FATAL JOURNEYS OF DISPLACED AFRICAN MIGRANTS CROSSING THE MEDITERRANEAN: INTERNATIONAL AND REGIONAL EFFORT AND RESPONSE

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Abstract

Global forced displacement reached an unprecedented high of 65.6 million people in 2016, according to the United Nations High Commissioner for Refugees. The Mediterranean Sea has claimed the lives of thousands of displaced migrants, many of whom are children and women fleeing war, harsh climatic conditions and poverty. The United Nations, African Union and the European Union have legal apparatuses to guide efforts and responses to the fatal journeys of Africans crossing the Mediterranean. Lack of safe and legal pathways increases displaced migrants' vulnerability to smuggling, sexual exploitation and other forms of human rights abuses. This paper examines international and regional institutions' efforts and responses in grappling with the enforcement and implementation of effective law and policy to address the migration crisis. The limitations of empirical data and scholarly research challenge in-depth examination of fatal journeys across the Mediterranean. By the same token, a shortage of material on the topic provides an opportunity to advance research with focus on the efficacy of national, regional and sub-regional migration law and policy.

Keywords: Displaced migrants, mixed migration, IDPs, forcibly displaced peoples, refugees, Mediterranean crossing, African Union, European Union, migration policy

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Introduction

Definitions

The Guiding Principles on Internal Displacement 1998 (Guiding Principles) defines internally displaced persons (IDPs) as:

> Persons or group 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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed internationally recognized state border.[1]

Article 1A (2) of the *United Nations Convention Relating to the Status of Refugees* 1951 (UNHCR Refugee Convention) states that a refugee is

> Any person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside of the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result is unable or, owing to such fear, is unwilling to return to it.

While there is no internationally agreed definition of a migrant, the International Organisation for Migration (IOM) defines a migrant as 'any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is'.[2] The United Nations (UN) believes that blurring of the terms 'refugees' and 'migrants' takes attention away from the specific legal protection refugees are owed under the *UNHCR Refugee Convention*.[3]

Sebastián Albuja and Marcela Ceballos argue that since it is challenging to distinguish the 'economic reasons for migration from those linked directly to conflict, violence and human rights violations', this tends to obscure the interchanging nature of the term 'refugees'.[4] Although there appears to be a clearer distinction between an IDP, a refugee and a migrant, Michael Aaronson

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[1] Francis Mading Deng, 'Report of the Representative of the Secretary-General: Guiding Principles on Internal Displacement' (Economic and Social Council Report E/CN.4/1998/53/Add.2, Office of the United Nations High Commissioner for Human Rights, 11 February 1998) 14, 1.

[2] Richard Perruchoud and Jillyanne Redpath-Cross, *IOM Glossary on Migration: Key Migration Terms* (International Organization for Migration (IOM), 2nd ed, 2011) 61 <https://www.iom.int/who-is-a-migrant>; International Organisation for Migration, *Who Is a Migrant?* (18 March 2016) International Organization for Migration: The UN Migration Agency <https://www.iom.int/who-is-a-migrant>.

[3] United Nations High Commissioner for Refugees, *'Refugees' and 'Migrants' – Frequently Asked Questions (FAQs)* (16 March 2016) UNHCR <http://www.unhcr.org/news/latest/2016/3/56e95c676/refugees-migrants-frequently-asked-questions-faqs.html>.

[4] Sebastián Albuja and Marcela Ceballos, 'Urban Displacement and Migration in Colombia' (2010) 34 *Forced Migration Review* 10, 10.

cautions against the use of 'labels and negative connotations'.[5] While appreciating the validity of reserving rights for refugees under international law, Aaronson emphasises '…the movements of person without the protection of rights', citing mixed migration flows of refugees from Syria and migrants from Africa in the Mediterranean region.'[6] Irrespective of labels, members of these groups are on the move. In many cases, a person is first internally displaced before attempting to make the treacherous journey across the Mediterranean before then finally claiming refugee status at their destination.

To this end, for the purpose of this paper, the expression 'displaced migrants' is used collectively for internally displaced peoples, refugees and migrants who, for whatever reason, feel compelled to leave their places of habitual residence across Africa and make the deadly journey across the Mediterranean. 'Internally displaced people' is pluralised to reflect the diversity of mixed migration populations. The word 'forced' or 'forcibly' is placed before migration, migrants or displaced to connote the compulsion or involuntary decisions made by displaced persons to leave their homes or places of habitual residence. In instances where emphasis is placed on the displacement of sexes, the following order is preferred: 'children, women and men' or 'girls and women'. Prioritising the young and female undergirds a feministic approach to valuing the experiences of those who bear the greatest brunt of displacement especially when such migration is caused by war or conflict. As there are extremely limited scholarly resources and empirical data available on this topic, a significant amount of the resources drawn on in this paper are taken from international organisations (e.g. the UN) and media print.

What is Mixed Migration?

Migration across the Mediterranean is mixed rather than irregular,[7] meaning that reasons for migration are diverse even though the same route is being used.[8] As stated above, the recent global mixed migration crisis, especially with respect to fatal journeys across the Mediterranean, has heightened existing controversy around the interchangeability of the terms 'migrant' and 'refugee'. In this regard, the *African Union's African Common Position on Migration and Development* 2006 stresses that mixed migration flows could be voluntary, involuntary, forced, legal or undocumented, and 'encompass all social categories, including refugees, internally displaced persons, nomads migrating in search of pasturelands, young and women setting off from the country side in search of job opportunities in the city, employment seekers, and, increasingly, qualified persons, women and children under the age of 18'.[9] The root causes, or the push-pull factors, of migration are complex and diverse. Nevertheless, '[i]n Africa, poor socioeconomic conditions, such as low wages, high levels of unemployment, rural underdevelopment, poverty and lack of opportunity'; as well as war, natural disaster and other unfavourable climate conditions, are the main drivers of migration. It is against this backdrop that the use of the term displaced peoples in this paper broadly includes internally displaced persons, refugees and migrants.

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[5] Sir Michael Aaronson, *Refugees, Migrants, IDPs: Protecting People on the Move—without Distinction* (9 October 2017) Humanitarian Law & Policy <http://blogs.icrc.org/law-and-policy/2017/10/09/refugees-migrants-idps-protecting-people-on-the-move-without-distinction/>.

[6] Ibid.

