⁸
- *Inadequate protection and assistance:* The government failed 'to fully enact its anti-trafficking law's implementing regulations, finalise its national plan of action, provide shelter and other protective services for adult victims, take concrete action against alleged incidents of child sex tourism, monitor the work of overseas labour recruitment agencies, or provide adequate anti-trafficking training to its officials, including diplomats, police, labour inspectors, and children's officers'.¹⁶⁹

Nevertheless, there have been some positive developments in the country's anti-trafficking framework. With regard to trafficking of children, for example, the US Department of State concluded that Kenya had taken significant steps in enacting programmes to help victims, both physiologically and in the provision of legal representation. The government's children's officers made efforts to identify and protect trafficked children throughout the country.¹⁷⁰ A study commissioned by SIDA¹⁷¹ also concluded that 'the legal and policy framework with regard to child rights in Kenya has improved tremendously in recent years'.¹⁷² The Ministry of Gender and a local NGO jointly operate a national 24-hour toll-free hotline for reporting cases of child trafficking, labour and abuse.

Smuggling and irregular migrants

Not much is known about the official response to smuggling in Kenya. According to the Refugee Consortium of Kenya (RCK) and IOM, there is little

165 Ngunyi and Oucho, 2012, p. 89.

166 US Department of State, 2012a, p.205.

167 Ibid.

168 Solidarity Center, 2007, p.13.

169 US Department of State, 2012a, p.205.

170 Ibid.

171 The Swedish International Development Cooperation Agency.

172 Tostensen, Stokke, Trygged, and Halvorsen, 2011, p. 152.

or no legal protection of smuggled migrants. Often the smuggler goes free, while the smuggled migrant is criminalised because he or she is an irregular migrant.¹⁷³

In general, the primary policy response to irregular migration from the Kenyan authorities has been the arrest of detected irregular migrants. In the summer of 2012, the government announced a more large scale operation: the 'Fagia Wageni' ('Do away with/ get rid of the foreigners') operation, intended to remove illegal migrants from the country. Following this announcement, the Kenyan authorities carried out two raids to round up migrants in Eastleigh, Nairobi. UNHCR and partners estimate that approximately 100 migrants were arrested and brought before courts.¹⁷⁴

IDPs

Many activities have been deployed as a direct response to the large number of IDPs after the 2007/08 post-election violence (PEV), in particular Operation Rudi Nyumbani (Return Home). This was launched by the Kenyan government five months after the PEV to encourage displaced people to return to their communities. It was supported by the National Humanitarian Fund for Mitigation and Resettlement of Victims of the 2007/08 PEV: this was used to replace basic household items for IDPs and support logistical movement. Every returning household was entitled to a grant of 25,000 Ksh (USD 350) for the reconstruction of their homes, as well as 10,000 Ksh (USD 130) cash grant by way of incentive to return.¹⁷⁵ Shelter reconstruction was a key component of the recovery efforts of both the government and humanitarian/development partners, as the PEV led to the destruction of 78,254 houses. In 2012 it was reported that 38,145 heads of households had so far received the 25,000 Kenyan shillings grant, and 26,589 houses had been constructed.¹⁷⁶ Operation Rudi Nyumbani has seen the return of 350,000 people to their homes.¹⁷⁷

Nevertheless, despite some progress in its response to internal displacement, the UN Special Rapporteur concluded in 2012 - albeit before the passing of the new IPD Act - that Kenya lacked an adequate policy and legislative framework, as well as sufficient operational and institutional capacity, to address the phenomenon. In addition, a comprehensive, efficient and disaggregated data collection system was required to assess the scale and location of the problem.¹⁷⁸ Similarly, according to the Internal Displacement Monitoring Centre (IDMC), a large number of Kenyans displaced during the 2007/08 PEV are still struggling to reach durable solutions, while the level of service provision and donor attention is rapidly declining. Though many assume the emergency has ended, there are still significant humanitarian needs among IDPs that need to be addressed.¹⁷⁹

Urban refugees

On December 18th 2012 the Commissioner of Refugee Affairs, in coordination with the Ministry of Internal Security and Public Administration, sought to reinforce a pre-existing encampment policy by issuing a directive requiring all refugees living in urban areas to return to refugee camps¹⁸⁰:

173 Interviews with IOM and RCK, 14 and 15 March 2013, conducted by the consultant in the context of the recently published RMMS study on mixed migration in Kenya, *Mixed Migration in Kenya: The Scale of Movement and Associated Protection Risks*.

174 RMMS, 2012. Monthly Summary July 2012.

175 Sheekh, Atta-Asamoah, and Sharamo, 2012, p.8.

176 Global Issues, 2012.

177 IDMC, 2012, p. 7.

178 United Nations General Assembly, 2012.

179 IDMC, 2012, p.1.

180 Though according to UNHCR statistics there are between 52,000 and 56,000 registered urban refugees, it is estimated that the number of non-registered asylum seekers and undocumented refugees is over four times this figure.

Somalis were ordered to return to Dadaab and all other nationalities to Kakuma with immediate effect. In addition, the government announced the closure of all registration and service provision to refugees and asylum seekers in cities.¹⁸¹ UNHCR and all other agencies were advised to stop offering their services to urban refugees and transfer their delivery to the camps.

The primary trigger for this policy was increasing insecurity after a series of grenade attacks and other terrorist incidents in Nairobi and major towns in Kenya. These fuelled tensions between the refugee population and the host communities, resulting in widespread unrest and xenophobic attacks as well as increased police harassment, intimidation and extortion.

The government planned to start relocating urban refugees on 21 January 2013.¹⁸² However, the directive was stayed by the High Court of Kenya on 23 January, following a petition filed by the Refugee Consortium of Kenya with Kituo cha Sheria, a legal aid organisation in Nairobi, advocating for the rights of refugees. The court deliberated for some months on the constitutionality of the Directive and whether Kenya is in conflict with its international obligations¹⁸³. Until the Court's ruling was made a conservatory order was in place restraining the government from implementing the directive.¹⁸⁴ On 26 July the high court ruled in favour of the civil societies that made the challenge. The court ruled that constitutionally, the refugees have a right to seek refuge in urban centres and are entitled to free movement within Kenya.

Regular labour migration

In line with the *EAC Common Market Protocol* (as discussed in section 2.1; which guarantees free movement of workers) Kenya's work permit system has been formally replaced by a framework of free movement within the EAC.¹⁸⁵ However, as with other member states, Kenya has in practice tried to retain a tight grip on the inflow of labour from elsewhere in the EAC: since the launch in 2010, in fact, Kenya has only scrapped work permits for Rwandans.¹⁸⁶ A recent study on labour migration in Kenya identified four main challenges:

- *'Lack of evidence-backed policy formulation and bureaucratic procedures* that hinder the smooth implementation of labour migration-related policies;
- *Inadequate human resources* for some specific vocations;
- *The absence of a cohesive migration policy* that could help to resolve outstanding issues;
- *The marginalisation of migration and labour migration among other developmental policy themes* by the country's National Council for Population and Development'¹⁸⁷.

Abuse of Kenyan workers in the Gulf countries

Following reports of abuse of Kenyan workers in the Gulf countries, in 2012 the Kenyan government imposed a ban on its citizens travelling to certain Gulf States to work as domestic and other blue-collar labourers. However, the ban

¹⁸¹ Refugees International, 2013.

¹⁸² According to UNHCR a leaked letter from the Ministry of Internal Security and Provincial Administration to the Ministry of State for Special Programmes in which the plans for relocation have been outlined.

¹⁸³ The order was extended to 21 March 2013 and then 5 April, when the matter was scheduled for mention and further direction. The High Court Hearing was subsequently concluded in late May 2013 but at the time of going to print at the time of publication the ruling was still pending. RMMS, 2013b.

¹⁸⁴ Refugees International, 2013.

¹⁸⁵ ACP, 2010a, p. 6.

¹⁸⁶ Business Daily, 2012.

¹⁸⁷ Oucho, Oucho, and Ong'ayo, 2013, p. 14.

apparently pushed agencies to redirect migrants to Qatar as an alternative¹⁸⁸ while some Kenyans reportedly used other capitals in the region, such as Dar es Salaam, as a transit point to reach the Gulf States. In November 2012, the policy was annulled.

Kenya has undertaken efforts to assist potential emigrants by providing information on migration opportunities through pre-departure orientation seminars, as well as counselling about the risks and potential abuses involved.¹⁸⁹ Moreover, the Kenyan embassy in Riyadh provided limited repatriation assistance by issuing new travel documents to 460 victims of abuse in employment and situations of 'domestic servitude'.

Repatriation of Somali refugees

After years of Somali refugees remaining protractedly in Kenya, in the first quarter of 2013, 14,353 refugees returned to Somalia from Kenya.¹⁹⁰ The Presidents of Kenya and the Federal Republic of Somalia recently met to discuss the return of Somali refugees, and are now working on modalities to ensure voluntary repatriation of refugees currently residing in the camps in North Eastern Kenya.¹⁹¹

De facto responses

Encampment policy and urban refugees

Various agencies, such as UNHCR, Refugee International and Kituo cha Sheria, have raised concerns about the impact of the encampment policy (see above) on the protection and human rights of urban refugees. According to Human Rights Watch, the plan violates the right of free movement and would likely involve the unlawful forced eviction of tens of thousands of refugees.¹⁹²

The effect of the directive made in December 2012 was an increase in insecurity and harassment by police and criminal gangs, including door to door house raids, arbitrary arrests and extortion. The policy effectively empowered Kenyan security services to unleash a wave of abuse against refugees during January 2013. According to a recent Human Rights Watch report, the General Services Unit (GSU), the Regular Police (RP), the Administration Police (AP), and the Criminal Investigations Department (CID) in Nairobi committed a range of abuses, including rape, violent assault, theft, extortion and arbitrary detention in inhumane and degrading conditions.¹⁹³ Abuses by security services are reported to have reduced significantly from February till the directive was overturned by a high court ruling on 26 July 2013¹⁹⁴.

Ethnic discrimination of IDPs

According to previous Human Rights Watch research, in 2012 there was significant preferential treatment for PEV 2007/08 IDPs from the Kikuyu community of former President Mwai Kibaki over other IDPs in the Central and North Rift. Authorities did not provide satisfactory justification for this differential treatment.¹⁹⁵

Refoulement

According to the RCK, Kenya's practice with regard to refugees, and in particular with regard to Somali refugees, has not always been in line with the *Refugee Act 2006*. For example, on 3 January 2007, Kenya officially

188 Kenya MMTF, 2012.

189 Ratha et al, 2011, p. 33.

190 UNHCR, 2013f.

191 Standard Digital, 2013.

192 Human Rights Watch, 2013b.

193 Human Rights Watch, 2013e.

194 Refugees International, 2013.

195 Human Rights Watch, 2013a.

closed the border between Kenya and Somalia at Liboi, along the main route from Somalia to Dadaab. In some cases, this border closure has given police the opportunity to send back groups to Somalia, breaching the fundamental principle of non-refoulement.¹⁹⁶ There have also been reports of harassment of refugees by the police in areas near the border.¹⁹⁷

Non-state actors

Many non-state actors work on mixed migration issues and provide assistance to migrants. Some examples are clustered thematically below:¹⁹⁸

Assistance to refugees

Many international organisations and NGOs are involved in assisting and protecting refugees in Kenya. UNHCR is especially involved in refugee affairs in Kenya, primarily in the refugee camps in Dadaab and Kakuma. UNHCR's budget to assist refugees and asylum seekers in Kenya in 2012 was just over USD 236 million. IOM also has field offices in Dadaab and Kakuma, where it runs migration health projects and livelihood programmes.

Other international NGOs, including the International Rescue Committee (IRC), the Norwegian Refugee Council, the Danish Refugee Council (DRC), Médecins Sans Frontières (MSF), International Committee of the Red Cross (ICRC), FilmAid International, Lutheran World Federation, Save the Children, WelthungerHilfe, Don Bosco, CARE, GOAL, National Council of Churches of Kenya (NCCCK), Kituo cha Sheria and the Refugee Consortium of Kenya work in the Dadaab and Kakuma camps or in urban areas to protect and provide assistance to refugees on a range of issues.

Capacity building

IOM runs a project on migration management to improve the capacity of the government to oversee mixed migration issues and ensure the security of refugees, with an emphasis on legal and policy reform, the establishment of migration resource centres and data collection capacity at the Kakuma and Dadaab refugee camps, and improved inter-agency cooperation.¹⁹⁹ With regard to labour migration into Kenya, IOM also runs a project to enhance the capacity of the Ministry of Labour to tap into the benefits of labour migration in Kenya. The project also aims to inform the construction of a clear labour migration policy framework.²⁰⁰

To prevent smuggling, IOM also runs several projects to enhance the migration management capacity of the Kenyan government, such as the 'Enhancing migration management through capacity building, coordination and promoting safety in Kenya' project. This is in line with the action plan developed at the *Regional Conference on Refugee Protection and International Migration*²⁰¹ held in Dar es Salaam in 2010. Its objectives include strengthening the government's migration management capabilities, training for officials and anti-trafficking/smuggling strategies, in particular on the Kenyan coast.²⁰²

196 RCK, 2012, p.38.

197 Ibid, p. 36.

198 As in most countries/areas, there are other agencies and organisations also working on mixed migration: those mentioned do more than what is stated here. The purpose is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing an exhaustive overview of all actors and all activities. See also section 2.2.

199 IOM, 2011d, p. 23.

200 'Through the establishment of an inter-ministerial task force on labour migration; technical assistance in the development of best practices for engaging in bilateral and multilateral labour migration agreements; the design and establishment of return and reintegration mechanisms for Kenyan labour migrants; training on global best practices for labour migration; and the development of a labour migration training manual'. IOM, 2011d, p. 24.

201 *Regional Conference on Refugee Protection and International Migration: Mixed Movements and Irregular Migration from the East and Horn of Africa and Great Lakes Region*.

202 IOM, 2011d, p.23.

Kituo cha Sheria sensitises police officers from around Nairobi on refugee rights. It also trains lawyers on refugee law and practice to effectively represent refugees in court, providing this service pro bono: a training manual for lawyers is also being developed.

