

JOURNAL of MODERN SLAVERY

A Multidisciplinary Exploration of Human Trafficking Solutions

Volume 8, Issue 1, 2023

Forced into Slavery: Eritreans Caught Between Refugee and Migration Policies

Lucy Hovil

Refugee Law Initiative, University of London

Sasha Jesperson

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

Cover Art by **Kristína Uhráková**

Forced into Slavery: Eritreans Caught Between Refugee and Migration Policies

Lucy Hovil

Refugee Law Initiative, University of London

Sasha Jespersion

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

Abstract

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Forced Migration of Eritreans

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

thousands more living in urban areas and outside of camps, the total number registered was 181,393.¹⁷ Since then, the conflict in the Tigray region has further eroded safety for refugees, and dramatically reduced the presence of humanitarian activity in Tigray.

First country of safety or an increasingly hostile environment?

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

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

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

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

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

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

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

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

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

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

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

²² Author interviews.

²³ Author interviews.

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

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

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

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

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

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

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

Crossing into Slavery

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

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

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

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

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

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

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

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

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

²⁸ RHIPTO (2020) XCEPT Policy Brief: Migration.

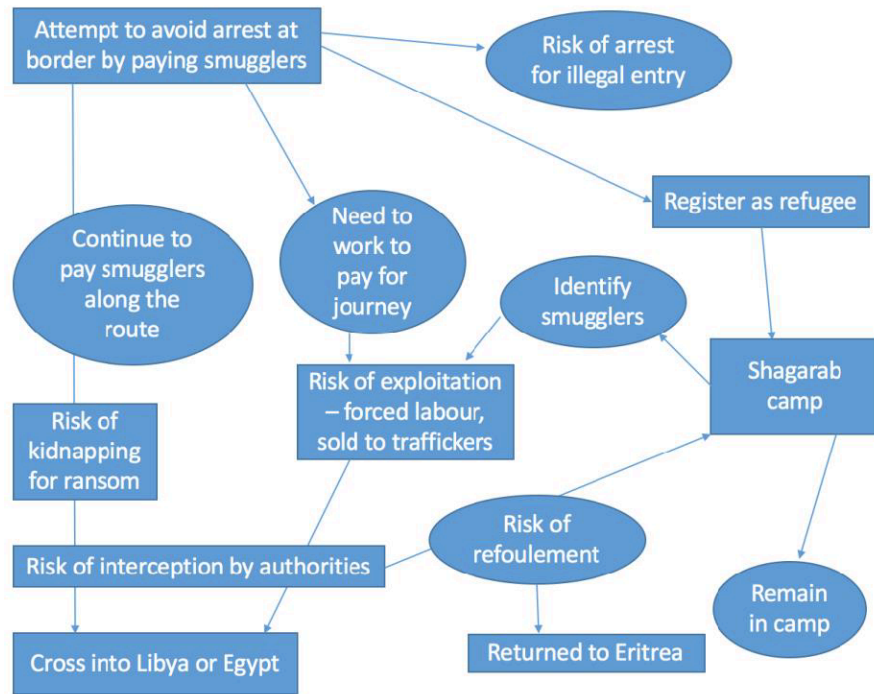


Figure 1: Challenges to Eritreans moving into and through Sudan²⁹

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

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

In between refugee and migration categories

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

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

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

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

³¹ Rome Declaration, p. 2.

³² Hovil and Oette

³³ Hovil and Oette, 2017.

³⁴ GI-TOC (2019) After the Storm

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

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

Mixed migration – an emperor without any clothes on?

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

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

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

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

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

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

Instead, wealthier states have effectively favoured approaches that enable them to sidestep their responsibilities despite written (albeit generally un-enforceable) commitments to the contrary. One result of this has been the increased focus on the idea of ‘mixed migration’ as a concept or category of migration. The term has been in use since the beginning of this century, and evolved as a way of describing situations where motivations for moving may be mixed; where refugees and non-refugee migrants make use of the same agents and brokers in order to travel; where they travel with others who have moved for different reasons; and where motivations for movement may change during their journey.³⁹ More recently the term has gained traction⁴⁰ partly as a result of increased visibility of migration to Europe and the need to find categories to describe a situation in which it was not always apparent how to label those who were moving. In the process, it has moved increasingly from being a primarily descriptive term to gaining weight as a category of policy.

While the concept of ‘mixed migration’ has always posed a significant policy challenge,⁴¹ there is growing disquiet around how deeply problematic it is as a term, not least because it is primarily driven by the concern of countries in the Global North⁴² and does not reflect the concerns of the states hosting the vast majority of the world's refugees.⁴³ As a result, it has been

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

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

⁴⁰ See, for instance, N. Van Hear, R. Brubaker, and T. Bessa, (2009). “Managing Mobility for Human Development: The Growing Salience of Mixed Migration.” Human Development Research Paper, 2009/20, June 1. https://www.mpra.ub.uni-muenchen.de/19202/1/MPPA_paper_19202.pdf; N. Van Hear, (2011) “Mixed Migration: Policy Challenges.” Mixed Migration Observatory, March, ; and more recently, Nicholas Maple, Susan Reardon-Smith & Richard Black (2020) “Immobility and the Containment of Solutions: Reflections on the Global Compacts, Mixed Migration and the Transformation of Protection”. *Interventions*, DOI: [10.1080/1369801X.2020.1845775](https://doi.org/10.1080/1369801X.2020.1845775)

⁴¹ Van Hear, 2011.

⁴² Inder and Garlick (forthcoming), in Maple et al 2020.

⁴³ Maple et al, 2020.

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

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

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

Conclusion

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

⁴⁴ Christina Oelgemöller, 2020, “Mixed Migration and the Vagaries of Doctrine Formation Since 2015”. *Interventions*, December 2020.

⁴⁵ Maple et al, 2020.

⁴⁶ Maple et al, 2020.

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

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

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

Bibliography

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

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

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

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

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

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

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

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

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

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

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

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

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

RHIPTO (2020) XCEPT Policy Brief: Migration.

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