[7] There is not universally accepted definition of irregular migration. However, the International Organisation for Migration defines irregular migration as Movement that takes place outside the regulatory norms of the sending, transit and receiving countries (*see*, https://www.iom.int/key-migration-terms).

[8] Judith Kumin, 'The Challenge of Mixed Migration by Sea' (2014) 45 *Forced Migration Review* 49, 49.

[9] Executive Council, 'African Common Position on Migration and Developmen African Union Ninth Ordinary Session' 1 <http://www.un.org/en/africa/osaa/pdf/au/cap_migrationanddev_2006.pdf>.

Global Migration Trends
International migration reached 244 million in 2015 and has rapidly increased in the last 15 years.[10] Continentally, nearly two thirds of all international migrants live in Europe (76 million) or Asia (75 million).[11] North America hosted the third largest number of international migrants (54 million), followed by Africa (21 million), Latin America and the Caribbean (9 million) and Oceania (8 million).[12] Most migrants worldwide (157 million or 64 per cent) originate from middle-income countries.[13] Migration is generally seen as an uplifting experience for most people, yet women and children migrants, in particular, are often exploited, abused and discriminated against.[14]

In 2015, women comprised slightly less than half (117 million or 48 per cent),[15] while children made up slightly less than a third (31 million or 14 per cent) of all international migrants; 11 million people of whom are refugees and asylum seekers.[16] According to the *United Nations Development Program Human Development Report* 2009, internal migration involved 740 million people.[17] To be clear, the number of people living within their home country but outside of their region of birth is three times more than the current number of international migrants (244 million). In the same year (2015), a study conducted by IOM and the Global Migration Data Analysis Centre on public attitudes towards international migration between 2012 and 2014, which involved 183,000 adults across some 140 countries, found that people around the world are generally not opposed to immigration.[18] Based on interviews conducted by *Gallup World Poll* 2016, 43 per cent of participants favoured increasing or stabilising the numbers of immigrants in their countries, while 34 per cent supported lower levels of immigration.[19] The top 10 migrant destination countries reported in a study are the United Arab Emirates (UAE), Australia, Saudi Arabia, Canada, Germany, the United States (US), France, Spain, the United Kingdom (UK) and the Russian Federation.[20] Australians (30 per cent), Saudi Arabians (32 per cent), Canadians (22 per cent) and Emiratis (21 per cent) were mostly positive about immigration to their countries, while those in Russia (70 per cent), the UK (69 per cent), Spain (56 per cent) and France (44 per cent) preferred decreased immigration.[21]

'People in Europe, in fact, are the most negative in the world towards immigration, with the majority (52 per cent) saying immigration levels should be decreased.'[22] Moreover, university-educated adults are more likely than those with lower levels of education to want immigration

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[10] United Nations, 'International Migration Report 2015' (Department of Economic and Social Affairs, Population Division, 2016) 36, 1 <http://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/MigrationReport2015_Highlights.pdf>.
[11] Ibid 6.
[12] Ibid 1.
[13] Ibid 14.
[14] Ibid 2.
[15] Ibid 10.
[16] United Nations Children's Fund, 'Uprooted: The Growing Crisis for Refugee and Migrant Children' (UN Report, United Nations Children's Fund, September 2016) 140, 6, 14, 15 <https://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf>.
[17] Martin Bell and Salut Muhidin, 'Cross-National Comparisons of Internal Migration' (UN Report, United Nations Development Program, 2009) 66, 55 <http://hdr.undp.org/sites/default/files/hdrp_2009_30.pdf>.
[18] Neli Esipova et al, 'How the World Views Migration' (United Nations, International Organisation for Migration and Global Migration Data Analysis Centre, 2015) 68, 1 <https://publications.iom.int/system/files/how_the_world_gallup.pdf>.
[19] Frank Lackzo, *How the World Views Migration: Results from a New IOM/Gallup Report* (16 October 2015) Press Room <https://www.iom.int/news/how-world-views-migration-results-new-iomgallup-report>.
[20] Esipova et al, above n 18, 14.
[21] Ibid.
[22] Ibid 8.

levels kept at its present level or increased.[23] With the UK leading the way, Europeans converged in Berlin to 'scramble for Africa'.[24] The *General Act of the Berlin Conference on West Africa* (26 February 1885), signed by the UK, Austria-Hungary, Belgium, Denmark, France, Germany, Italy, the Netherlands, Portugal, Russia, Spain, Sweden and Norway, Turkey and the US, reads:

> Respecting: (1) freedom of trade in the basin of the Congo; (2) the slave trade; (3) neutrality of the territories in the basin of the Congo; (4) navigation of the Congo; (5) navigation of the Niger; and (6) rules for future occupation on the coast of the African continent, [i]n the mighty Name of God Almighty…wishing, in a spirit of good and mutual accord, to regulate the conditions most favourable to the development of trade and civilization in certain regions of Africa, and to assure to all nations the advantages of free navigation on the two chief rivers of Africa flowing into the Atlantic Ocean; being desirous, on the other hand, to obviate the misunderstanding and disputes which might in future arise from new acts of occupation (prises de possession) on the coast of Africa; and concerned, at the same time, as to the means of furthering the moral and material well-being of the native populations; have resolved, on the invitation addressed to them by the Imperial Government of Germany, in agreement with the Government of the French Republic, to meet for those purposes in Conference at Berlin…

How did a continent, with its 'God-given' civilisation and supernatural abilities to perfect a colonising and Christianising mission in Africa and the world, somehow develop such strong opposition to immigration? Adequate responses to the question are beyond the scope of this paper. Notwithstanding, a historical appraisal of the *Berlin Conference* 1884/85 provides a better understanding of forced migration trends of Africans across the Mediterranean and a platform to examine not only European attitudes but also the efficacy of their migration policy for Africa.

Forced Migration in sub-Saharan Africa
Of the 900 million people living in sub-Saharan Africa, the International Monetary Fund (IMF) reports that approximately 20 million were not living in their own country in 2013, and 13 million have migrated within the sub-Saharan Africa.[25] Cote d'Ivoire (2.3 million), South Africa (2 million) and Nigeria (0.9 million) were the three countries with the highest number of migrants from other sub-Saharan African countries in 2013.[26] Comparatively, the IOM estimates that about 4.6 million Africans lived in the European Union (EU) in 2005.[27] Although in terms of total population, the ratio of migration outside of sub-Saharan Africa is the smallest in the world at only 0.7 per cent, the number of displaced migrants produced on the continent is relatively high.[28]

In 2017, an unprecedented 65.6 million people around the world were forced from their homes, including 22.5 million refugees and 10 million stateless people, but only 189,300 were officially resettled in 2016.[29] Sub-Saharan African hosts more than 26 per cent of the world's refugee population.[30] Partly due to the ongoing crises in the Central African Republic, Nigeria, South Sudan and Burundi, some 18 million people in Africa are protected by the United Nations

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[23] Ibid 1.