Assistance to IDPs

Humanitarian agencies provide extensive support for IDPs. After the 2007/08 PEV, organisations including IOM, GOAL and the DRC provided food assistance, protection of civilians, education support, shelter assistance and distributed non-food items such as blankets and cooking equipment.²⁰³

UNHCR is the cluster lead for protection, camp management and coordination with regard to IDPs. UNHCR empowered the Kenyan National Commission for Human Rights (KNCHR) to take on the leadership and coordination of the protection working group. UNHCR decided, however, to phase out its pillar on IDPs, in part because of a lack of resources but also due to the government's passing of the new *IDP Act* and the strong engagement of Kenyan civil society.²⁰⁴

Awareness raising

IOM works with the Government of Kenya in providing pre-departure orientation for migrant workers and facilitating labour export from Kenya. For example, since entering into a memorandum of understanding (MOU) with the Youth Enterprise Development Fund (YEDF) in 2008, it has delivered pre-departure training to over 2,700 unskilled and semi-skilled migrant workers heading towards receiving countries such as the Gulf States. Following this successful cooperation, the Government of Kenya has renewed its commitment to work with IOM in providing pre-departure orientation for migrant workers from Kenya by signing a MOU on 15 August 2012. According to the Regional Representative of IOM this will 'facilitate labour migration and counter against irregular migration and make the cost of migration safe and affordable' and prevent labour exploitation. It is envisaged that IOM will in the future also provide pre-departure health assessment and coordinate for affordable airfare in the labour migration process.²⁰⁵

Assistance to victims of trafficking

Several international organisations (such as UNODC) and NGOs, including FIDA, CRADLE, HAART and Heshima, work with victims of trafficking. In particular, since 2005, IOM has been managing a 'Countering Human Trafficking in Kenya' project, consisting of six components: legislation, awareness raising, contributing to the national plan of action, setting up a counter-trafficking network, direct assistance to victims and capacity building.²⁰⁶ Another IOM project is focused on enhancing protection and assistance for women, girls and boys vulnerable to trafficking among IDPs and pastoralist and peri-urban migrant communities, with a focus on communication, psychosocial support and institutional capacity building.²⁰⁷

203 Sheekh, Atta-Asamoah, and Sharamo, 2012, p.8.

204 Interview with UNHCR, 14 March 2013, conducted by the consultant in the context of the recently published RMMS study on mixed migration in Kenya.

205 IOM, 2012c.

206 Tostensen, Stokke, Trygged, and Halvorsen, 2011, p. 134-135.

207 IOM, 2011d, p.22.

3.5 Puntland State of Somalia

Overview of mixed migration²⁰⁸

- *Transit migration through Puntland State*: most mixed migrants in Puntland originate from Ethiopia and Somalia, using Bossaso and nearby areas of the coast to cross the Gulf of Aden into Yemen. Few migrants in Yemen originate from Puntland itself. Previously, Bossaso was in fact the smuggling 'epicentre' in the region, with 3-4,000 migrants departing each month. However, the majority now depart from Djibouti. Consequently, the volume of smuggled migrants decreased from approximately 35,000 in 2010 to 27,067 in 2012. For the first quarter of 2013, 7,901 migrants departed from Djibouti.
- *The role of smuggling*: Nevertheless, smuggling remains a substantial industry in Puntland State. A recent RMMS study estimated the 2012 revenue for boat smugglers from Bosasso to be worth USD 2.0-4.4 million, based on 2008 prices: given the increase in smuggling fees to Yemen since then - now estimated to be between USD 50-160 per head - it is likely the business is worth between USD 5 and 10 million.²⁰⁹
- *Internal displacement*: as of April 2013, Puntland hosts 129,000 IDPs (from South Central Somalia), 3,704 asylum seekers and 387 refugees.²¹⁰

Institutional framework

Puntland is a semi-autonomous state, with its own legal framework that partially separates it from the former Transitional Federal Government of Somalia.²¹¹ It has been able to establish a significant level of public security within its territory and perform essential government duties such as the rule of law and tax collection.²¹² However, the *Transitional Constitution of Puntland* provides that migration matters shall be handled by the former Transitional Federal Government (TFG) of Somalia.²¹³

In August 2012, the Somali TFG gave way to a new Federal Government of Somalia (FGS), a provisional Constitution and a Parliament²¹⁴ (see Somalia section). Puntland has been engaged in consultations on ending this transition²¹⁵ and recently reaffirmed its commitment to be part of a federal Somalia.²¹⁶ As the new Federal Government is in the process of re-establishing governance structures at all levels, the implications of this transition for the Puntland institutional framework with regard to migration are not yet clear.²¹⁷ At the time of writing, the following agencies in Puntland are involved in migration and refugee affairs:

- *The Ministry of Security & DDR (Demobilisation, Demilitarisation and Reintegration)* includes Criminal Investigation Department Officers, border guards, and police working at the Migration Department.
- *The Refugee Affairs Committee (RAC)* and the *Refugee Eligibility*

208 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Puntland.

209 RMMS, 2013e, p. 55.

210 UNHCR, 2013j. given its semi-autonomous status, displaced migrants from South Central Somali in Puntland State of Somalia are regarded as IDPs.

211 ILO, 2011a, p. 3.

212 Chatham House, 2012, p. 6.

213 Arati, Meroka and Hersi, 2010, p. 16.

214 ADB, 2013, p. 1.

215 Chatham House, 2012, p. 6.

216 United Nations Security Council, 2013, p. 3; Article 1 of the Transitional Federal Charter of Somalia stipulates that Puntland is part of the Federal State of Somalia; ABD, 2013.

217 Federal Government of Somali Republic, 2013, p. 2.

area sections

Puntland state of
somalia

Committee (REC) conduct pre-registration of refugees (as in Somaliland); all Refugee Status Determination (RSD) is carried out by UNHCR.²¹⁸

- *The Ministry of Interior*, together with the RAC, takes the lead on trafficking issues.²¹⁹
- *The Migration Response Centre* is a temporary transit and processing centre, operated by Puntland Authorities in collaboration with IOM, where Ethiopian migrants receive counselling and assistance from local and international humanitarian organisations.

Legislation

- *International conventions*: according to the *Constitution of the State of Puntland*, the Puntland government maintains the international conventions and treaties that the pre-1991 Somali Republic convened with foreign governments, provided these are not contradictory to Shari'a law or the interests of Puntland. As such, the Puntland State of Somalia is a party to the *Convention relating to the Status of Refugees* and its *Protocol*, as well as a signatory to the *OAU Refugee Convention* and the *Kampala Convention*. Somalia has not signed or ratified the *Palermo Protocols*.
- *National legislation (asylum)*: with regard to asylum seekers, Article 19 of the constitution provides that 'any foreigner who requests political asylum may be granted if he/she fulfils the terms and conditions for granting asylum and with respect to the international treaties.'
- *National legislation (trafficking and forced labour)*: Puntland has laws prohibiting forced labour, involuntary servitude and slavery. Trafficking for sexual exploitation may be prohibited under the most widespread interpretations of Shari'a and customary law, but there is neither a unified police force in the territory to enforce these laws, nor any authoritative legal system through which traffickers can be prosecuted.

Government policy

Trafficking and smuggling

The Puntland authorities claim to be actively fighting migrant smugglers: for example, by confiscating smuggling boats. In 2012, there were several accounts of official patrols and investigations against smuggling. In August 2012, for example, the police in Puntland arrested 80 migrants who were to be smuggled to Yemen. The migrants were detained at the Bossaso seaport but were released the next day.

It is also reported that many dozens of smugglers - as well as pirates - are in jail in Puntland. According to the US Department of State's *Trafficking in Persons Report 2012*, the Puntland Parliament enacted provisions under Islamic law prohibiting the death of smuggled or trafficked persons, with prescribed punishments of between one and five years' imprisonment. The same report provides two examples of actions by Puntland authorities against trafficking in 2012 – the sentencing of a Somali man who had tried to traffic nine children to Yemen, and the interception of five potential trafficking victims in Galkacyo.²²⁰

218 UNHCR, 2010.

219 Arati, Meroke and Hersi, 2010.

220 US Department of State, 2012a, p. 380.

These various activities may have served as an effective deterrent for many operators. The number of smuggled migrants leaving from Puntland in fact decreased last year, with the majority now departing from Djibouti instead. It has also resulted in shifting migration routes within Puntland. Instead of directly departing from Bossaso, smuggled migrants increasingly travel along dangerous overland routes from Bossaso to other departure points on the coast.²²¹

De facto responses

Arbitrary arrests and deportations

In 2012 there were several reports of migrants being arrested by Puntland authorities:

- *January 2012*: President Abdirahman Farole banned IDPs from South Central Somalia from entering Puntland, ordering the police to seize vehicles believed to be transporting these migrants. The President also announced that all IDPs (there are an estimated 129,000, mostly from South Central Somalia) who had fled to Puntland due to the drought would have to return back to their homes.
- *March 2012*: it was reported that the Puntland authorities continued to detain and interrogate migrants from South Central Somalia on suspicion of Al-Shabaab links, particularly following suicide attacks and assassination attempts at an increasing rate. However, later in 2012 reports of these incidents from Somali new arrivals in Yemen decreased.
- *April 2012*: it was reported that the Puntland authorities continued to detain and deport undocumented Ethiopian migrants. Justifying their decision, the authorities have reportedly indicated that they do not have the facilities to detain these migrants indefinitely in Puntland. IOM is to develop Standard Operation Procedures (SOPs) to guide practice in these situations and create a referral mechanism for vulnerable persons.
- *July 2012*: Puntland forces launched a security operation in Galkayo, during which a significant number of IDPs and migrants were arrested. Most were released the next day, however. This was a break in the general trend of previous months, when reports of detention and interrogation of those passing through Garowe and Galkayo had decreased.

Authorities have repeatedly deported significant numbers of people not considered to be originally from Puntland. It has been suggested that the suspicion with which IDPs in Puntland are regarded can be attributed to a general belief that those from South Central Somalia are either economic migrants or Al-Shabaab supporters, responsible for insecurity and crime.²²²

Government officials involved in migrant smuggling

According to the US Department of State's *Trafficking in Persons Report 2008*, Puntland government officials may be involved in smuggling practices. For example, it appears that business people involved in migrant smuggling in Puntland enjoy the protection and complicity of certain influential officials within the administration.²²³

221 Soucy, 2011.

222 Immigration and Refugee Board of Canada, 2011.

223 US Department of State, 2008, p. 277.

Non-state actors

Some examples of responses from non-state actors in Puntland are clustered thematically below:²²⁴

Assistance to refugees

UNHCR carries out RSD on behalf of the Puntland authorities. Furthermore, it focuses on refugee protection and durable solutions in urban areas, with special emphasis on registration/documentation, community outreach, access to basic services and the provision of material needs.²²⁵

Capacity building

UNHCR supports the capacity-building of the RAC and REC: in the long run, it plans to transfer responsibility for RSD to these government agencies²²⁶. IOM works on training and capacity of coastguards from Puntland, including rescue-at-sea operations and theoretical instruction on migrant rights.²²⁷ IOM has also organised capacity building workshops for community leaders and elders.²²⁸

Assistance to victims of trafficking

IOM and local organisations provided rented houses and reintegration services to rescued trafficking victims in Puntland. Activities involved placing child victims with families for care, as well as providing medical and psychological assistance, food, clothes, vocational training and money for establishing small businesses.²²⁹

Migration Response Center (MRC) in Puntland

IOM supports the local authorities manage mixed migration flows in Bosaso through registration, referral, and provision of medical and transportation services to migrants. This includes returnees arriving at the port city of Bosaso, a trend that has become more salient since 2012 with on-going insecurities and harassment in Yemen. The MRCs conduct routine assessment visits to migrant routes along the coast to conduct awareness raising and to conduct assessments.

224 As in most countries/areas, there are other agencies and organisations also working on mixed migration: those mentioned do more than what is stated here. The purpose is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing an exhaustive overview of all actors and all activities. See also section 2.2. The section on Somalia South Central includes a list of examples of non-state actors working in Somalia, including Puntland State of Somalia.

225 UNHCR, 2012c, p. 70-74.

226 UNHCR, 2010.

227 IOM, 2012a.

228 IOM, 2011c.

229 US Department of State, 2012a, p. 380.

3.6 Somaliland

Overview of mixed migration²³⁰

- *Somaliland as a country of asylum*: increasing numbers of Somalis from South Central seek refuge in Somaliland. As registration of refugees in Somaliland was suspended between 2008 and late 2012 following the Hargeisa bomb attack, the exact number of asylum seekers and *bone fide* refugees that have entered and transited through Somaliland is unknown. Registration commenced again towards the end of 2012.
- *Labour migration in Somaliland*: aid agencies in Somaliland estimate there are at least 20,000 undocumented migrants in Somaliland, including unknown numbers of Ethiopian economic migrants and others seeking asylum. According to the government (DRA), the total may be as high as 80,000.²³¹
- *Transit migration through Somaliland*: every month, hundreds of Somalis and Ethiopians transit through Somaliland en route to Puntland or Djibouti, from where they are smuggled by boat to Yemen. The Loya'ada border town between Somaliland and Djibouti is the major transit point, with well-established smuggling networks. Some use the Somaliland coastlines to sail directly to Yemen.²³²
- *Emigration of Somaliland nationals*: few migrants in fact originate from Somaliland - less than 3,000 in Yemen during 2012, representing 3% of total new arrivals there²³³. However, there are increasing reports of unemployed but educated youth from Somaliland attempting to migrate to Europe using the western route through Libya.²³⁴

area sections

Somaliland

Institutional framework

Somaliland declared independence from Somalia in 1991, though it has not gained widespread international recognition. With regard to the newly established Federal Government of Somalia (FGS), Somaliland has emphasised its history as a distinct entity and demanded that the 'dual-track' policy of the international community be continued.²³⁵

The following agencies in Somaliland are currently involved in migration and refugee affairs:

- *The Ministry of the Interior of Somaliland* is responsible for immigration affairs.
- *The Refugee Affairs Committee (RAC) and the Refugee Eligibility Committee (REC)* conducts pre-registration (as in Puntland). All RSD is carried out by UNHCR under its mandate.²³⁶
- *The Ministry of Resettlement, Rehabilitation & Reconstruction (MRR&R)* deals with IDPs in Somaliland.

Legislation

The following legislation is of particular importance in the area of mixed migration:

²³⁰ The matrix in section 1.2 provides an overview of Mixed Migration trends and figures in Somaliland.

²³¹ RMMS Country profile Somaliland.

²³² MMTF Somaliland, 2012, p. 3-4.

²³³ It may be the case that many Somalilanders heading to Yemen register as Somalis from South Central because, as Somalilanders, they would normally not qualify for refugee status.

²³⁴ IRIN, 2012b.

²³⁵ United Nations Security Council, 2013, p. 3.

²³⁶ UNHCR, 2010.

- *International conventions*: according to Article 10 of Somaliland's constitution, the government maintains the international conventions and treaties that the pre-1991 Somali Republic convened with foreign governments, provided these are not contradictory to Shari'a law or the interests of Somaliland. As such, Somaliland is a party to the *Convention relating to the Status of Refugees* and its *Protocol*, as well as a signatory to the *OAU Refugee Convention* and the *Kampala Convention*. Somalia has not signed or ratified the *Palermo Protocols*.
- *National legislation (immigration)*: *Somaliland Immigration Law - Law No. 72, of 27 November 1995* is the main law governing immigration.²³⁷ *Labour Law, Article 32, Number 31/2004* prohibits all employers from employing foreigners residing illegally in Somaliland without work permits.²³⁸ In October 2011, the Somaliland government issued a statement reasserting its commitment to enforcing this law. It was announced that inspection teams would start exposing illegal migrant workers.
- *National legislation (asylum)*: Article 35(1) of the *Constitution of Somaliland* confirms that 'any foreigner who enters the country lawfully or is lawfully resident in the country and who requests political asylum may be accorded asylum if he fulfils the conditions set out in the law governing asylum'.²³⁹
- *National legislation (trafficking and forced labour)*: Though legislation exists in the Republic of Somaliland that directly forbids forced labour and servitude, no specific laws apply against these practices in other areas of Somalia.²⁴⁰

Government policy **Immigration and asylum**

The National Development Plan of the Republic of Somaliland identifies several challenges and opportunities in the area of immigration and asylum, as well as a number of projects and programmes to address these during the 2012-2016 period.²⁴¹

Challenges	Opportunities	Projects and programmes
Large influx of economic, political, and illegal immigrants/refugees.		Promoting legal protection for refugees and IDPs. Creating an emergency response unit.
Lack of accurate information on the number and nature of refugees in Somaliland.		Developing an information management system for registering IDPs
Inadequate capacity of the Ministry to deliver services to IDPs and refugees.	Government commitment to resettlement and reintegration of IDPs into society.	Establishing counselling centres. Providing adequate shelter and permanent housing. Providing basic social services.
Lack of resources to resettle IDPs and reintegrate returnees.		Building regional centres to deal with IDPs.
Institutional weakness in terms of facilities, equipment, and human resources.	Growing awareness among local and international organisations of the importance of creating employment.	Training staff to build their skills. Establishing job placement programmes for youth at risk of illegal migration. Initiating training and employment programmes. Providing tools, equipment, and livestock for rebuilding livelihoods.

Source: National Development Plan of the Republic of Somaliland

237 <http://www.somalilandlaw.com/>. Last updated December 2012.

238 Somaliland Press, 2011.

239 <http://www.somalilandlaw.com/>. Last updated December 2012.

240 US Department of State, 2008, p. 277.

241 Republic of Somaliland, 2011, p. 288-289.

In December 2011 the Ministry of the Interior of Somaliland, with support from UNHCR, drafted and endorsed the National Asylum Policy.²⁴² The previous refugee related policy was suspended in 2008: the new policy stipulates that the Ministry of the Interior has the overall mandate to protect and promote the rights of refugees within the territory of Somaliland. It pledges to establish a Refugee Eligibility and Status Determination Committee and a Refugee Eligibility and Status Determination Secretariat. According to UNHCR, these represent important steps forward for refugee protection in Somaliland.²⁴³

Irregular migration and suspension of refugee registration

Somaliland receives relatively large numbers of migrants in mixed migration flows. In 2012 UNHCR estimated that there were at least 20,000 undocumented foreigners in Somaliland, including unknown numbers of Ethiopians and others who wished to claim asylum but could not do so because they were unable to register.²⁴⁴ The government's estimates are considerably higher. Although there is a marked difference between the Somaliland government's attitude towards Somalis from South Central, as opposed to Ethiopians – while the former are officially allowed to stay, the latter are unwelcome and barely tolerated²⁴⁵ – the authorities are unhappy about the volume of migrants passing through and/or residing in their territory.

As mentioned, registration of asylum seekers ceased in 2008 following a series of suicide bombings in Hargeisa. Nevertheless, despite this suspension, migrants continued to flow into Somaliland up until 2011. However, in September 2011 the Somaliland government announced that unregistered foreigners in Somaliland had one month to leave. In October 2011 a further statement made by a government minister reinforced the hostile and unwelcome environment for Ethiopians in Somaliland. The decree was reinforced in November 2011 with, as described above, new laws outlawing the hiring and employment of undocumented foreigners in Somaliland.

Since March 2012, UNHCR and the Minister of Interior have been re-registering asylum seekers who entered before October 2008, although it appears asylum claims have not all been reviewed.²⁴⁶ In October 2012, the ban on the registration of refugees was lifted. Nevertheless, the government decree has led to forced deportations and increased hostility between host communities and refugees (see 'de facto responses' below).

Trafficking

The US Department of State's *Trafficking in Persons Report 2012* notes that Somaliland immigration officials, the Crime Investigation Department within the police, and social services providers began using an IOM-developed screening checklist to refer potential trafficking cases to IOM. Officials from Somaliland, as well as Puntland, also formalised a referral process to guide officials in transferring trafficking victims detained, arrested or placed in protective custody to NGOs that provided care.²⁴⁷

242 UNHCR, 2011b, p. 96.

243 Ibid.

244 Human Rights Watch, 2012c.

245 Despite the unpopularity of Ethiopians in Somaliland, they are widely used as cheap workers in labouring work, the informal sector and domestic functions.

246 Human Rights Watch, 2012c.

247 US Department of State, 2012a, p. 380.

IDPs

In early 2012, the IDP working group (comprised of the humanitarian community) was scheduled to meet and draw up a coordinated response to the IDP policy, as proposed by the Somaliland authorities, to be tabled in Parliament. This would then be followed by a meeting with the Ministry of Resettlement, Rehabilitation and Reconstruction, where their views would be presented. One of the items of discussion was the status of migrants from South Central in Somaliland: while UNHCR does not categorise them as refugees, Somaliland does not identify them as IDPs.

De facto responses

Forced deportation

After issuing the 2011 decree that irregular migrants had to leave Somaliland, the authorities forcefully deported an unknown number - reportedly in the hundreds - of mainly Ethiopian migrants. Many others with the means to do so also returned to Ethiopia independently. In November 2011, for example, some 150 Oromo migrants were gathered in front of the Migration Response Centre in Somaliland and deported back to Ethiopia. The next month, authorities forcibly returned 20 Ethiopians who were arrested a few days earlier during a meeting between refugee leaders and Somaliland officials at the Interior Ministry in Hargeisa. They were discussing the situation of about 1,000 Ethiopians camped on the premises of the Social Welfare Centre. In January 2012, the authorities confirmed these incidents and threatened to practice further deportations.

Response by the international community

In early January 2012, the European Union wrote a letter to the authorities of Somaliland, condemning their alleged *refoulement* of refugees and asylum seekers. The EU also expressed concern about the 'hostilities' between the host community and migrants that were fostered by these actions. The Mixed Migration Task Force members in Hargeisa also raised concerns with the authorities.

Continued deportations

After this intervention from the international community, the Somaliland authorities refrained from conducting round ups and deportations of illegal migrants for some time. Some months later, however, there were renewed reports of detentions and deportations:

- *June 2012*: some 30 Ethiopians migrants were detained following a round up by the Somaliland authorities. As confirmed by UNHCR, three members of the group claimed to be recognised refugees. The others were deported without being given the opportunity to claim asylum.²⁴⁸
- *August 2012*: dozens of Ethiopians, mostly women and children, were forcibly returned to Ethiopia in violation of international legal prohibitions against sending people to places where they might face persecution or threats to their lives.²⁴⁹

Following these incidents, Human Rights Watch called upon the Somaliland

248 RMMS Monthly Summary June 2012.

249 The Somaliland authorities arrested and deported Ethiopians at the Social Welfare Centre in Hargeisa, where hundreds of asylum seekers and migrants from Ethiopia have lived for almost a year. 'According to witnesses, police fired live ammunition during the ensuing struggle and wounded at least six Ethiopians, including one who was shot in the arm and the leg. The sources also said Ethiopians at the centre may have injured four police officers. The police then arrested 56 of the Ethiopians, including the majority of those injured, and took them to different detention facilities in Hargeisa. 25 registered refugees and two asylum seekers were detained at the Central Police Station. One of those refugees told Human Rights Watch that six injured refugees had not received medical assistance for three days before they were released'. Human Rights Watch, 2012c.

authorities to immediately stop deporting Ethiopian refugees and asylum seekers to Ethiopia as these events constituted refoulement.

Non-state actors

Many non-state actors work on mixed migration issues and provide assistance to migrants in Somaliland. Some examples are clustered thematically below:²⁵⁰

Assistance for refugees

UNHCR, with the Refugee Welfare Centre (run by Save the Children and funded by UNHCR), the Refugee Committee, and the Hargeisa University Legal Clinic (funded by UNDP), provides support in Somaliland.²⁵¹ UNHCR carries out RSD and since March 2012, after close negotiations with the government, has resumed registering asylum seekers. In 2013, UNHCR plans to focus on the implementation of UNHCR's policy on refugee protection and durable solutions in urban areas in Somaliland, with special emphasis on registration/documentation, community outreach, access to basic services and the provision of material needs.²⁵²

Migration Response Center (MRC) in Hargeisa

IOM helps the local authorities manage mixed migration flows in Somaliland through registration, referral, and provision of medical and transportation services to migrants.

Awareness raising

IOM has been trying to sensitise local communities to the rights and needs of migrants, particularly those on the move through Somaliland.²⁵³ In September 2012, together with the RMMS, it organised a one-day media training workshop on mixed migration in the Horn region, attended by 15 media representatives and journalists.

Capacity building

IOM works with different organisations (including the Somaliland National Human Rights Commission) and local NGOs to conduct outreach and advocacy campaigns. These partners carry out trainings on migrant rights and protection for traditional leaders, migrant host communities and community-based organisations.²⁵⁴ As in Puntland, IOM also conducted capacity building workshops for community leaders and elders. In addition, it trained coastguards on rescue-at-sea operations as well as theoretical instruction on migrant rights to enhance their protection and assistance capacity.²⁵⁵

Assisted Voluntary Return (AVR)

IOM has been carrying out AVR of Ethiopians from Somaliland. For example, between September and December 2011, IOM repatriated 1,002 Ethiopians in six separate AVR movements. Between August and October 2012, IOM assisted 45 migrants in returning from Somaliland to Addis Ababa, and also returned 170 IDPs to South Central Somalia. In 2013 the MRC, in conjunction with the IOM, assisted 52 migrants return home to Ethiopia from Somaliland and Puntland.

250 As in most countries/areas, there are other agencies and organisations also working on mixed migration: those mentioned do more than what is stated here. The purpose is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing an exhaustive overview of all actors and all activities. See also section 2.2. The section on Somalia South Central includes a list of examples of non-state actors working in Somalia, including Somaliland.

251 Lindley, 2010, p. 189.

252 UNHCR, 2012c, p. 70-74.

253 Lindley, 2010, p. 189.

254 IOM, 2011c.

255 IOM, 2012a.

area sections

Somaliland

3.7 South Central Somalia

Mixed migration²⁵⁶

- *Drivers of migration from South Central Somalia:* In 2012, the number of Somali refugees displaced outside their country and in the region reached a million persons. As of May 2013, there are an estimated 1.1 million IDPs in Somalia (including Somaliland and Puntland areas).²⁵⁷ For many Somalis, displacement or migration are forced upon them by a wide range of factors that normally include one or more of the following: extreme poverty, prolonged insecurity, sexual violence and other serious human rights violations, lack of access to basic needs such as food, medical services, healthcare and livelihoods as well as natural disasters.²⁵⁸ The recent drought-triggered famine in the Horn of Africa and the intervention by the combined African military force, AMISOM, to eject the Al Shabaab group from Somalia also resulted in large numbers of IDPs in different parts of South Central and Puntland, as well as a significant influx of Somali refugees into Ethiopia and Kenya.
- *Migration patterns/destinations:* three main routes for Somali migrants and refugees can be identified: south, either staying in Kenya (about half a million) in the refugee camps of Dadaab and Kakuma or in urban areas, or transiting through Kenya aiming to reach South Africa (some 6,000 per year, as estimated in 2009);²⁵⁹ east, crossing the Gulf of Aden to Yemen and across the Arabian Peninsula (in total about 50,000 during the years of 2011 and 2012); and west, towards Libya with the intention to access Europe.²⁶⁰
- *The role of smuggling:* there is little information on the fees for migrant smuggling within Somalia.²⁶¹ Recently, payments of USD 4-5,000 for Somalis to be smuggled to South Africa via the Zambia route and USD 2,500 for the Malawi route were reported.²⁶² Smuggling fees from Somalia to Europe (via Nairobi and including passports, tickets, visas and bribing immigration officers) are believed to be in the range of USD 7-20,000.²⁶³ Since Turkish Airlines in 2012 became the first international carrier to fly directly to Mogadishu, migrants are, according to Somalia's government, increasingly using fake passports belonging to Somali-European smuggling networks to fly to Europe via Istanbul.²⁶⁴
- *Return and repatriation of Somali nationals from Kenya:* between November and December 2012 an estimated 18,000 Somalis returned to their home country from Kenya. Between January and May 2013, another 18,108 refugees also returned from neighbouring countries, including Kenya, to Somalia.²⁶⁵ The Presidents of Kenya and the Federal Republic of Somalia are currently in discussions on the repatriation of refugees, some of whom have been living in Kenyan camps for up to 20 years.²⁶⁶

area sections

South Central
Somalia

256 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Somalia South Central.

257 UNHCR, 2013j.

258 UNHCR and IOM, 2010, p. 8.

259 UNHCR, 2013h.

260 There are no accurate numbers available on the volume of Somali irregular migration along this route.

261 See Djibouti and Puntland sections on fees for Somalis departing from there.

262 Lawry Associates International, 2012.

263 ICMPD, 2007.

264 Fox News, 2013.

265 UNHCR, 2011h.

266 Standard Digital, 2013.

Institutional framework

For the past two decades, Somalia has lacked an effective central government and suffered ongoing power conflicts between rival militias, clans, warlords and different armed forces. In 2004 a Transitional Federal Government (TFG) was formed, with a mandate leading towards the establishment of a new constitution and a transition to a representative government. On 20 August 2012, Somali parliamentary elections marked the end of the transition period. The new Parliament elected Hassan Sheikh Mohamud as the President of Federal Republic of Somalia on 10th September 2012. The TFG has given way to a new Federal Government of Somalia (FGS) – the first such administration since 1990²⁶⁷- with a provisional constitution and a Parliament.²⁶⁸

Given this extended governance vacuum and the current process of rebuilding its institutional structures, immigration procedures are not yet well established in Somalia. At present, the Ministry of Interior and Security hosts the Department of Immigration, which is responsible for controlling migration affairs, including border management. IOM recently handed over the Immigration Department building, located at the international airport in Mogadishu.²⁶⁹

Legislation²⁷⁰

The following legislation is of particular importance in the area of mixed migration:

- *International conventions*: Somalia is a party to the *Convention relating to the Status of Refugees* and its *Protocol*. Somalia signed the *OAU Refugee Convention* and the *Kampala Convention*, though it has not yet signed or ratified the *Palermo Protocols*.
- *National legislation (immigration)*: *Immigration Law No.6* is the main law used in reference to migration affairs in Somalia. The Act is composed of 47 articles covering different tasks and responsibilities of the immigration departments.²⁷¹
- *National legislation (freedom of movement and human rights)*: *The Transitional Federal Charter of the Somali Republic Article 71* also provides that the government shall devote the necessary effort to restore peace and security and freedom of movement of people, goods and services. *The Somali constitution* recognises international provision and states in Article 19 that 'the Somali Democratic Republic (SDR) shall recognise the *Universal Declaration on Human Rights* and generally accepts rules of international law'. *The Transitional Federal Charter* also recognises international legal stipulations and states in Article 14 that 'the Somali Republic shall recognise and enforce all international human rights conventions and treaties to which the Republic is a party'.²⁷²

Government Response

Smuggling and trafficking

Somalia has not ratified the *Trafficking in Persons Protocol* or the *Smuggling of Migrants Protocol*. Not much is known about the official approach on migrant smuggling as the current government has only been in power since September 2012 and has faced critical challenges in its early months, not least the continuing conflict with Al-Shabaab. As a consequence, an

267 IRIN, 2013.

268 ADB, 2013, p. 1.

269 IOM, 2013f.

270 For an overview of international legislation to which South Central Somalia adheres, see section 2.4.

271 Arati, Meroka and Hersi, 2010.

272 Ibid.

effective government approach to curb migrant smuggling is unlikely to emerge in Somalia in the near future.