[24] Robin Brooke-Smith and John Wroughton (eds), *The Scramble for Africa* (Macmillan, 1987) 38–39.

[25] Jesus R Gonzalez-Garcia et al, *Sub-Saharan African Migration: Patterns and Spillovers.* (International Monetary Fund, 2016) 2 <http://elibrary.imf.org/view/IMF062/23789-9781475546668/23789-9781475546668/23789-9781475546668.xml>.

[26] Gonzalez-Garcia et al, above n 25.

[27] Dirk Kohnert, 'African Migration to Europe: Obscured Responsibilities and Common Misconceptions' [2007] (49) *GIGA Working Papers* 1, 7.

[28] Gonzalez-Garcia et al, above n 25, 5.

[29] United Nations High Commissioner for Refugees, *Figures at a Glance* (2017) UNHCR <http://www.unhcr.org/figures-at-a-glance.html>.

[30] United Nations High Commissioner for Refugees, *Africa* (2017) UNHCR <http://www.unhcr.org/africa.html>.

High Commissioner for Refugees (UNHCR).[31] The Internal Displacement Monitoring Centre (IDMC) reports that some 40.3 million people were internally displaced in 2015, mainly due to conflict (26.9 million) and disasters (24.2 million).[32] Most of the global displacement occurred in sub-Saharan Africa, with 2.6 million (38 per cent) in the Democratic Republic of Congo (DRC), compared to 300,000 (4.5 per cent) in Europe and Central Asia.[33]

The supernatural ability Europe thought it possessed to 'exercise sovereign rights over the preservation of the native tribes of Africa' whereby 'Christian missionaries, scientists and explorers, with their followers, property and collections, shall likewise be the objects of especial protection,' did not materialise.[34] This is because for over a century after the Berlin Conference, the African continent has experienced famine, disease, illiteracy, and relentless violent conflicts, resulting in forced mass movement of Africans to Europe. The top nine countries with the largest populations of African immigrants are France, the UK, Germany, Italy, Spain, Belgium, Portugal, Turkey and Switzerland; the other nations with the highest number of African immigrants were original signatories to the Berlin Conference *General Act* 1884. Choosing Europe as a destination for African migrants is not only perceived as an unequal distribution of comparative advantages, but it is also linked to less transfer costs, stronger cultural ties and greater socioeconomic growth for former colonial powers.[35] Thus, it is not surprising that young Africans facing unemployment, inaccessibility to basic social services, violent conflict, climate change and development-induced displacement, dare to make the fatal journey across the Mediterranean.

Dirt Kohnert identifies, *inter alia*, two factors that are responsible for the intense rates at which Africans flock into Europe. First, because Europe fostered decades of corrupt and autocratic regimes with dire disregard for principles of good governance, an impact which constitutes politically-motivated migration today.[36] Secondly, amid doubt with respect to the EU's questionable conceptual framework to curb migration from Africa, Kohnert suggests that the increase in migrant flows from Africa to Europe come as a result of its contribution to 'Africa's economic misery due to its selfish external trade policy'.[37] Nowhere else is this misery so profound other than the Mediterranean, an ancient intercontinental sea with deep elongated irregular depressions,[38] which have claimed the lives of thousands of displaced Africans making their fatal journeys.

The State of the Mediterranean Crossing

Thousands of people flee violence, insecurity or persecution at home every day. Many attempt a deadly journey across the Mediterranean Sea to reach Europe, leading to a countless loss of life.[39] According to the IDMC, a total of 31.1 million new displacements were recorded in 125 countries and territories in 2016 alone, roughly equivalent to one person forced to flee every second.[40] The

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[31] Ibid.

[32] Alexandra Bilak et al, 'Global Report on Internal Displacement' (Internal Displacement Monitoring Centre, 2016) 108, 10 <http://www.internal-displacement.org/assets/publications/2016/2016-global-report-internal-displacement-IDMC.pdf>.

[33] Ibid 10, 12.

[34] *General Act of the Berlin Conference on West Africa* 1885

[35] Kohnert, above n 27, 7.

[36] Ibid 3.

[37] Ibid.

[38] Baruch Boxer and Mostafa Salah, 'Mediterranean Sea' <https://www.britannica.com/place/Mediterranean-Sea>.

[39] Medecins San Frontieres, *Mediterranean Migration* (20 June 2016) Médecins Sans Frontières (MSF) International <http://www.msf.org/en/topics/mediterranean-migration>.

[40] Bilak et al, above n 32, 9.

IOM affirms the highest numbers of death in the Mediterranean ever recorded was in 2016.[41] The IOM reports that of 387,739 people travelling to Europe *via* the Mediterranean in 2016 (Italy: 181,436; Greece: 173,561; Spain: 8,162; and Cyprus: 189), 5,079 died or were missing. As early as 2 April 2017, the Guardian's Patrick Wintour reported that '[a]s many as one million migrants are already on the way to Libya and Europe from countries across Africa, the former head of the British embassy in Benghazi has warned'.[42] As at 30 July 2017, the IOM had documented 114,287 arrivals and 2,385 deaths of migrants to Europe *via* the Mediterranean Sea. Of these, 94,802 (83 per cent) arrived in Italy alone, with 2,221 deaths. The remaining arrivals were distributed between Greece (11,280 migrants or 10 per cent), Spain (7,847 migrants or 7 per cent) and Cyprus (385 or 0.3 per cent).[43] The total number of migrant deaths migrants occurring in the Central Mediterranean, possibly originating from Libya, between 1 January 2016 and 30 July 2017, is 4,794.[44]