De facto responses

IDPs

In February 2013, the Government of Somalia announced it would relocate IDPs living in Mogadishu to three locations outside the city centre. The sites are Jazeera in Wadajir district, 77 Camp in Daynille district (where settlements already exist) and Gubadleey in Huriwa district.

Of the estimated 1.1 million IDPs in Somalia, there are an estimated 369,000 IDPs in Mogadishu (as of April 2013) according to the UN Office for the Coordination of Humanitarian Affairs (OCHA).²⁷³ According to Mogadishu's mayor, the majority could be relocated to camps on the outskirts of the capital to help decongest the city.²⁷⁴ There are, however, concerns over inadequate government capacity as well as security and access to services in the proposed relocation areas. At a January 2013 meeting with UN humanitarian agencies and other international stakeholders, the authorities stressed that relocated IDPs would be given the choice to return to their place of origin or resettle in one of the new sites.

According to Human Rights Watch, Mogadishu is a 'hostile and abusive environment' for many displaced people. 'Members of displaced communities face serious human rights abuses, including rape, beatings, ethnic discrimination, restricted access to food and shelter, restrictions on movement and reprisals when they protest their mistreatment. The most serious abuses were committed by various militias and security forces, often affiliated with the government, operating within or near camps and settlements for the displaced. Frequently these militias were linked or controlled by managers, or 'gatekeepers' as they are known, of the IDP camp. Several women described being raped by armed men in uniform and identified some of them as government soldiers'.²⁷⁵ The TFG has regularly denied that these abuses have even occurred.²⁷⁶

Both Human Rights Watch and Amnesty International urge the Somali authorities to guarantee the human rights of IDPs who are being relocated in Mogadishu, including ensuring the safety and security of relocation sites, by removing the gatekeeper system, and through maintaining effective oversight to ensure the safety of those relocated.²⁷⁷

Amnesty International also notes that some IDPs have returned to their place of origin. Many of them face a lack of essential services including healthcare, access to clean water and to food, as humanitarian organisations are not able to reach these areas due to ongoing insecurity and restricted access due to the presence of Al-Shabaab.²⁷⁸

Non-state actors

General overview of humanitarian assistance

Although the security situation in Mogadishu is currently improving²⁷⁹, working in Somalia is still difficult and dangerous, as for example illustrated

273 UN OCHA, 2013a.

274 Hiraan Online, 2013.

275 Human Rights Watch, 2013d, p. 3-4.

276 Ibid, p. 6.

277 Amnesty International, 2013a.

278 Ibid.

279 Illustrated for example by the reopening of the British Embassy in April 2013 after 22 years and the announcement that the US might reopen its embassy in Mogadishu. BBC, 2013; The Guardian, 2013a.

area sections

South Central
Somalia

by the attack on the UNDP compound in Mogadishu on 19 June 2013 which cost the lives of 15 people.²⁸⁰ Nevertheless, many international organisations (including UNHCR, WFP, IOM, ILO, UNICEF, UNFPA, UNOPS, UNDP, WHO and UN-HABITAT) are active in Somalia. Moreover, numerous international agencies and NGOs such as Médecins Sans Frontières (MSF), Oxfam²⁸¹, Relief International, International Medical Corps (IMC), Somali Red Crescent Society, COOPI, Save the Children, CARE, INTERSOS and the International Rescue Committee (IRC) also work in South Central Somalia. Many of these actors do not specifically focus on mixed migration - South Central Somalia is not a country of transit or destination - but more generally on humanitarian assistance and issues such as health, food security, livelihood recovery, malnutrition, education, agriculture to support vulnerable populations in Somalia. However, many of these activities are also targeted at the large and vulnerable population of IDPs in South Central Somalia.

IDPs

Some international NGOs are specifically focused on IDPs: for example, the Norwegian Refugee Council (NRC), the International Committee of the Red Cross (ICRC) and the Danish Refugee Council (DRC) provide protection and humanitarian assistance, including food distribution, education, shelter, water and sanitation), to displaced populations.

In 2012, UNHCR has worked with some 40 partners to implement projects for IDPs, drawing on their proven expertise to deliver appropriate conflict programming.²⁸² UNHCR's interventions focus on emergency shelter and relief. For 2013, it plans to offer return/reintegration packages to support vulnerable IDPs.²⁸³ UNHCR has also, together with the Somali National Federal Government, established the Somalia Solutions Platform to assist with return and reintegration.²⁸⁴

Migration

IOM developed the Capacity Building in Migration Management programme, to enhance the migration management and protection capacities of immigration authorities.²⁸⁵ The Somalia Mixed Migration Taskforce (MMTF)²⁸⁶ also focuses on enhancing local awareness and capacity to mitigate the consequences of mixed migration in Somalia.

Counter-trafficking

Referral of potential trafficking cases and direct assistance to victims of trafficking has been provided by IOM.²⁸⁷ IOM collected information on human trafficking and initiated the first counter-trafficking programme in Somaliland, Puntland and South Central Somalia.²⁸⁸

280 New York Times, 2013b.

281 Much of the work by Oxfam, and other NGOs, is implemented by local partner organisations and communities.

282 UNHCR, 2012c, p.70-74.

283 Ibid.

284 UNHCR, 2013j.

285 <http://nairobi.iom.int/somalia>.

286 Consisting of UNHCR, IOM, Danish Refugee Council, Norwegian Refugee Council, OCHA, WFP, UNICEF and OHCHR.

287 IOM, 2011c.

288 <http://nairobi.iom.int/somalia>.

3.8 Yemen

Overview of mixed migration²⁸⁹

- *Irregular migration to Yemen:* In 2012, at least 107,532 migrants – an estimated 78% of them Ethiopian, with the remainder largely Somali – arrived on the shores of Yemen. This unprecedented exodus makes Yemen a major country of destination and transit (to Saudi Arabia and other Gulf States) for migrants from the Horn of Africa.²⁹⁰ This recorded volume of new arrivals, based on the findings of the monitoring network established around some sections of the coast, may in fact only capture some of the total mixed migration flow into the country. During the first quarter of 2013, a total of 29,469 migrants made the crossing to Yemen, a decrease by 12% compared to the same period the year before, but still historically high compared to data gathered since 2006 when records were first kept.²⁹¹
- *Transit migration through Yemen:* many migrants, particularly from Ethiopia, attempt to transit through Yemen to neighbouring countries. An estimated 25,000 Ethiopian migrants are currently stranded in Northern Yemen (see the textbox ‘*The growing humanitarian crisis in Yemen*’ in this section).
- *The role of smuggling:* given the volume of Ethiopian arrivals, it is certain that the smuggling networks operating out of Yemen control a multi-million dollar business. Besides transportation, with fees between USD 100-300 from Aden/Sana’a to Saudi Arabia, criminal gangs are increasingly making money out of kidnapping, with ransom levels as high as USD 1,000.²⁹²
- *Yemen as a country of asylum:* as of April 2013, Yemen hosts 242,002 refugees, of which 231,064 are registered Somali refugees (*prima facie*). The others, of which 5,270 Ethiopians and 1,127 Eritreans, are recognised refugees under UNHCR’s mandate. The total number of IDPs in Yemen (as of April 2013) is 344,019.²⁹³ The majority of Somalis arriving in Yemen approach UNHCR or the authorities upon arrival as they are granted refugee status on a *prima facie* basis. Most Ethiopians, on the other hand use Yemen as a transit country on their way to the Gulf States.²⁹⁴
- *Emigration of Yemeni nationals:* A large proportion of undocumented migrants in Saudi Arabia are Yemeni, but no data has been collated to illustrate the scale of this exodus. Currently, an estimated 300,000 Yemeni migrant workers face the risk of deportation from Saudi Arabia (see Saudi Arabia section).

Institutional framework

The following agencies in Yemen are involved in migration and refugee affairs²⁹⁵:

- *The Ministry of the Interior (the Department of Immigration and*

289 The matrix in section 1.2 provides an overview of mixed migration trends and figures in Yemen.

290 The scale of migration to Yemen may seem surprising, given the widespread poverty and insecurity in the country. However, besides the extremity of the situations that many migrants are attempting to leave in their countries of origin, Yemen also has the advantage of being geographically close to the Horn of Africa, with porous borders due to the lack of an effective central government. Moreover, the neighbouring Middle East and Gulf Countries offer many opportunities for low-skilled workers and can be accessed through Yemen’s porous borders.

291 UNHCR, 2013g.

292 RMMS, 2013e, p. 75.

293 UNHCR, 2013g.

294 Ethiopians seeking asylum are required to undergo individual Refugee Status Determination (RSD). This process often fails as they are regarded as economic migrants.

295 Moret, Baglione and Efonayi-Mader, 2006, p 51.

the Immigration and Passport Authority) deals with immigration and border control.

- *The Refugee Affairs Department (RAD)* is responsible for refugee registration, together with UNHCR. UNHCR and the Ministry of the Interior run three refugee registration centres.
- *The National Committee for Refugee Affairs (NCRA)* was established in 2000, headed by the Deputy Foreign Minister and comprising officials from ministries and administrative bodies that deal with refugee issues (*Foreign Affairs, Interior, Justice, Immigration and Passports, and the Office of Political Security*).²⁹⁶ Through the NCRA, UNHCR works closely with the Ministry of Foreign Affairs.²⁹⁷
- *The Executive Unit for IDPs (ExU)* deals with IDP registration and is involved, in cooperation with partners such as the World Food Programme, in emergency operations (for example, providing food assistance to IDPs).

Legislation²⁹⁸

The following legislation is of particular importance in the area of mixed migration:

- *International conventions*: Yemen, as the only country in the Arab peninsula, is a party to the *Convention relating to the Status of Refugees* and its *1967 Protocol*. Yemen ratified the *Convention against Transnational Organised Crime*, but has yet to ratify the *Palermo Protocols*.
- *National legislation (asylum)*: Yemen's legal framework is based on Islamic/Shari'a law and the Koran. Yemen does not at present have a national refugee law, though with the assistance of UNHCR a draft *Refugee Bill* was prepared and discussed in 2004. In its most recent global appeal, UNHCR announced that it seeks to improve the understanding by government officials of the asylum process in the run-up to the promulgation of a refugee law.²⁹⁹ Yemen's constitution makes a particular reference to refugee protection in its adherence to the principle of *non-refoulement*.³⁰⁰ To obtain a working permit, refugees have to apply to the Ministry of Labour.³⁰¹
- *National legislation (trafficking and forced labour)*: The laws against trafficking in persons are to be found in the *Yemeni Penal Code* and the *Child Rights Act*. However, they do not explicitly prohibit debt bondage or other forms of forced labour and prostitution.

Government policy

Refugee and asylum policy

Yemen is the only country in the Arab Peninsula that is a signatory to the *1951 Refugee Convention* and its *1967 Protocol*. Nevertheless, as described above, there is no legal framework or official support in place to assist refugees in Yemen.³⁰²

Although Yemen has a refugee camp (Kharaz), compulsory in-camp residence is not applied and refugees can legally base themselves in cities. Upon arrival, refugees are informed by UNHCR and the Yemeni police about

296 MSF, 2008, p. 9.

297 UNHCR, 2012c, p. 160-164.

298 For an overview of international legislation to which Yemen adheres, see section 2.4.

299 UNHCR, 2012c, p. 160-164.

300 Moret, Baglione and Efonayi-Mader, 2006, p 51.

301 Ibid, p 52.

302 DRC and RMMS, 2012, p. 51.

the option to either reside in Kharaz camp or to live independently in urban areas.³⁰³ In fact, official policy encourages the settlement of refugees within Yemen in urban environments. However, as work opportunities are limited and there are few sources of support, life is often difficult for refugees in this context.³⁰⁴

Historically, the Yemeni government has had a tolerant and progressive attitude towards refugees, in particular hosting a large Somali population. Authorities have claimed that there may be up to one million undocumented migrants and refugees living in Yemen, although the official UNHCR figures were 242,000 for April 2013. The Yemeni government has opened its borders to Somali asylum seekers by adopting a policy of *prima facie* recognition towards Somali nationals, from the early stages of the Somali conflict to the present.³⁰⁵ Recently, however, this welcoming attitude has been derailed by Yemen's ongoing civil conflict, in which both sides have accused the other of enlisting Somali refugees in the fighting. The Yemeni government has publicly expressed its concern over the number of Somalis arriving in the country, and the possibility of Al-Shabaab members being among them.

Irregular migration and smuggling

The large and increasing numbers of migrants in mixed migration flows pose a major challenge for Yemen, which already suffers from unemployment, rapid population growth, dwindling water resources and the highest poverty levels in the Arabian Peninsula. Moreover, Yemen is under strong pressure from Saudi Arabia and other neighbouring countries to stop these flows, as many use Yemen as a transit point to reach neighbouring countries.

Recently, Yemen has managed to increase its control of migratory movements by enhancing border control systems and procedures. In 2012, approximately 3,553 migrants were intercepted, 'rescued at sea' and returned to Djibouti. However, inadequate administrative, regulatory and operational capacity limits the ability of the Yemeni Government to respond to the sheer numbers of migrants entering the country.

Trafficking

Many migrants who transit through Yemen are in a vulnerable situation and at potential risk of being subjected to trafficking, further forced labour or prostitution. According to the US Department of State's *Trafficking in Persons Report 2011*, there is evidence that hundreds of Yemenis are still being sold or inherited as slaves.³⁰⁶ Reports from migrants themselves suggest significant numbers of (mainly Ethiopian) female 'new arrivals' in mixed migration flows are separated, abducted and often sold on to other criminals or directly to private 'buyers'. Some of these women are never heard of again, according to those who crossed to Yemen with them.