Whether migration is forced, economic or humanitarian, displaced peoples have often moved multiple times, both within country and across international borders, by the time they reach the shores of the Mediterranean. Persistent neglect, violence and abuse force migrants to flee from one location to another. Desperate to survive and to secure better living conditions, displaced peoples involuntarily and unwillingly become so-called 'economic migrants'. This transformation from an IDP or a refugee to that of an economic migrant is awash with dangers and fatalities. In 2016 and 2017 respectively, there was a total of 6,269 and 4,826 migrant fatalities recorded worldwide.[45] In both 2016 and 2017, the Mediterranean recorded the highest numbers of deaths, at 3,047[46] and 2,824 deaths, respectively.[47] Ninety-eight per cent (2,340) of all deaths occurred in the Mediterranean Sea in 2017, the majority supposedly originating from North Africa and the Horn of Africa. This is 52 times more than the 45 recorded migrant deaths from Turkey and to Greece.[48]

Countries of Origin of Displaced Peoples: Push and Pull Factors
In 2016, Amanda Sakuma wrote, '[a] massive wave of migration is crashing through North Africa, but there is only one major gateway to Europe…the largest flow of modern African migration funnels through a single country, Libya'.[49] A research report from the Berlin Institut indicated that, on average, migrants tend to be more poorly-educated and more frequently unemployed, and to

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[41] UNHCR Staff, 'Mediterranean Death Toll Soars, 2016 Is Deadliest Year Yet' *UNHCR News and Stories* (Geneva, Switzerland), 25 October 2016 <http://www.unhcr.org/afr/news/latest/2016/10/580f3e684/mediterranean-death-toll-soars-2016-deadliest-year.html>; International Organisation for Migration, 'Mediterranean Migrant Arrivals Top 363,348 in 2016, Deaths at Sea: 5,079' (Text and Images, International Organisation for Migration, 6 January 2017) <https://www.iom.int/news/mediterranean-migrant-arrivals-top-363348-2016-deaths-sea-5079>; Medecins San Frontieres, above n 39.

[42] Patrick Wintour, '1m African Migrants May Be En Route to Europe, Says Former UK Envoy' *The Guardian* (London, UK), 2 April 2017 <https://www.theguardian.com/uk-news/2017/apr/02/1m-african-migrants-may-be-en-route-to-europe-says-former-uk-envoy>.

[43] International Organisation for Migration, 'Mediterranean Migrant Arrivals Reach 114,287 in 2017; 2,385 Deaths' (Text and Images, International Organisation for Migration, 1 August 2017) <https://www.iom.int/news/mediterranean-migrant-arrivals-reach-114287-2017-2385-deaths>.

[44] Ibid.

[45] International Organisation for Migration, 'Missing Migrants: Tracking Deaths Along Migratory Routes' (Text and Images, International Organisation for Migration, 27 October 2017) <https://missingmigrants.iom.int>.

[46] International Organisation for Migration, 'Mediterranean Migrant Arrivals Reach 114,287 in 2017; 2,385 Deaths', above n 43.

[47] International Organisation for Migration, 'Missing Migrants: Tracking Deaths Along Migratory Routes', above n 45.

[48] Ibid.

[49] Amanda Sakuma, 'How Libya Became the Gatekeeper of Africa's Migrant Crisis' *MSNBC*, 16 May 2016 <http://www.msnbc.com/specials/migrant-crisis/libya>.

participate less in public life than the native population.[50] Consider the socio-economic and political state of the top 18 source countries of African migrants crossing the Mediterranean. African migrants from Senegal, The Gambia, Cote d'Ivoire, Ghana, Nigeria, Mali, Chad, Niger, South Sudan, Sudan, Kenya, Somalia, Ethiopia, Eritrea, Egypt, Algeria and Tunisia, all converge at several entry points in Libya *en route* to their final destination, a perilous journey to Italy via the Mediterranean Sea.[51] The popularity of journey routes rises and falls subject to the political and security circumstances existing in original and transit countries.[52] It comes as no surprise that all 18 source countries had experienced some sort of violent strife in the last decade. In 1982, Senegal, a relatively stable African nation, was embroiled in a 'low-intensity'[53] conflict regarding independence of the Casamance region.[54] It was not until April 2014 that the Casamance Movement of Democratic Forces declared a unilateral ceasefire.[55]

But for intense international pressure from the Economic Community of West African States (ECOWAS) military force, threats by Alpha Yahya Jammeh, who lost the December 2016 election, in The Gambia, would have resulted in full-blown political unrest.[56] The Cote d'Ivoire had been respected as a model of stability, but the controversial election of President Laurent Gbagbo led the country into civil unrest that lasted for 14 years. *United Nations Security Council Resolution 2284* 2016 provides for the shutdown of UN operations in the country on 30 June 2017, although security remains fragile.[57] A generally peaceful African nation, Ghana, has experienced low-level localised political unrest. In June 2012, 6,041 persons were displaced from Hohoe Zongo in the Volta Region as a result of communal violence sparked by the exhumation of the body of a local Muslim Imam.[58] July 2017 also saw hundreds of families displaced as homes were submerged due to spillage of the Weija Dam in Accra.[59]

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[50] Berlin Institut, 'Integration: Mixed Performance Record for Europe's Number One Immigration Country' 1 <http://www.berlin-institut.org/fileadmin/user_upload/Zuwanderung/090217_short_version_final.pdf>.

[51] Sakuma, above n 49.

[52] Sarah Hamood, 'African Transit Migration Through Libya to Europe: The Human Cost' (American University in Cairo, January 2006) 87, 43 <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.607.8876&rep=rep1&type=pdf>.

[53] Nancy Annan, 'Violent Conflicts and Civil Strife in West Africa: Causes, Challenges and Prospects' (2014) 3(1) *Stability: International Journal of Security & Development* 3, 1.

[54] Martin Evans, '"The Suffering Is Too Great": Urban Internally Sisplaced Persons in the Casamance Conflict, Senegal' (2007) 20(1) *Journal of Refugee Studies* 60, 63; Aïssatou Fall, 'Understanding the Casamance Conflict: A Background' (Text and images, Kofi Annan International Peacekeeping Training Centre, 2010) 39, 4 <https://www.africaportal.org/publications/understanding-the-casamance-conflict-a-background/>.

[55] BBC News, 'Senegal Profile' *BBC News* (Africa), 24 July 2017 <http://www.bbc.com/news/world-africa-14093813>; Natalie E Brown, 'ECOWAS and the Liberia Experience: Peacekeeping and Self Preservation' (Government, US Department of State, 1999) 32, 17 <http://smallwarsjournal.com/documents/brown.pdf>.

[56] Pavithra Rao, 'Gambia's Democracy Survives Political Turbulence' *Africa Renewal Online* (Banjul, The Gambia), July 2017 <http://www.un.org/africarenewal/magazine/may-july-2017/gambia's-democracy-survives-political-turbulence>.

[57] Joe Bavier, 'U.N. Closes Ivory Coast Mission, Security Remains Fragile' *Reuters*, 30 June 2017 <https://www.reuters.com/article/us-ivorycoast-un-peacekeepers/u-n-closes-ivory-coast-mission-security-remains-fragile-idUSKBN19L1VK>.

[58] Staff Reporter, 'Thousands Flee to Jasikan Following Clashes in Hohoe' *Ghana News Agency* (Jasikan, Ghana), 15 June 2012 <http://www.ghananewsagency.org/social/thousands-flee-to-jasikan-following-clashes-in-hohoe-44954>; Divine Yaw Amu, *Yough and Conflict in the Volta Region: A Case of Peki and Awudome Relations, 1990-2013* (Masters of Philosophy in African Studies, University of Ghana, 2015) 3; Benedict Anumel, *Assessing the Effectiveness of Conflict Resolution Mechanisms Used by National Peace Countil in Resolving the Alavanyo/Nkonya and Hohoes Conflicts in Ghana* (Master of Philosophy in Peace and Development Studies, University of Cape Coast, 2017) 77–79.

[59] Paul William Kojo Yankson et al, 'Assessment of Coastal Communities' Vulnerability to Floods Using Indicator-Based Approach: A Case Study of Greater Accra Metropolitan Area, Ghana' (2017) 89(2) *Natural Hazards* 661, 675, 680; Staff Reporter, 'Thousands Displaced as Ghana Spills Dam in Accra' *Ghana Web* (Weija, Ghana), 6 July 2017 <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Thousands-displaced-as-Ghana-spills-dam-in-Accra-556092>.

Ethno-religious conflicts have threatened peace and stability in Nigeria since the 1980s.[60] The July 2009 Boko Haram uprising has not only reinforced the imposition of Islamic ideology, but has also set a precedent that a radical Islamic sect could initiate global terrorism in Nigeria, as a secular state.[61] Boko Haram believes that false Muslims corrupt political leadership in Northern Nigeria, and it is only by waging war against them and the Federal Republic of Nigeria that a 'pure' Islamic state ruled by Sharia law can be created.[62] In March 2012, Boko Haram burnt down 12 public schools, forcing as many as 10,000 students out of school.[63] Since 14 April 2014, when over 270 Chibok school girls were kidnapped by Boko Haram in north-east Nigeria, at least 1.3 million children have been uprooted, orphaned and internally displaced, with thousands disappearing into Cameroon, Chad, Niger and other parts of Nigeria.[64]

Over the last two decades, Mali had been hailed as a democratic success story in Africa.[65] However, lengthy periods of severe drought in the 1970s and 1980s forcibly displaced the Tuaregs and other northern peoples.[66] Between January and April 2012, the Tuareg Rebellion waged war against the Malian government with the aim of gaining independence for Azawad, the northern region of Mali. The rebel attack intensified on the night of 22 March 2012, when then President of Mali, Amadou Toumani Touré, was overthrown for the poor handling of the crisis in the north. As violence ensued, the country plunged into a *de facto* partition,[67] whereby non-state armed/jihadist groups took over nearly two-thirds of the country, but for a French military intervention in January 2013.[68] In spite of the *Algiers Accords* 2015 and the United Nation's disarmament, demobilisation and reintegration process,[69] insecurity has increased in both northern and central Mali.[70]

In February 2015, the Boko Haram Sunni Jihadist group from northern Nigeria launched their first lethal attack on the fishing village of Ngouboua, Lake Chad, less than 100 kilometres from the Chadian capital.[71] Thousands of refugees, who had already fled Nigeria in January after an attack in Baga by Boko Haram, were again subjected to violence.[72] 'I don't want to stay here anymore, I fled Baga to come to Ngouboua and here too Boko Haram are attacking', said a Nigerian refugee named Halima, as reported by Reuter's Nako Majiasra.[73] Today, Chad remains fragile and faces security threats even as it withdraws hundreds of troops from Niger, where they

[60] Abimbola Adesoji, 'The Boko Haram Uprising and Islamic Revivalism in Nigeria' (2010) 45(2) *Africa Spectrum* 95, 1.

[61] Ibid; Freedom C Onuoha, 'The Islamist Challenge: Nigeria's Boko Haram Crisis Explained' (2010) 19(2) *African Security Review* 54, 1.

[62] Andrew Walker, 'What Is Boko Haram?' (Text Special Report 308, United States Institute of Peace, June 2012) 16, 1 <http://institutobrasilisrael.org/cms/assets/uploads/_BIBLIOTECA/_PDF/terrorismo/32b67518d6040e4b1dbde961d7b83472.pdf>.

[63] Ibid.

[64] Nathan H Chiroma, 'Providing Mentoring for Orphans and Vulnerable Children in Internally Displaced Person Camps: The Case of Northern Nigeria' (2016) 72(1) *HTS Teologiese Studies / Theological Studies* 1, 1; United Nations Children Fund, 'Beyond Chibok: Over 1.3 Million Children Uprooted by Boko Haram Violence' (Text and Images, UNICEF Regional Office for West and Central Africa, April 2016) 1 <https://www.unicef.org/infobycountry/files/Beyond_Chibok.pdf>.

[65] Sten Hagberg and Gabriella Körling, 'Socio-Political Turmoil in Mali: The Public Debate Following the "Coup d'etat" on 22 March 2012' (2012) 47(2/3) *Africa Spectrum* 111, 113.

[66] Ibid 115.

[67] Ibid 111.

[68] Andrew Lebovich, 'Reconstructing Local Orders in Mali: Historical Perspectives and Future Challenges' (2017) Paper 7(July) *Brookings Local Orders Paper Series* 1, 1.

[69] Ibid 16, 22.

[70] BBC News, 'Hotel Reopens after Mali Attack' *BBC News* (Africa), 15 December 2015 <http://www.bbc.com/news/world-africa-35101130>.

[71] Madjiasra Nako, 'Boko Haram Attacks Village in Chad as Revolt Spreads' *Reuters* (Ngouboua, Chad), 13 February 2015 <https://www.reuters.com/article/us-nigeria-violence-chad/boko-haram-attacks-chadian-village-overnight-idUSKBN0LH0OI20150213>.

[72] Ibid.