In 2010, Yemen launched an awareness raising campaign and designated certain government departments to monitor and investigate the matter. In collaboration with the Government of Saudi Arabia – where many Yemeni children are employed as casual labour and to an extent in the sex trade – the Yemeni authorities have taken steps to stem the flow across their borders. The focus of protecting and rehabilitating victims of trafficking and prostitution in Yemen, forced or otherwise, is mostly on children. The government has established support centres as part of this process.

303 Moret, Baglione and Efonayi-Mader, 2006, p 51.

304 DRC and RMMS, 2012, p. 51.

305 Moret, Baglione and Efonayi-Mader, 2006, p 50

306 US Department of State, 2011, p. 387-388.

However, according to the US Department of State, Yemen still falls far behind minimum standards in its approach on trafficking and is not taking steps to prevent the practice. No progress has been achieved in its implementation of anti-trafficking legislation and state protection of trafficking victims decreased during the 2012 reporting period.³⁰⁷

De facto responses

Smuggling and human trafficking

Reports indicate that some state officials, such as military and border guards, are complicit in migrant smuggling and trafficking. Local authorities in Haradh admit that there is collusion between border guards and smugglers, but claim to lack both the authority and military capability to dislodge smugglers or end their increasingly lucrative industry.³⁰⁸ Nevertheless, there has been a number of recent noteworthy interventions by the authorities to release abducted migrants and crack down on smuggling/trafficking networks along the coast and in the vicinity of Haradh:

- *January 2012*: Muhammad Al-Shaery, Provincial Security Director, stated that directors of police stations in Taiz governorate had been suspended in relation to trafficking and smuggling activities in the region. The next day, a campaign against smuggling and trafficking was mounted by military and security officials in Lahj governorate. Authorities reportedly assembled the most known smugglers and sheikhs involved with smuggling from Ras-alara to Suqaya, warning them against participating in smuggling activities. There were also reports of coastal guards patrolling the Lahj coast with the apparent aim of curbing smuggling and trafficking activities.
- *March 2012*: two raids were conducted by police and heavy armed military in Haradh. According to local authorities, the discovery of 70 Oromos and ethnic Somalis from Ethiopia's Somali region held captive in Haradh sparked an investigation. A Yemeni Interior Ministry report stated that, between January 2011 and February 2012, another 170 Africans were imprisoned, tortured and abused by criminals in Haradh.³⁰⁹
- *Early 2013*: the Yemeni government increased its efforts to fight the smugglers by raiding smugglers' camps in Haradh and elsewhere. The raids rescued 1,987 migrants (as of May 2013), many of whom had suffered physical or sexual abuse at the hands of traffickers trying to extort money from them.³¹⁰ The migrants are at present accommodated in unsanitary conditions and according to IOM 'in urgent need of shelter, food, water and health care'³¹¹.

307 US Department of State, 2012a, p. 374-375.

308 Reuters, 2012.

309 IRIN, 2012a.

310 UN OCHA, 2013b. The migrants are currently accommodated at four locations (the military police camp at Al Tuwal border near Haradh; a tent next to the Amran Central Detention Facility; in the open air in the Immigration, Passport and Naturalisation Authority (IPNA) centre in Sana'a; in Aden (near the UN Enclave and Basateen district). According to IOM, living and security conditions in these facilities are insufficient, with migrants in urgent need of shelter, food, water and health care. IOM, MSF, WFP and the Yemeni Red Crescent Society are responding by providing food, health services, water, and sanitation facilities for the migrants. IOM, 2013d.

311 IOM, 2013d.

The growing humanitarian crisis in Yemen

International agencies have highlighted the increasingly critical situation for thousands of migrants in and around Haradh in northern Yemen.³¹² IOM estimates that around 25,000 destitute and stranded migrants live in and around Haradh and currently publishes daily situation reports on the emergency from Haradh and three other locations in Yemen.³¹³ While the population of migrants in Haradh was already overflowing, changes in Saudi legislation on foreign workers and the resumed construction of a fence along the border with Yemen (see the section on Saudi Arabia below), exacerbated this situation.³¹⁴ Moreover, migrants continue to arrive in Yemen. As of May 2013, UNHCR already recorded the arrival of nearly 30,000 people on the Yemen coast, including 25,076 Ethiopians.³¹⁵

The conditions in Yemen are harsh. Reports of extreme torture and sexual abuse of migrants at the hands of traffickers and smugglers have increased over the past year. Even upon arrival in Haradh, migrants face fresh threats of abduction from criminals with bases around the town.³¹⁶ On average, 4,000 stranded migrants visit IOM's Migration Response Center every day. However, food distribution benefiting irregular migrants has largely been scaled down due to funding constraints.³¹⁷ IOM Yemen is urgently appealing for USD 1.2 million following a request by the Yemeni authorities to provide urgent shelter, food, basic health care and protection to migrants in Aden, Amran, Haradh and Sana'a.

Thousands of stranded migrants have expressed their wish to return home. Since mid-April, 804 migrants wishing to leave Yemen have been returned to Ethiopia with the support of the Government of Yemen, through two military (580 migrants) and nine commercial (1,224 migrants) flights.³¹⁸ More and more migrants are congregating in major towns so that they can be relocated back to Ethiopia.

On April 18th, the UN Yemen Humanitarian Coordinator, Mr Ismail Ould Cheikh Ahmed, led an assessment in Haradh and concluded that increasing efforts were required to source funding to address the most urgent needs. He also appealed for support to governments in the Horn of Africa and the Gulf region to strengthen the management of migration and national borders, combat transnational organised crime and uphold migrants' human rights.³¹⁹ Nevertheless, it seems that donors struggle to respond effectively to migrant crises such as that in northern Yemen, unsure whether irregular migrants fall under development or humanitarian aid allocations.³²⁰

Community responses

In early 2013 there was evidence that organised community patrols along the Red Sea and the Gulf of Aden were now taking place. These groups, generally numbering between six and ten people, have erected tents and are presently stationed at three areas along the coast in Yemen (Al Hujeima, Al Uzaf and Al Suqaya) with the aim of curbing smuggling and trafficking activities. Reportedly, these groups operate in full view of the military, which indicates there is a general acceptance of their presence. They are armed with personal weapons but are apparently willing to work with humanitarian organisations, contacting organisations such as the Danish Refugee Council when they come across stranded migrants. However, their presence has not been an effective deterrent to smuggling or trafficking activity as other local residents in the villages along the coast still protect the smugglers.

312 RMMS, 2013c.

313 IOM, 2013d.

314 RMMS, 2013c.

315 UN OCHA, 2013b.

316 RMMS, 2013c.

317 Ibid.

318 IOM, 2013e.

319 UN OCHA, 2013b.

320 RMMS, 2013c.

Deportations

Until March 2010, many Ethiopians were being arrested and deported back to Addis Ababa without the chance to seek asylum.³²¹ Human Rights Watch reported in 2009 that Ethiopian asylum seekers who were captured by the security forces faced refoulement alongside other Ethiopians scheduled for deportation. There was also disturbing evidence that in some cases Ethiopian embassy officials were allowed to coerce asylum seekers detained in Sana'a's immigration facility into signing forms indicating their willingness to return to Ethiopia.³²²

Since March 2010, the Yemeni government has reformed its policy towards Ethiopians in the country. It is not clear to what extent these deportations still occur. As a 2012 DRC and RMMS study noted, reported accounts of deportations from Yemen may be based on events that happened prior to March 2010, when Yemeni and Ethiopian authorities worked together to forcibly return Ethiopian migrants. At the same time, it is certainly the case that other countries such as Somaliland and Djibouti are still forcibly returning Ethiopian refugees; and, just as with Djibouti, the Ethiopian government maintains a strong connection with Yemen, which may increase anxiety among Ethiopian migrants.³²³

Arrests and detention

- *January 2012*: it was reported that Somali and Ethiopians risk arrest and detention upon arrival to Yemen. Detained migrant are frequently held at Taiz prison: access is not always provided to the protection team to determine if there are any refugees/asylum seekers among the arrested new arrivals.
- *June 2012*: some 400 African migrants, mainly Ethiopians and all male, were expelled by the Yemeni authorities from Dhamar, where they had been employed on 'khat' farms, to Kharaz refugee camp. No explanation was given by the authorities for this action. At the same time, Yemeni authorities have rounded up migrants in the south along the coast and reportedly detained them at various military camps.
- *Early 2013*: The Deportation Department in the Immigration and Passport Authority has extradited 2,500 illegal African migrants from Yemen since the beginning of 2013, according to officials. In March, 850 migrants were detained and returned to their home countries. A majority of the migrants were intercepted in the Northern governorate of Sada'a.

Non-state actors

Many non-state actors work on mixed migration issues and provide assistance to migrants in Yemen. Some examples are clustered thematically below:³²⁴ Additionally, the Mixed Migration Task Force of Yemen is a long-standing collaborative entity with multi-agency participation that shares information, data collection, and coordinated activities and programmes around mixed migration concerns. It has its own web site (www.mmyemen.org), a secretariat and is assisted by the Danish Refugee Council who host (and recruit) the MMTF Yemen Secretariat and Coordinator.

321 DRC and RMMS, 2012, p. 7.

322 Human Rights Watch, 2009, p. 3.

323 DRC and RMMS, 2012, p. 32.

324 As in most countries/areas, there are other agencies and organisations also working on mixed migration: those mentioned do more than what is stated here. The purpose is to give an impression of what non-state actors are doing in the field of mixed migration, rather than providing an exhaustive overview of all actors and all activities. See also section 2.2.

Capacity building

The international community, particularly UNHCR, lobbied successfully and provided trainings to change the Yemeni coast guard's operational response to smuggling. According to a 2011 report, boats were allowed closer to the shore to disembark migrants safely, instead of throwing them overboard in deep water to avoid being chased by the coast guard.³²⁵

Several agencies, such as UNHCR, IOM, DRC and the Yemen Red Crescent (YRC) work to strengthen the capacity of local and national authorities in Yemen. Their activities include assistance with the development of national policy and legislative frameworks; legal and rights-based training of government officials in their treatment of migrants; strengthening human, technical and infrastructural capabilities at key air, land and sea ports; and improving the support and assistance capacity among civil society organisations and government agencies.³²⁶

As in other countries, UNHCR and IOM jointly chair the Mixed Migration Task Force. Its objectives include enhancing awareness and building capacity in the area of mixed migration.³²⁷ IOM provided trainings on Trafficking in Human Beings - Identification of Victims of Trafficking, in a workshop attended by 90 government staff and officials. A more specialised training for law enforcement agencies, immigration department police and the judiciary has also been provided.³²⁸

Assistance to IDPs, refugees and vulnerable migrants

Numerous international organisations (such as UNOCHA, UNICEF, WFP, UNHCR, WHO) and other international and local agencies and NGOs (including Médecins Sans Frontières (MSF), DRC, International Federation of Red Cross and Red Crescent Societies (IFRC), ZOA, INTERSOS, Save the Children, the Society of Humanitarian Solidarity (SHS), the Adventist Development and Relief Agency (ADRA) and Islamic Relief) provide assistance to IDPs, refugees and vulnerable migrant groups in Yemen. INTERSOS, for example, assists refugees through its social welfare centres. Save the Children provides basic health, protection and education services, both at the Kharaz refugee camp and among the host population in several communities in Yemen. SHS assists refugees at Kharaz, performs coastal patrols to help refugees arriving on the Yemeni coast and manages (together with INTERSOS and DRC at one of the sites) four refugee reception centres.

Assisted Voluntary Return

IOM has helped thousands (7,000 in 2011 and 2,815 in 2012) of Ethiopians stranded in the Yemen-Saudi border town of Haradh to return home.³²⁹ As described in the box '*Growing humanitarian crisis in Yemen*', the Yemeni government currently supports the voluntary return of stranded Ethiopian migrants.

325 Soucy, 2011, p. 23.

326 UNHCR, 2012c, p.174-178.

327 The Danish Refugee Council holds the secretariat. INTERSOS, the Society for Humanitarian Solidarity (SHS), the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), Save the Children Sweden, the Yemen Red Crescent, Care International are current members.

328 IOM, 2011c.

329 Reliefweb, 2012; Immap, January 13, <http://www.immap.org/>.

3.9 Kingdom of Saudi Arabia

Overview of mixed migration

- *Labour migration to Saudi Arabia:* Saudi Arabia is a major destination for migrant labourers. Over 9 million migrant workers – more than half of the country’s workforce – fill manual, clerical and service jobs. Saudi Arabia claims to be in need of another 0.75 – 1.5 million domestic workers. To that extent, the Kingdom has increasingly sourced labour from Ethiopia as the supply of domestic workers from previous sending countries in Asia has dwindled or been rejected.
- *Irregular migration to Saudi Arabia:* irregular migrants enter either illegally or overstay on pilgrimage visas. The Government bars those who entered illegally or overstayed on pilgrimage visas from ever receiving asylum.³³⁰
- *Saudi Arabia as a country of asylum:* Saudi Arabia hosts about 291,000 refugees, the majority (290,000) Palestinians. Most of the non-Palestinians live without a formal status, having entered either as pilgrims or as migrant workers. The legal framework for refugees in the Kingdom is in fact ambiguous (see below).

country sections

Saudi Arabia

Legislation

The following legislation is of particular importance in the area of mixed migration:

- *International conventions:* Saudi Arabia is not a party to the *1951 Convention relating to the Status of Refugees* or the *1967 Protocol*. However, in a 1993 Memorandum of Understanding with UNHCR, the Saudi Government agreed to ‘provide protection to refugees present in the Kingdom’ and grant refugees temporary permission to stay: since 1998, UNCHR has carried out RSD on Saudi Arabia’s behalf.³³¹
- *National legislation (labour migration):* though Saudi Arabia hosts a large migrant worker population, their employment through the country’s ‘sponsorship system’ (see below) provides little in the way of labour rights or protections for foreigners. In some instances this has indirectly facilitated their abuse and exploitation by Saudi employers.
- *National legislation (asylum):* though the *Basic Law* (1992) provides that ‘the state will grant political asylum, if so required by the public interest’, Saudi Arabia has no legislation implementing this provision and the government allows only those with residence permits to apply for asylum.³³² This potentially excludes a large number of vulnerable persons in need of asylum.