[73] Ibid.

are helping to fight against Boko Haram.[74] For the past two years, Boko Haram has been waging war in neighbouring Niger, devastating the country's development and destabilising its economy, particularly in the Diffa Region,[75] which currently hosts 221,790 displaced peoples from Niger and Nigeria due to Boko Haram-related insecurity.[76] Weeks after a deadly ambush on a joint US-Niger patrol, 13 paramilitary police were killed in south-west Niger, near the Malian borders.[77] To this end, the United Nation's Children Fund (UNICEF) 2017 humanitarian strategy sought to focus on severe acute malnutrition, including infant and young child feeding, targeting 309,175 children countrywide, as well as providing a multi-sectoral response to urgent basic care needed for 408,000 affected people in Diffa.[78]

Speaking of children, Tim Cocks and Edward McAllister argue that the cost of addressing socio-economic concerns of poor countries in West Africa is an enormous undertaking, especially considering fertility rates in the sub-region.[79] 'There are going to be too many people ... [and] the development you need will not be possible. You have to lower fertility rates and bring down population (by educating and empowering women).'[80] Cocks and McAllister believe that Niger, a vast and largely desert nation to the north of Nigeria, presents the starkest example of Africa's challenges.[81] With an average of 7.6 children per mother, the 2015 UN population projection puts Niger's population at 72 million by 2050.[82] Furthermore, frequent droughts in Niger cause hunger and malnutrition, especially in children under five years of age. This, coupled with low investment in education, environmental degradation and persistent poor health conditions, makes a resolution to Niger's migration problem a difficult task.

South Sudan is the world's newest republic, having gained independence from the Republic of Sudan on 9 July 2011. Unfortunately, immediately after its independence, South Sudan entered into its own violent conflict starting with ethnic clashes in Jonglei state that resulted in the death of at least 600 people and the displacement of 100,000 more.[83] By December 2013, conflict between ethnic rivals escalated into a full-blown civil war when President Salvir Kiir accused Riek Machar, the former Vice President, of plotting to oust him. South Sudan has become the largest

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[74] Boureima Balima and Emma Farge, 'Chad Withdraws Troops from Fight against Boko Haram in Niger' *Reuters* (Niamey, Dakar), 12 October 2017 <https://www.reuters.com/article/us-niger-security-chad/chad-withdraws-troops-from-fight-against-boko-haram-in-niger-idUSKBN1CH2T0>; International Crisis Group, 'Chad: Between Ambition and Fragility' (Text Africa Report No233, International Crisis Group, 30 March 2016) 34, i <https://d2071andvip0wj.cloudfront.net/233-chad-between-ambition-and-fragility.pdf>.

[75] International Crisis Group, 'Niger and Boko Haram: Beyond Counter-Insurgency' (Text Africa Report No245, International Cri, 27 February 2017) 38, 1 <https://d2071andvip0wj.cloudfront.net/245-niger-and-boko-haram-beyond-counter-insurgency.pdf>.

[76] United Nations Children Fund, 'Niger: Humanitarian Action for Children, 2017-2019' (Text and Images, Office of Emergency Programmes, UNICEF, 2017) 2, 1 <https://www.unicef.org/appeals/files/2017_Niger_HAC(1).pdf>.

[77] Staff Reporter, '13 Niger Soldiers Killed in Fresh Attack: Military' *The Citizen* (Johannesburg, South Africa), 21 October 2017 <https://citizen.co.za/news/news-africa/1698204/niger-attack-security/>.

[78] United Nations Children Fund, 'Niger: Humanitarian Action for Children, 2017-2019', above n 76, 1.

[79] Tim Cocks and Edward McAllister, 'Africa's Population Boom Fuels "unstoppable" Migration to Europe' *Reuters* (Dakar, Senegal), 13 October 2016 <https://www.reuters.com/article/us-europe-migrants-africa-analysis/africas-population-boom-fuels-unstoppable-migration-to-europe-idUSKCN12D1PN>.

[80] Ibid.

[81] Ibid.

[82] United Nations Department of Economic and Social Affairs, 'The World Population Prospects: Key Finds and Advance Tables' (Report, Population Division, Department of Economic and Social Affairs, 29 July 2015) 66, 24 <world-population-prospects-2015-revision.html>; Hans Groth and John F May (eds), *Africa's Population: In Search of a Demographic Dividend* (Springer, 2017) 159.

[83] BBC News, 'South Sudan Profile' *BBC News* (London, UK), 12 July 2017 <http://www.bbc.com/news/world-africa-14019202>.

source of displacement in Africa.[84] More than 281,000 new displacements occurred in South Sudan, including 1.9 million already IDPs by the end of 2016, the majority of whom were children, and 1.3 million who fled as refugees to neighbouring countries.[85] Following two missions to South Sudan, the UN Human Rights Council warns that a process of ethnic cleansing is underway in the country, as indicators for genocide simmer, notably hate speech, economic volatility, deliberate starvation, bombardment of and attacks against civilians, forced displacement and the burning of villages.[86]

Before South Sudan's independence from unified Sudan, the two countries had been embroiled in two civil wars, ending with the signing of a Comprehensive Peace Agreement in 2011.[87] With borders between the two countries still not officially defined, unresolved tension persists.[88] According to the IDMC, six of the 10 countries producing the highest number of refugees in 2016 (i.e. Afghanistan, Colombia, the DRC, South Sudan, Sudan and Syria) are also among the top 10 countries with the largest number of IDPs.[89] In 2003, the genocide in Darfur caught the world's attention as pro-Government Arab Janjaweed militias carried out systematic killings of non-Arab villages in southern Sudan.[90] An estimated 200,000 died, and at least 2.2 million were displaced from their homes. 236,000 sought refuge in neighbouring Chad and approximately 4.2 million people were directly affected by the conflict.[91] In December 2007, a flawed and disputed presidential election erupted into violent conflict in Kenya.[92] Described as the 'worst political crisis in Kenya post-colonial history', the massacre resulted in the deaths of at least 1,000 children, women and men, and internally displacing an estimated 600,000 Kenyans.[93] Ten years after the 2007 election dispute, the Supreme Court of Kenya nullified the 8 August 2017 elections, which were marred by human rights violations by Kenyan security forces accused of applying excessive force to break-up protests. Uncertainty, political unrest and tension swirled around the election period. Human Rights Watch reported that '[a]t least 12 people were killed by police in western counties of Kisumu and Siaya alone and another 33 in Nairobi during the violence'.[94]

Although Somalia Democratic Republic is not in an active state of war, the country is plagued with violence and insecurity.[95] Ongoing politically-driven communal clashes persistently

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[84] Human Rights Watch, 'South Sudan: Country Summary' (Human Rights Watch, January 2017) 6, 1 <https://www.hrw.org/world-report/2017/country-chapters/south-sudan>.