The sponsorship (kafala) system

Legal basis of the sponsorship system

The *1970 Residence Regulations* require foreigners, including refugees, to have a residence permit. To obtain one, foreigners must first find an employer to sponsor them.³³³ Employers can cancel contracts for ‘legitimate reasons’ and have workers deported. Foreigners, on the other hand, are not able to transfer employment or travel abroad without authorisation from their sponsor. Employers can also request the government to withhold

330 USCRI, 2009.

331 Ibid.

332 Ibid.

333 Ibid.

permission for migrants to leave the country during labour disputes and force settlements on workers who would otherwise face deportation.³³⁴

This sponsorship (*kafala*) system thus ties the residency status of migrant workers to sponsoring employers who, according to Human Rights Watch, frequently abuse this power to confiscate passports, hold back wages and compel migrants to work against their will.³³⁵ According to the ILO, the *kafala* system is inherently problematic as it creates an unequal power dynamic between the employer and the worker.³³⁶ It can therefore result in forcible servitude, unpaid wages, intimidation and other forms of exploitation.³³⁷

Recent developments and reforms

In April 2012, the Saudi Labour Ministry proposed to abolish the *kafala* system by transferring immigration sponsorship to newly created recruitment and placement agencies. However, according to Human Rights Watch, the change has not yet taken effect. Moreover, to tackle *kafala*-related abuses, Saudi Arabia would also need to amend its *Residency Law* so that a migrant worker would no longer require a sponsor's consent to change jobs or leave the country.³³⁸

In March 2013, an amendment was made to Article 39 of Saudi Arabia's labour law, stipulating that foreign workers were forbidden from running their own business and must remain strictly linked to their original sponsors for all work-related activities. As a result over 300,000 Yemenis in Saudi Arabia are at risk of being deported back to Yemen, as they have left their initial sponsor or sought employment other than that originally provided in their work contract. According to the media adviser to Yemen's prime minister, as of April 2013 as many as 18-20,000 Yemenis had been deported from Saudi Arabia since the authorities began enforcing the new regulations.³³⁹ Consequently, Yemen is facing new instability as thousands of its nationals working in Saudi Arabia have been expelled.³⁴⁰ However, two weeks after Saudi Arabia initiated the deportation of thousands of foreign workers from Yemen and other countries, the authorities reversed course and announced a three-month grace period for the workers in response to protests from local business workers and foreign diplomats.³⁴¹

The construction of the Saudi-Yemen barrier

One of the most visible signs of Saudi Arabia's ongoing conflict towards mixed migration is its construction of the Saudi-Yemen barrier. Spanning part of the 1,800-kilometer border with Yemen, consisting of sandbags and pipelines, the three-metre high barrier is filled with concrete and fitted with electronic detection equipment. When construction began in 2003, it led to a dispute with the Yemeni government, who claimed it violated a border treaty signed in 2000. Though work on the barrier was halted in 2004, in 2008 Saudi Arabia recommenced its construction in the district of Haradh, declaring it was necessary for protecting their borders against an influx of illegal immigrants and the smuggling of drugs and weapons.³⁴²

334 USCRI, 2009.

335 Human Rights Watch, 2013, 605-606.

336 ILO, 2013b, p. 12.

337 USCRI, 2009.

338 Human Rights Watch, 2013c, 605-606.

339 The New York Times, 2013a.

340 The Guardian, 2013b.

341 The New York Times, 2013a.

342 Yemen Observer, 2008.

Detention and deportations

As described in previous sections, the number of (mainly Ethiopian) migrants attempting to enter Saudi Arabia is increasing due to the harsh conditions in both Ethiopia and Yemen. As a result, Saudi Arabian authorities are becoming increasingly aggressive in their treatment of irregular migrants.³⁴³ Ethiopians who travel to Saudi Arabia face considerable dangers when entering the country, including the risk of imprisonment and deportation if they are caught by the authorities. While the Saudi authorities previously deported immigrants directly to their home countries, they now 'drop' migrants in the desert several kilometres from the border with Yemen. Migrants then have to travel the remaining distance without food or water. A number of migrants forced out of Saudi Arabia in this way have reported seeing the bodies of hundreds of migrants who had died trying to leave the country.³⁴⁴

According to one Yemeni border official, as many as 1,200 Yemenis are returned from Saudi Arabia every week.³⁴⁵ Given the continued increase in Ethiopian arrivals in Yemen in 2012 and 2013, it is expected that Saudi Arabia will continue to forcibly deport migrants across its border with Yemen.³⁴⁶ As described in the section on Yemen, the number of stranded migrants on the Yemeni side of the border has increased as a result.

If not deported towards the Yemeni border, irregular migrants are also detained in Saudi Arabia, often in Jizan prison, close to the border with Yemen. Respondents in the DRC/RMMS study reported appalling conditions in prison, including poor sanitation, limited food and water, no access to medical care and violent beatings by the prison guards.³⁴⁷

Returning migrants

Saudi Arabia has also been undertaking the repatriation of irregular Somali migrants from the Kingdom, who after being held in detention centres are returned on chartered planes in groups of approximately 80 to 90 persons to Somalia. While it has been noted that there has been an increased number of flights from Saudi Arabia to Somalia, there is no mechanism in place to monitor the volume of migrants returning from Saudi Arabia.

³⁴³ DRC and RMMS, 2012, p. 52.

³⁴⁴ *Ibid.*, p. 43.

³⁴⁵ *Ibid.*, p. 44.

³⁴⁶ *Ibid.*, p. 26.

³⁴⁷ *Ibid.*, p. 44.

3.10 Israel

Overview of mixed migration

- *Israel as a country of asylum*: The Population, Immigration and Border Authority of Israel states that 59,858 asylum seekers entered Israel between January 2006 and March 2012. Of these, 57% (33,912) were from Eritrea and 26% from Sudan.³⁴⁸
- *Irregular migration to Israel*: Lacking legal migration opportunities, many Eritreans are smuggled through the Sinai desert to Israel.³⁴⁹

Legislation

- *International conventions*: Israel has ratified the *Convention relating to the Status of Refugees* and its *Protocol*, with reservations in relation to Article 8 (*Exemption for Refugees from Exceptional Measures*) and Article 12 (*Personal Status of the Refugee*). Israel is also party to the *United Nations Convention on the Elimination of all Forms of Discrimination Against Women* as well as the *Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons*, but not the *Protocol against the Smuggling of Migrants by Land, Sea and Air*.³⁵⁰
- *National legislation (immigration and asylum)*: in response to the recent increase in mixed migration to the country, Israel's immigration policy has become more stringent. On January 10, 2012, the *Amendment to the 1954 Prevention of Infiltration Law* was passed in the Israeli Parliament. From then on, all irregular border-crossers are defined as 'infiltrators'. This indicates there is no distinction anymore between refugees, undocumented migrants or those with an intention to harm Israel's security. As a consequence, all infiltrators, except for unaccompanied minors, can be detained by the Israeli authorities for three years before deportation.³⁵¹

New Israeli policy preventing migrants entering Israel

As a result of the growing number of migrants and asylum seekers in Israel, immigration policy in Israel has tightened. Despite being a signatory to the Geneva Convention, Israel has recently taken several stringent actions to both prevent migrants from entering the country and to forcibly return migrants to Egypt and the Sinai.³⁵² In addition to more restrictive legislation, as described above, the Israeli government has implemented other deterrence measures, such as the construction of a 240km fence along the Sinai (Egypt)-Israeli border.³⁵³ In October 2012, a joint report by Human Rights Watch, the Hotline for Migrant Workers, and Physicians for Human Rights was released, revealing that migrants continue to be pushed back from the Israeli border. The report documents the use of force such as firing warning shots, throwing stun grenades and teargas to discourage migrants from crossing the border into Israel.³⁵⁴

Consequently, there has been a drop in border crossings to Israel. In August 2012, for example, the number of migrants who entered Israel

348 van Reisen, Estefanos and Rijken, 2012, p. 75.

349 Humphris, 2013, p. 4.

350 van Reisen, Estefanos and Rijken, 2012, p. 74; see also section 2.4.

351 Humphris, 2013, p. 4.

352 van Reisen, Estefanos and Rijken, 2012, p.

353 Humphris, 2013, p. 4.

354 Hotline for Migrant Workers and Physicians for Human Rights - Israel, 2012, p. 13.

was estimated at 191, compared to an average of 1,000 in the months preceding Israel's clamp down. In July 2012 the number had already fallen to 268. A total of 36 migrants crossed into Israel from Egypt in December 2012, all of whom were detained, compared with 2,295 in January of the same year. The numbers steadily declined throughout 2012 and have now almost dropped to zero.³⁵⁵

In addition to its tougher approach to border security, Israel has also implemented a number of harsher internal policies towards its migrant population, including the construction of a 10,000 person detention centre in the Negev.³⁵⁶ Reportedly there are currently some 1,700 migrants in detention in Israel.³⁵⁷ Another measure, announced by the Immigrant Absorption Ministry in May 2012, was a reduction of 5.5 million Israeli Shekel (ILS) in the budget for integrating Ethiopian migrants³⁵⁸ already in Israel. The funds for immigrants from other countries will be cut by only hundreds of thousands ILS.

These new Israeli policies, as well as the continued kidnappings and torture of Eritrean migrants in the Sinai (described in the section on Eritrea), have restricted travel through the Sinai into Israel. As a result, the existing western route through Libya may become increasingly popular, despite the relatively high costs to migrants, exposure to indefinite detention in Libya and significant local hostility towards sub-Saharan migrants.³⁵⁹ However, recent reports from agencies in Cairo working with released kidnapped migrants indicate that Eritreans are being kidnapped from within their country and sold to smugglers in Sudan before being forcibly smuggled to Egypt. These survivors apparently had no intention of migrating but were captured from within Eritrea. Therefore the brutal ordeals of Eritrean 'migrants' or kidnapped people in Egypt continues irrespective of Israel's border changes.

Forced returns and illegal deportations

Besides preventing migrants from entering, Israel has also taken measures to deport migrants, as demonstrated by recent incidents:

- *March 2012*: the Israeli Minister of Interior announced that all South Sudanese asylum-seekers - an estimated 700 – 1,000 persons - would have to repatriate by the end of the month or be declared illegal foreigners: they would no longer be afforded protective status. The Minister stated that South Sudan was now an independent country and safe for return. Following this announcement, Israel also deported migrants from Ethiopia, Ivory Coast and Ghana.
- *February 2013*: UNHCR demanded that Israel provide an explanation for the secret deportation of more than 1,000 Sudanese migrants via a third country. Israel's Border and Immigration authority stated that hundreds of Sudanese migrants had agreed to return to Sudan voluntarily, and refutes claims that the country deports migrants against their will. Sudan, however, defines Israel as an enemy state and allegedly prohibits any of its citizens from travelling to Israel. As a result, deportees face imminent danger and even death upon return. Israel had apparently attempted to protect the migrants by deporting them

355 RMMS, 2013d.

356 Humphris, 2013, p. 4.

357 World News, 2013.

358 Approximately USD 1.5 million, exchange rate of 1 ILS = 0.274290 USD, as of March 29, 2013.

359 RMMS, 2013a.

via an unnamed third country to conceal their origin: migrants claim Jordan and Egypt act as countries of transit.

Until recently, Eritreans had been exempted from the repatriation and deportation orders, as returning them would be in contravention of the *1951 Refugee Convention* to which Israel is a signatory. However, on some occasions their rights have also been contravened.

- *February 2012*: Israel attempted to deport 25 Eritrean asylum seekers, in violation of international conventions, according to an Israeli NGO supporting the rights of migrants.³⁶⁰ The group were pressured by Israeli immigration officials to sign a declaration consenting to removal from Israel to Uganda. When they discovered they were scheduled to travel to Eritrea, however, they refused to board the plane.
- *August 2012*: 21 Eritrean migrants who had entered Israel through Egypt were stranded at the border. Technically it was argued that they were on Israeli soil but had not crossed the fence. While the matter was being legally considered, 18 were forced back into Egypt, while three (two women and a male minor) were let in on humanitarian grounds.

360 JTA, 2013.

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Israel

3.11 Other countries

In this section, mixed migration issues and responses by governments and non-state actors in four countries in the proximity of the Horn of Africa are briefly summarised.

South Sudan

Overview of mixed migration

- *Return migration to South Sudan:* South Sudan's independence in July 2011 triggered return migration from Sudan and elsewhere in Africa. Between 2010 and early June 2012, over 390,000 people of Southern Sudanese origin crossed the border from Sudan to South Sudan. Forecasts of the number of South Sudanese due to return in the near future range between 100,000 and 500,000.³⁶¹ This adds to the major socio-economic challenges South Sudan is already suffering, such as inter-communal violence, rebellions by militia groups and localised conflicts over land and natural resources.
- *South Sudan as a country of asylum:* for some time the number of refugees in South Sudan remained stable at 32,000, but by mid-2012 the rapid arrival of many more refugees than UNHCR had expected and the onset of the rains, which caused flooding and hampered access to camps, had brought the situation to crisis level. In particular, in 2012/13 South Sudan received increasing numbers of refugees from the Democratic Republic of Congo (DRC) and the Central African Republic (CAR), fleeing attacks by the Lord's Resistance Army (LRA).³⁶²
- *Internal displacement within South Sudan:* localised conflict spurred the internal displacement of approximately 80,000 South Sudanese in Jonglei State in the first quarter of 2012, adding to the existing population of 270,000 IDPs in different parts of South Sudan, bringing the total to 350,000 IDPs. UNHCR expects the number of IDPs to remain high in 2013, as the unstable security situation persists.³⁶³
- *Irregular migration to South Sudan:* substantial numbers of irregular migrants are entering South Sudan due to a lack of reliable border controls along the borders with its six neighbouring countries. According to data from all the entry points to South Sudan, about 40-45,000 immigrants come to South Sudan every year, most of them (20,000-25,000) through Nimule at the border with Uganda.³⁶⁴ South Sudan, and in particular its capital city Juba, is now harbouring tens of thousands of undocumented migrants, mostly from Kenya, Uganda, Ethiopia, Eritrea and even Somalia.³⁶⁵

Legislation

- *International conventions:* South Sudan is a young state, having gained independence on July 9th, 2011. It is still putting legislation, frameworks and policies in place.³⁶⁶ Nevertheless, it has already ratified seven ILO conventions and the *Geneva*

361 IFRC, 2012a, p. 2.

362 UNHCR, 2012c, p76-80.

363 Ibid.

364 The Niles, 2013.

365 All Africa, 2013.

366 Ngunyi and Oucho, 2012, p. 76.

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*Conventions*³⁶⁷, and it is expected that it will soon also ratify the *Kampala Convention*³⁶⁸.