[85] Internal Displacement Monitoring Group, 'Global Report on Internal Displacement' (Internal Displacement Monitoring Centre, 2017) 129, 13 <http://www.internal-displacement.org/global-report/grid2017/>; Breanna V Kingsley, *The Effects That War Has on Children and Child Soldiers* (Bachelor Honours Thesis, Eastern Michigan University, 2017) 17 <http://commons.emich.edu/honors/527>.

[86] United Nations Human Rights Council, 'Report of the Commission on Human Rights in South Sudan' (Text A/HRC/34/63, Human Rights Council, 24 March 2017) 21, 17 <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/A_HRC_34_63_AEV%20final.docx.>.

[87] John Pike, 'Sudan - Third Civil War 2005- ????' <https://www.globalsecurity.org/military/world/war/sudan-civil-war3.htm>.

[88] Ibid.

[89] Internal Displacement Monitoring Group, above n 85, 50.

[90] Peace and Security Section, 'The United Nations and Darfur' 1 <http://www.un.org/News/dh/infocus/sudan/fact_sheet.pdf>.

[91] Ibid 4.

[92] Karuti Kanyinga, 'The Legacy of the White Highlands: Land Rights, Ethnicity and the Post-2007 Election Violence in Kenya' (2009) 27(3) *Journal of Contemporary African Studies* 325, 1.

[93] Oluwafemi Atanda Adeagbo and John-Mark Iyi, 'Post-Election Crisis in Kenya and Internally Displaced Persons: A Critical Appraisal' (2011) 4(2) *Journal of Politics and Law* 1 <http://www.ccsenet.org/journal/index.php/jpl/article/view/12009>.

[94] Human Rights Watch, 'Kenya Elections 2017' (Text and Images, Human Rights Watch, 23 October 2017) 4, 1 <https://www.hrw.org/blog-feed/kenya-elections-2017>; Human Rights Watch, '"Kill Those Criminals": Security Forces Violations in Kenya's August 2017 Elections' (Text and Images, Human Rights Watch, 15 October 2017) 37, 1 <https://www.hrw.org/report/2017/10/15/kill-those-criminals/security-forces-violations-kenyas-august-2017-elections>.

[95] Enough, 'Somalia' <https://enoughproject.org/conflicts/somalia>.

destabilise parts of the Shebelle Valley and northern Somalia.[96] Since the breakdown of the government in 1991, when then President Siad Barre was ousted, power struggles between clan warlords[97] have killed and wounded thousands of civilians, leaving many displaced and seeking refuge.[98] For instance, Al Shabaab, a radical offshoot of the Islamic Court Union that controls half of south-central Somalia with an estimated 7,000 to 9,000 fighters, continues to threaten peace and security with daily attacks, including criminal and political assassinations.[99] Eleven years ago, in 2006, one of the most violent examples of warfare erupted between the transitional government and insurgents in the southern and central regions of Somalia, with pockets in Baidoa and Mogadishu under government control.[100] Again, scores of civilians were killed even as the country's first known suicide bombing targeted former President Abdullahi Yusuf Ahmed.[101] Even though there is no reliable confirmation of the exact number of IDPs in Somalia, the IDMC's Global Report on Internal Displacement puts Somalia's total IDP figure at 1.1 million, after Sudan (3.3. million), the DRC (2.2 million), Nigeria (2.0 million) and South Sudan (1.9 million).[102]

Between 1974 and 1991, famine, drought, war and political instability ravaged Ethiopia and Eritrea, causing serious economic decline.[103] After a 30-year war, Eritrea gained independence from Ethiopia in 1993 *via* a referendum.[104] Half a decade later, a two-year border conflict between the two countries followed, resulting in the expulsion of hundreds of thousands of Eritreans from Ethiopia.[105] Facing the worst drought and food crises in 2015, the Ethiopian government estimated that 10.2 million people were in need of humanitarian assistance in the coming year, in addition to 7.9 million who were experiencing chronic food insecurity.[106] After 18 months of severe drought and food insecurity, 300,000 people were displaced in 2016 due to heavy rains and intense flooding.[107] The Ethiopian Human Rights Watch reported that unprecedented protests in the Oromia and Amhara region in 2015 and 2016 claimed the lives of more than 500 people.[108] Human Rights Watch described Eritrea as 'one of the world's most oppressive governments', having had 25 years of rule by an unelected President, Isaias Afwerki.[109] Despite independence from Ethiopia,

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[96] Ibid.

[97] Guido Ambroso, 'Clanship, Conflict and Refugees: An Introduction to Somalis in the Horn of Africa' (Text and Images, United Nations High Commissioner for Refugees, January 2002) 81, 2–13 <http://dspace-roma3.caspur.it/bitstream/2307/4150/1/Clanship,%20conflict%20and%20refugees_An%20introduction%20to%20Somalis%20in%20the%20Horn%20of%20Africa.pdf>.

[98] BBC News, 'Somalia Profile' *BBC News* (London, UK), 4 September 2017 <http://www.bbc.com/news/world-africa-14094632>.

[99] Daniel Agbiboa, 'Terrorism without Borders: Somalia's Al-Shabaab and the Global Jihad Network' (2014) 5(1) *Journal of Terrorism Research* 27, 27.

[100] Debarati Guha-Sapir and Ruwan Ratnayake, 'Consequences of Ongoing Civil Conflict in Somalia: Evidence for Public Health Responses' (2009) 6(8) *PLoS Medicine* e1000108, 1.

[101] BBC News, 'Somalia Profile', above n 98.

[102] Internal Displacement Monitoring Group, above n 85, 113–116.

[103] David P Lindstrom and Betemariam Berhanu, 'The Impact of War, Famine, and Economic Decline on Marital Fertility in Ethiopia' (1999) 36(2) *Demography* 247, 247; Edmond J Keller, 'Drought, War, and the Politics of Famine in Ethiopia and Eritrea' (1992) 30(04) *The Journal of Modern African Studies* 609, 609.

[104] Samuel G Weldeegzie, 'Growing-up Unfortunate: War and Human Capital in Ethiopia' (2017) 96 *World Development* 474, 475.