- National legislation (asylum): In June 2012, the president signed into effect a *Refugee Provisional Order (Refugee Act)* drawing on international standards on refugee rights and a *Provisional Order* that realised at a national level the terms of the *Geneva Conventions*.³⁶⁹
- National legislation (trafficking and forced labour): *The Nationality Act* (2011) and the *Passports and Immigration Act* (2011) manage migration and displacement. Sections of the *Penal Code 2008* address aspects of irregular migration and human trafficking, including kidnap, forced labour and prostitution. Children, including refugees and internally displaced minors, are protected under the *Child Act*.³⁷⁰

Institutional framework

- *The Ministry of Interior* handles migration and population movement and has responsibility for refugee matters, the registration and control of the movement of IDPs, and the prevention and investigation of human trafficking.³⁷¹
- Migration control and management are a police function and handled by the *Directorate of Passports, Immigration and Nationality*.
- Migrant labour issues are the responsibility of the *Ministry of Labour, Public Service and Human Resource Development*, which regulates the employment of aliens through the issuance of work permits.³⁷²
- *UNHCR* assists the Ministry of the Interior to build its asylum-related capacity and assists the Government of South Sudan works in the development of regulations to realise the *Refugee Act*.³⁷³ *UNHCR* also has a close partnership with the *Relief and Rehabilitation Commission (RRC)*, the main governmental counterpart mandated to manage the repatriation, relief, rehabilitation and reintegration of returnees and IDPs.³⁷⁴

Responses

Deportation

In an effort to curb irregular migration in South Sudan, the Deputy Interior Minister recently confirmed the deportation of 100 irregular migrants a day, most of them to Uganda.³⁷⁵ In 2012, more than 500 irregular migrants were deported from South Sudan.³⁷⁶ Irregular migrants are blamed for rising insecurity in South Sudan. The Government plans to enhance checks in the border areas of Nimule, Aswa, Nesitu, Upper Nile, Warrap, Unit and Western Barel Ghazal states to verify the background of migrants.

367 *Forced Labour Convention; Organise and Collective Bargaining Convention; Equal Remuneration Convention; Abolition of Forced Labour Convention; Discrimination (Employment and Occupation) Convention; Minimum Age Convention; Worst Forms of Child Labour Convention*. All ratified on 29 April, 2012; ILO/NORMLEX: Information System on International Labour Standards.

368 UNHCR, 2012c, p76-80.

369 Human Rights Watch, 2012b.

370 Ngunyi and Oucho, 2012, p. 73.

371 UNHCR, 2012c, p76-80; Ngunyi and Oucho, 2012, p. 69.

372 Ngunyi and Oucho, 2012, p. 70.

373 UNHCR, 2012c, p76-80.

374 *Ibid.*

375 Sudan Tribune, 2013.

376 The Niles, 2013.

Trafficking

South Sudan is classified as a Tier 2 Watch List country in the latest US Department of State's *Trafficking in Persons Report*. This means that the country does not comply with the minimum standards for the elimination of trafficking, but is making efforts to do so. The report cites South Sudan's lack of adequate mechanisms to prosecute those involved in trafficking and protect victims.³⁷⁷

Anecdotal evidence indicates that human trafficking is on the rise in South Sudan's urban centres. In August 2012, for instance, IOM helped two teenage victims of trafficking from Kenya who had been forced into domestic servitude in Juba. Later that year, IOM also assisted five trafficked children to repatriate to Uganda. With support from various ministries, IOM also provides training to security personnel and offers return and reintegration packages to trafficking victims.³⁷⁸

Assistance to refugees and access to basic services

A large number of organisations operate in South Sudan, overseen by an INGO Forum, supporting returnees in transitional settlements with emergency services as well as more long term developmental support in food security and livelihoods at their final destination.³⁷⁹ For example, the International Rescue Committee (IRC) opened an Information and Counselling Center in Juba in November 2012. This is one component of a programme that provides support to an estimated 6,000 urban refugees displaced by conflict in Sudan.³⁸⁰

Return of refugees

Since 2005, UNHCR has enabled the return of more than 334,000 refugees from exile in the Central African Republic, the Democratic Republic of the Congo, Egypt, Ethiopia, Kenya and Uganda. UNHCR is helping the government to develop a facilitative environment for their voluntary return and reintegration. UNHCR and IOM also co-chair the Emergency Returns Sector to assist returnees from Sudan.³⁸¹

Sudan

Overview of mixed migration

- *Sudan's vulnerable migrant population:* As of late 2012, the population of concern for UNHCR includes 2.3 million IDPs, some 140,000 refugees and 7,000 asylum seekers. Most refugees are from Eritrea, Ethiopia, Chad, the Democratic Republic of the Congo and Somalia, but there is also a very significant IDP population in Darfur, Khartoum and the east of the country.³⁸²
- *Internal displacement within Sudan:* During 21 years of civil war over 4 million people were displaced. The crisis in Darfur persists and an inclusive peace agreement is still far away, which prevents the large scale safe return of over 2 million IDPs and refugees.³⁸³
- *Sudan as a country of asylum:* UNHCR estimates that in recent years approximately 1,000 - 3,000 persons enter Sudan from Eritrea every month. Of those on average 2,000 persons seek

377 US Department of State, 2012a, p. 317-319.

378 IOM, 2013b.

379 IFRC, 2012a, p 5.

380 IRC, 2013.

381 UNHCR, 2012c, p76-80.

382 Ibid, p.82-86.

383 Ngunyi and Oucho, 2012, p. 67.

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asylum in Sudan and are subsequently hosted in Shagarab camp.³⁸⁴ Shagarab camp, located in the east of the country hosts the largest concentration of refugees in Sudan numbering over 86,000 up to 2012.³⁸⁵

- *Emigration of Sudanese nationals*: Sudan produces a substantial outflow of economic migrants. In 2011, the number of Sudanese economic migrants was estimated at between 880,000 and 1,338,000. Over half of them are in Saudi Arabia, the rest in other Arab countries and a smaller proportion in Western countries.³⁸⁶ Sudanese in Saudi Arabia tend to be mostly male single workers and the majority feature in low-skilled occupations. Nevertheless, a significant proportion work in white collar jobs and high-skilled positions in medicine, law, business, education and other sectors.³⁸⁷

Institutional framework

- *Sudan does not have a comprehensive migration management framework*. A large number of ministries and national bodies are engaged in different elements of migration policy and management.³⁸⁸
- UNHCR monitors the Government's RSD at Shagarab camp.
- A *Commissioner for Refugees* was established by the *Asylum Act*.

Legislation

- *International conventions*: Sudan is a party to the *Convention relating to the Status of Refugees* and its Protocol and ratified the *OUA Refugee Convention*. Sudan also ratified the *United Nations Convention against Transnational Organized Crime*. Sudan did not ratify the *Palermo protocols* or the *Kampala Convention*.
- *National legislation (asylum)*: Sudan's *Asylum Act* generally follows the *1951 Convention* and *AU Convention* in defining refugees. The *Asylum Act*, however, does not prohibit *refoulement* and lacks clear criteria for expulsion. It provides the Ministry of Interior with the right to grant asylum in ongoing five year periods. The *1998 Constitution* provides that 'everyone who has lived in Sudan during their youth or who has been resident in Sudan for several years has the right to Sudanese nationality in accordance with law.' However, Sudan does not provide refugees with permanent residency or citizenship, irrespective of the duration of their stay in Sudan.³⁸⁹

Responses

Refugees and asylum seekers

- Almost all (97%) Eritrean asylum seekers entering the country are recognised as refugees. The small minority who are not awarded this status are typically permitted to remain on humanitarian grounds.
- Although Sudan has been relatively welcoming towards Eritrean refugees, protection is an ongoing challenge. For example, no refugee has the right to free movement within the country. Moreover, controls have become increasingly strict as a result of

384 Humphris, 2013, p.8.

385 van Reisen, Estefanos and Rijken, 2012, p. 29.

386 IOM, 2011a, p. 19.

387 Ibid.

388 Ibid, p. 22.

389 USCRI, 2009.

political tension following the separation of South Sudan in 2011 and a reinforced effort to prevent trafficking and smuggling.³⁹⁰

- More than 75% of the new arrivals remain in Shagarab camp for a short period only until they have received their refugee documentation. Sudan's restrictive encampment policy pushes many new arrivals to engage smugglers to move on in search of opportunities elsewhere.³⁹¹

Smuggling, trafficking and kidnapping

In 2012 it was reported that kidnappings, mainly of Eritreans travelling north-west through Sudan, were on the rise. A significant proportion of Eritreans even claimed to have been abducted from inside a refugee camp, particularly from Shagarab, as well as the area around Kessala camp. A number also reported being kidnapped from the Eritrea-Sudan border and from or en route to Khartoum.³⁹² Smuggled migrants and victims of trafficking report the involvement of Sudanese military, border patrols, police and guards working in the refugee camps in smuggling and trafficking practices.³⁹³

In 2012, a UNHCR policy development and evaluation service paper reported that the Sudanese government is drawing up anti-trafficking legislation, in consultation with IOM. The challenge will be the enactment and effectiveness of this legislation.³⁹⁴ An added difficulty is that the Sudanese government does not categorise these Eritrean movements as trafficking. Even if legislation is passed, it remains to be seen whether this will have an effect. Furthermore, though the Sudanese Government often requests financial assistance to help police the Sudan-Eritrea border, many security officials in the area may be profiting from the flows of Eritreans through Sudan. This poses a real obstacle for local capacity building.³⁹⁵

Some positive instances of collaboration to counter the current situation have emerged, however. In 2012, for instance, UNHCR in cooperation with IOM and local authorities launched a programme to target the trafficking, smuggling and abduction of refugees/asylum seekers into the country.³⁹⁶

Arrests and deportations

In 2009, personnel of the Ministry of the Interior's Alien Section frequently undertook sweep of Khartoum in districts with a large population of foreigners, including refugees and asylum seekers, to identify unauthorised migrants. Some refugees and asylum seekers were detained on accusations of espionage, as well as to coerce them into providing information on other migrants.³⁹⁷

From late 2011 on, there have been increasing reports of forcible returns of Eritreans by the Sudanese Government, including the deportation of 317 Eritreans in October 2011 without screening for refugee status. In July 2012, the government also forcibly returned nine asylum seekers and one refugee to Eritrea after imprisoning them without appeal. Again, UNHCR was not allowed to review their cases, even though at least one of the group was a recognised refugee. As Sudan is a signatory to the *1951 Refugee*

390 Humphris, 2013, p.8.

391 Ibid, p.9.

392 van Reisen, Estefanos and Rijken, 2012, p. 3.

393 Humphris, 2013, p.15; van Reisen, Estefanos and Rijken, 2012, p. 36.

394 Humphris, 2013, p.17.

395 Ibid.

396 UNHCR, 2012c, p. 82-86.

397 USCRI, 2009.

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Convention, these incidents amount to *refoulement*. It was subsequently reported that the group were tried back in Eritrea for illegal entry to Sudan, without access to lawyers and to translators.³⁹⁸

In the summer of 2012, Amnesty International urged Sudan to comply with its international legal obligations and stop all forced returns of refugees and asylum seekers to Eritrea, given the threat of imprisonment, violence and other rights abuses that they face back in Eritrea.³⁹⁹

Tanzania

Overview of Mixed Migration

- *Tanzania as a country of asylum*: as a peaceful and stable nation surrounded by countries with recurring civil and ethnic conflicts and political instability, Tanzania has received large numbers of refugees fleeing from Southern African countries and the Great Lakes region (mostly Rwanda, Burundi and Uganda). For decades, Tanzania hosted the largest refugee population in Africa, with almost one million persons from neighbouring countries. Due to recent naturalisation and repatriation programmes, refugee numbers have fallen considerably.⁴⁰⁰ In 2010 Tanzania granted citizenship to 162,156 refugees from Burundi, who had stayed in the country for more than thirty years.⁴⁰¹
- *Transit migration through Tanzania*: Tanzania's National Bureau of Statistics has no data at all on migration.⁴⁰² However, its geographical location, bordering eight countries, makes Tanzania a key transit country for irregular migrants heading towards Tanzania's southern borders with Malawi, Mozambique and Zambia, en route to South Africa. Tanzania witnessed an increasing flow of irregular migrants, including asylum seekers and displaced persons from the Horn and Eastern Africa (mainly Somalia and Ethiopia).⁴⁰³
- *The role of smuggling*: it was estimated in 2009 that 17,000 - 20,000 irregular migrants from Somalia and Ethiopia arrive through the use of smugglers in South Africa annually. Most of them transit through Tanzania.⁴⁰⁴
- *Human trafficking in Tanzania*: Tanzania has been identified as a country of origin, transit and destination for trafficked persons.⁴⁰⁵ In most cases trafficking is undertaken internally, with children relocated from rural to urban areas to be exploited as domestic workers, prostitutes or labourers in agriculture, fishing and mining. As a country of origin of trafficking, the majority trafficked out of the country are women exploited for prostitution and/or domestic work in Saudi Arabia, Dubai and South Africa.⁴⁰⁶
- *Emigration of Tanzanian nationals*: Emigration from Tanzania is insignificant, not exceeding 1% of the population. Most emigrants move to nearby East African countries. A very small number travel to Europe, the USA or the Middle East.⁴⁰⁷ Contrary

398 Amnesty International, 2012.

399 Ibid.

400 ACP, 2010b, p. 3.

401 Ngunyi and Oucho, 2012, p. 98.

402 ACP, 2010b, p. 3.

403 Ngunyi and Oucho, 2012, p. 94; IOM, 2012d.

404 Horwood, 2009.

405 Ngunyi and Oucho, 2012, p. 95.

406 Salazar, 2010, p. 11.

407 Ibid, p 10.

to the situation in many other African countries, the majority of Tanzanians do not wish to emigrate.⁴⁰⁸ Tanzania has a very low number of Tanzanian origin refugees (1,300 in 2007) and IDPs (almost non-existent).⁴⁰⁹

Institutional framework

- *The Department for Refugee Services* (Ministry of Home Affairs) is responsible for provision of asylum and refugee status, facilitating settlement, family reunification and local integration of naturalised refugees, and processing applications of refugee status. It also enables repatriation of refugees who voluntarily decide to return to their home countries.⁴¹⁰
- *The Immigration Department* (also Ministry of Home Affairs) deals with all other immigration issues, such as visas, passports and residence permits.⁴¹¹
- *The Cross Border Placement Unit of the Tanzania Employment Services Agency* (TaEASA; under the Ministry of Labour and Employment) caters for foreign employment of Tanzanians.⁴¹² The TaEASA intervenes directly between employers abroad and employees (who make their applications through the TaESA) and subsequently shortlists employees after which employers make their selection. The TaESA works closely with Tanzania's diplomatic missions abroad and organises pre-emigration workshops.⁴¹³
- *A Ministerial Task Force* (including the Ministry of Home Affairs, IOM, UNHCR and the national and International Red Cross) was established in 2008 to examine the phenomenon of mixed migration through Tanzania and to consider appropriate responses.⁴¹⁴

Legislation

- *International Conventions*: Tanzania is a party to the *Convention relating to the Status of Refugees* and its *Protocol* and ratified the *OAU Refugee Convention*. Tanzania also ratified the *United Nations Convention against Transnational Organized Crime and the Palermo protocols* and signed the *Kampala Convention* (but did not ratify).
- *National legislation (immigration)*: The *Immigration Act 1995* controls immigration in Tanzania.⁴¹⁵
- *National legislation (refugees)*: The *Refugee Act 1998* is the principal instrument dealing with refugees in Tanzania. According to Article 4, there are three categories of refugees: those who meet the criteria of the *1951 Convention*, those who fit the expanded refugee definition in the *1969 OAU Convention* and those who belong to a group of persons which by notice in the Government Gazette has been declared to be refugees. Article 6 and 7 of the *Refugee Act* established the National Eligibility Committee and defined its functions (considering applications for refugee status and recommending on granting or denial of refugee status and asylum).⁴¹⁶

408 ACP, 2010b, p. 3.

409 Ibid, p. 7.

410 Ngunyi and Oucho, 2012, p. 97

411 Ibid, p. 104.

412 Ibid, p. 96.

413 Ibid, p. 103

414 UNHCR and IOM, 2010, p. 26; The Ministerial Task Force on Irregular Migration, 2008.

415 Ngunyi and Oucho, 2012, p. 97.

416 Ibid, p. 95.

country sections

other countries

- *National legislation (trafficking)*: Since February 2009, Tanzania has had an *Anti-Trafficking in Persons Act 2008*. Article 5 of provides that the penalty for acts that promote human trafficking is two million to fifty million shillings⁴¹⁷ and one to seven years of imprisonment. The act provides for more tough penalties for severe cases of trafficking: for example, when children are trafficked or the crime is committed by a syndicate, military officials or involve life threatening conditions for the victim. The act established an anti-trafficking fund, with funding by the parliament, and contributions from NGOs, individuals, and the private sector and grants from bilateral and multilateral organisations. The fund is applied to support the needs of victims. Despite the act, however, only few cases of trafficking and smuggling have been arraigned in courts. The law is not well known in the country.⁴¹⁸

Responses

Government response to smuggling and trafficking

Tanzania is struggling with large numbers of irregular migrants who use the country as a transit corridor. Recently, the Home Affairs Deputy Minister cited corruption among immigration stakeholders as fuelling a massive syndicate that drives the smuggling of migrants in the sub-Saharan region. He urged the EAC and the SADC to make collective efforts to address this.

In June 2012, Tanzania launched a crackdown on irregular migration after an incident in which some 45 Ethiopian migrants in Tanzania suffocated while being transported in a truck, reflected in subsequent incidents:

- *July 2012*: the police arrested 11 illegal migrants (10 of them Ethiopians) in Moshi, Kilimanjaro region, after a tip-off from some residents. The migrants had entered Tanzania through Kenya and were on their way to South Africa. Prior to this, the police had arrested some 42 illegal migrants from Ethiopia and Somalia.
- *August 2012*: 24 immigrants from Ethiopia were arrested at Kitogoto village in Mwanga district. They were found hiding in the house of a local resident. The migrants were handed over to the Department of Immigration.

Detention of migrants

Migrants in Tanzania are frequently detained.⁴¹⁹ In a 2009 IOM study, many migrants on their way to South Africa from the Horn of Africa reported being imprisoned by Tanzanian authorities for several months. Circumstances in the prison as described by irregular migrants were dire, with degrading and even life-threatening conditions in some cases.⁴²⁰ In a 2011 survey by Asylum Access Tanzania on refugees in Dar es Salaam, 40% of the 122 respondents reported having been arrested and detained at least once. Some reported being arrested more than six times.⁴²¹

Labour migration

As with the other East African countries, Tanzania is in the process of facilitating the proposed free movement of labour, capital, goods and

417 Approximately USD 1,235 to USD 31,000, with an exchange rate of 1 TZS = 0.000617860 USD, as of March 29, 2013.

418 Ngunyi and Oucho, 2012, p. 102-103.

419 As illustration, in 2008 the Tanzanian Ministerial Task Force on Irregular Migration performed interviews with 1,100 detained migrants, mostly Somali and Ethiopian. The Ministerial Task Force on Irregular Migration, 2008.

420 Horwood, 2009.

421 Asylum Access Tanzania, 2012.

services in line with the *EAC Common Market Protocol*. Interestingly, Tanzania is also a member of the South African Development Community (SADC), which provides even further opportunities and challenges for the country to open to free movement.⁴²²

Deportation of Burundians

In late 2012, Tanzanian authorities undertook deportations of the country's remaining Burundian refugees who were not granted citizenship in 2010. In October 2012, after a screening exercise of some 38,000 Burundians living in the Mtabila refugee camp in the Kigoma region, the Tanzania authorities set a deadline of December 31, 2012 for repatriation. Reportedly, this led to a tense and uncertain atmosphere within the camps, resulting in many refugees moving to other countries such as Mozambique. In mid-December 2012, Tanzania closed the Mtabila Camp. The refugees, many of whom were apprehensive about return to Burundi, were nevertheless repatriated.

country sections

other countries

Uganda

Overview of mixed migration

- *Uganda as a mixed migration destination*: historically, Uganda has experienced large influxes of economic migrants, refugees, asylum seekers and Asian entrepreneurs and workers.⁴²³
- *Uganda as a country of asylum*: by August 2012, Uganda hosted a total of more than 190,000 registered refugees and asylum-seekers. That year, Uganda experienced a renewed and large influx of Congolese refugees that reached emergency levels, with more than 40,000 Congolese seeking safety in Uganda. They joined other new arrivals, notably from South Sudan, Somalia, Burundi, Rwanda, Ethiopia and Eritrea, who were entering at a slower rate.
- *Urban refugees in Uganda*: since 2007, Uganda has seen a fivefold increase in the number of persons of concern to UNHCR living in urban areas - from 9,000 in 2007 to 48,000 in 2012. Most of them live in Kampala.⁴²⁴
- *International displacement within Uganda*: Uganda has known large numbers of IDPs in recent years. In 2006, the total number of IDPs was estimated to be over 1.5 million. Surprisingly, the conflict with the Lord Resistance Army (LRA) was not the direct cause of this massive displacement in Northern Uganda: it was in fact the result of the government decision in 1996 to force civilians into IDP camps, which it described as 'protected villages'. The encampment process was Uganda's policy to keep the LRA rebels at bay and to increase protection to the residents in Northern Uganda.⁴²⁵
- *Irregular migration to Uganda*: irregular migration into Uganda is substantial, although exact figures are unknown. Large numbers of foreigners have lived in Uganda for generations without formal authorisation.⁴²⁶
- *Human trafficking in Uganda*: a 2007 ILO study revealed strong evidence of trafficking in Uganda, especially domestic trafficking of children, concluding that the movement of boys and girls from rural areas to urban areas was on such a large scale that it had

422 IOM, 2012d.

423 Mulumba and Olema, 2009, p. 8.

424 UNHCR, 2012c, p. 88-92.

425 Mulumba and Olema, 2009, p. 13.

426 Ibid, p. 19-20.

taken on a life of its own and was almost considered the norm among the rural population.⁴²⁷ According to the research, there was little information on the actual number of children trafficked in Uganda, due to the ignorance of the community about the problem, apathy of enforcement agencies and the hidden nature of the practice.⁴²⁸ There are also reports on Uganda as a country of destination for trafficking. Pakistani, Indian and Chinese workers are reportedly trafficked to Uganda, while Indian networks are involved in trafficking Indian women to the country for sexual exploitation.⁴²⁹

Institutional framework

- *The Ministry of Internal Affairs* and the *Office of the Prime Minister* share the responsibility for Migration Management.
- *The Uganda Police Force* and the *Uganda Prisons Service* have the capacity to recommend and execute the detention or deportation of illegal immigrants and unwelcome persons.⁴³⁰
- *The Ministry of Foreign Affairs*, with the assistance of international agencies, mainly IOM, handles irregular movements such as smuggling and trafficking. IOM supported Uganda with the enactment of the *Trafficking in Persons Bill*, and assisted in developing an anti-trafficking agency.⁴³¹
- *The Office of Refugees* is responsible for all administrative matters concerning refugees in Uganda and is the secretariat for the Eligibility Committee, the government body responsible for Refugee Status Determination (RSD). *UNHCR* may attend the committee in an advisory role.⁴³²
- *The Prevention of Trafficking in Persons Office* is responsible for formulation as well as development of measures and policies to protect, assist and support victims.⁴³³

Legislation

- *International Conventions*: Uganda is a party to all international conventions as listed in the table in section 2.4 (the *Convention relating to the Status of Refugees* and its *Protocol*, the *OUA Refugee Convention*, the *United Nations Convention against Transnational Organized Crime*, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons* and the *Kampala Convention*) expect for the *Protocol against the Smuggling of Migrants*.
- *National legislation (immigration)*: *The Immigration Control and Citizenship Act* of 2004 deals with controlling migration into Uganda. Section 59 provides that employment without permit by foreigners is prohibited.⁴³⁴
- *National legislation (asylum)*: Uganda's *Refugee Act 2006* domesticated the provisions of the *1951 Convention* and *OUA Convention*, including freedom of movement and the right to work. Free movement of recognised refugees is however restricted by other laws and directives by the Commissioner for Refugees. *The Citizenship and Immigration Control Act* limits naturalisation and legal residency options for refugees.⁴³⁵

427 ILO, 2007, p. 1.

428 Ibid, p. v.

429 Mulumba and Olema, 2009, p. 18.

430 Ngunyi and Oucho, 2012, p. 53-54.

431 Ibid, p. 64.

432 Ibid, p. 60.

433 Ibid, p. 61-62

434 Ibid, p. 59.

435 UNHCR, 2012c, p. 88-92.

- *National legislation (trafficking): The Prevention of Trafficking in Persons Act* (enacted in October 2009) defines the parameters for offences, prosecution and punishment of offenders and the protection of victims of trafficking. Section 3 provides that a person who commits an offence is liable to imprisonment for fifteen years. As in other countries in the region, there are more severe penalties for cases of aggravated trafficking, such as child trafficking, adoption of children for exploitation, large scale trafficking, trafficking by public officers or law enforcement officers or a situation where the victim dies. Offenders are liable to imprisonment for life, and perpetrators of child trafficking may be liable to the death penalty. Every member of the community is obligated to report trafficking. The act imposes a fine or imprisonment for six years on any person who withholds information related to trafficking offences. The act also established the Prevention of Trafficking in Persons Office.⁴³⁶

Responses

Immigration

A 2009 study concluded that Uganda lacks a clear migration policy.⁴³⁷ Subsequently, a 2012 report concluded that, despite progress in the development of domestic instruments for migration management, the country still lacked a framework for effective regulation and coordination of migration matters at the national policy level.⁴³⁸ Currently the Ugandan Government is developing the first ever national immigration policy. It is planned to launch the policy in the third quarter of the financial year 2012-2013.⁴³⁹ The draft policy document is divided into seven sections, of which the third is on irregular migration (specifically migrant smuggling and human trafficking), the fourth on refugees and asylum seekers and the fifth on IDPs.⁴⁴⁰

IDPs

Uganda preceded the formulation of the *Kampala Convention* in 2009 with its own *National Policy for Internally Displaced People* (2004). This policy was developed in response to the IDP crisis in Northern Uganda and borrowed heavily from the UNOCHA Guiding Principles on Internal Displacement.⁴⁴¹ Uganda also mainstreams IDP policy in government operations by incorporating it into national development planning initiatives, such as the Northern Uganda Rehabilitation Programme (NUREP), North Uganda Social Action Fund (NUSAF) and the Peace Recovery and Development Plan (PRDP). All these initiatives have resettlement and rehabilitation of IDPs at the core of the objectives.⁴⁴²

Employment of migrants

Uganda is planning to place a cap on foreign workers, through the number of work permits issued, in order to support local staff. The Government also wants to ensure that labour entering the country leads to the transfer of skills and technical knowledge towards Ugandans. With regard to labour migration out of Uganda, the Government wants to establish a resource detailing foreign employment opportunities and conditions.⁴⁴³

436 Ngunyi and Oucho, 2012, p. 61-62.

437 Mulumba and Olema, 2009, p. v.

438 Ngunyi and Oucho, 2012, p. 56.

439 Ministry of Internal Affairs Uganda, 2012.

440 Ngunyi and Oucho, 2012, p. 56-57.

441 Ibid, p. 57.

442 Ibid, p. 53.

443 The Observer, 2012.

Increasing influx from the Democratic Republic of the Congo

In July 2012, Uganda called an emergency meeting with the 11-member International Conference on the Great Lakes Region to discuss the renewed flow of refugees from DRC: Uganda claims it is unable to deal with the scale of this influx. As of 2012, the transit camp in Uganda's Kisoro district was accommodating 16,000 refugees, 13,000 more than its original capacity. In early 2013, a significant flow of unaccompanied children from the DRC entered the country. The Uganda Red Cross Society and UNHCR provided these vulnerable minors with protection and support.⁴⁴⁴

444 UNHCR, 2013b.

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CRADLE: www.thecradle.or.ke

Danish Refugee Council: www.drc.dk

Don Bosco Planning and Development Office: <http://www.dbdon.org/>

FilmAid International www.filmaid.org

GOAL: www.goal.ie

Help Age International: www.helpage.org
International Committee of the Red Cross: www.icrc.org
International Federation of Red Cross and Red Crescent Societies; <http://www.ifrc.org/en/>
International Labour Organisation (ILO): <http://ilo.org/>
International Medical Corps: internationalmedicalcorps.org
International Organisation for Migration (IOM): <http://www.iom.int/cms/home>
International Rescue Committee: www.rescue.org
INTERSOS: www.intersos.org
Jesuit Refugee Service: www.jrs.net/
Lutheran World Foundation: www.lutheranworld.org
National Council of Churches of Kenya: <http://www.ncck.org/index.php/refugeeservice.html>
Norwegian Refugee Council: www.nrc.no
Refugee Consortium of Kenya www.rckkenya.org
Save the Children www.savethechildren.org
Society for Human Solidarity (SHS) <http://shsyemen.org/en/>
The International Federation of Women Lawyers – FIDA: <http://fidakenya.org/>
United Nations Development Programme: www.undp.org
United Nations High Commissioner for Refugees (UNHCR): <http://www.unhcr.org/cgi-bin/texis/vtx/home>
United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA): <http://www.unocha.org/>
United Nations Office on Drugs and Crime (UNODC): <http://www.unodc.org/>
United Nations Office United Nations Children’s Fund: <http://www.unicef.org/>
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World Food Programme: www.wfp.org
World Health Organisation www.who.int
ZOA www.zoa-international.com

Mixed migration flows in and out of the region involve hundreds of thousands of people and present serious protection, security and border control challenges to a wide range of stakeholders. The number of people on the move continues to increase while their welfare is threatened by unscrupulous smugglers and criminals and their status in different countries is often uncertain.

In addition the region is bracing itself for the potential return of over 1 million Somali refugees: governments and agencies are struggling to formulate policies and assistance responses that adequately meet the present and anticipated needs.

This report is the third in the RMMS research series and focuses on the regional and national responses to mixed migration in the Horn of Africa and Yemen region (and some selected neighbours), charting the responses of policy makers, law makers, donors and implementing agencies (international and local) to these rising challenges.



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