[105] Habtamu Wondimu, 'Ethnicity, Displacement and National Integration: Three Pronged Challenges to Ethiopia' (1998) 6(1) *Institute of Educational Research Flambeau* 60, 60.

[106] United States Agency for International Development, *Press Release: United States Announces $88 Million in Humanitarian Aid for Ethiopia* (18 December 2015) USAID News and Information <https://www.usaid.gov/news-information/press-releases/dec-18-2015-united-states-announces-88-million-humanitarian-aid-ethiopia>.

[107] Internal Displacement Monitoring Group, above n 85, 38.

[108] Human Rights Watch, 'World Report: Events of 2016' (Text and Images, Human Rights Watch, 2017) 704, 251 <https://www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf>.

[109] Ibid 246.

Eritrea's border disputes with Ethiopia (and now Djibouti) linger.[110] Eritrea does not feature in the IDMC's Global Report on Internal Displacement 2017. However, according to Relief World, of the 25,000 unaccompanied children arriving in Italy in 2016, Eritreans were the single largest nationality.[111]

Since the Arab Spring in 2011, when Hosni Mubarak, former President of Egypt stepped down and handed over power to the army council, Egypt has been in a constant state of unrest.[112] Convicted and sentenced to life in prison for being complicit in the killing of protesters during the 2011 uprising, the Court of Cassation, the highest court of appeal in Egypt, acquitted Mubarak on 2 March 2017.[113] Beginning in 2014, militant Islamic groups, including the Islamic State and Al-Qaeda, have operated in the Sinai Peninsula, as do anti-establishment and revolutionary groups such as the Popular Resistance Movement and Harakat Sawaid Masr,[114] which have all been engaged in violent and deadly attacks.[115] The Egyptian army overthrew former President Mohamed Morsi in the midst of violent demonstrations that resulted in the deaths of hundreds.[116] Morsi, President of Egypt, was sentenced to death by an Egyptian court over a mass prison breakout of Muslim Brotherhood inmates.[117] In May 2017, the Egyptian military launched a series of air strikes against Islamic militants in Libya who claimed responsibility for ambushing and killing 29 Christians in Minya Province.[118] In its 2016/2017 report, Amnesty International stated that Egyptian authorities used mass arbitrary arrests to suppress demonstrations and dissent, as well to detain journalists and human rights defenders. The Amnesty International report further indicated that Egypt's National Security Agency subjected hundreds of detainees to enforced disappearances, using excessive lethal force during regular policing that may have resulted in extrajudicial executions.[119] Some 4,600 refugees, asylum seekers and other forcibly displaced populations fleeing the country in an attempt to cross the Mediterranean Sea to Europe were arrested by Egyptian security forces.[120]

Algeria, one of the main gateways to Europe from Africa, has been embroiled in violent conflict for at least half a century. In recent times, protests inspired by the Arab Spring and subsequent attacks by al-Qaeda, Islamists Murabitoun Group and Armed Islamic Group, have killed hundreds.[121] Frédéric Volpi argues that the case of Algeria during the Arab Spring is

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[110] BBC News, 'Eritrea Profile' *BBC News* (London, UK), 30 October 2017 <http://www.bbc.com/news/world-africa-13349395>.

[111] Eric Reidy, 'The Eritrean Children Who Cross Borders and Deserts Alone' *IRIN*, 27 July 2017 <https://www.irinnews.org/feature/2017/07/27/eritrean-children-who-cross-borders-and-deserts-alone>.

[112] Bahgat Korany and Rabab El-Mahdi, *Arab Spring in Egypt: Revolution and Beyond* (The American University in Cairo Press, Revised, 2012) <http://public.eblib.com/choice/publicfullrecord.aspx?p=1635660>.

[113] Mahmoud Mourad and Haitham Ahmed, 'In Final Ruling, Egypt Court Finds Mubarak Innocent in Killing of Protesters' *Reuters*, 2 March 2017 <https://www.reuters.com/article/us-egypt-mubarak/egypts-ex-president-mubarak-denies-killing-protesters-as-final-retrial-begins-idUSKBN1691AR>.

[114] Primoz Manfreda, 'What's Currently Happening in Egypt in the Aftermath of the 2013 Coup?' <https://www.thoughtco.com/current-situation-in-egypt-2352941>.

[115] BBC News, 'Egypt Profile' *BBC News* (London, UK), 8 June 2017 <http://www.bbc.com/news/world-africa-13315719>.

[116] Staff Reporter, 'President Morsi Overthrown in Egypt' *Al Jazeera* (Middle East), 4 July 2013.

[117] Ruth Michaelson, 'Mohamed Morsi: Egypt's First Democratically Elected President Sentenced to Death along with over 100 Defendants' *The Independent* (Africa), 16 May 2015 <http://www.independent.co.uk/news/world/africa/mohamed-morsi-egypts-first-democratically-elected-president-sentenced-to-death-along-with-over-100-10255786.html>.

[118] Ahmed Aboulenein, 'Egypt to Press Ahead with Air Strikes after Christians Attacked' *Reuters* (Cairo, Egypt), 29 May 2017 <https://www.reuters.com/article/us-libya-security/warplanes-hit-libyas-derna-again-witness-idUSKBN18P0GP>.

[119] Amnesty International, 'The State of the World's Human Rights: The Amnesty International Report 2016/17' (Text and Images, Amnesty International, 2017) 409, 145 <https://www.amnesty.org/en/latest/research/2017/02/amnesty-international-annual-report-201617/>.

[120] Ibid 149.

[121] BBC News, 'Algeria Profile' *BBC News* (London, UK), 13 July 2017 <http://www.bbc.com/news/world-africa-14118856>.

puzzling when compared to its fellow north African nations (Morocco, Tunisia, Libya and Egypt) because its authoritarian regime has long been 'a troubled polity where social order remained elusive'.[122] Irrespective of its ongoing crisis, since the Arab Spring, Algeria has become a haven for mixed migration flows from Tunisia, Libya, Egypt and Syria. Known as a host country for refugees and other migrants, including displaced peoples, Algeria has been home to Sahrawi refugees since 1975,[123] and most recently, those fleeing violent crisis in the DRC, Cote d'Ivoire and Mali.[124] According to Judith Kumin, mixed migration is a form of contemporary migration of displaced peoples consisting of flows of 'boat people' who are on the move for different reasons but who share the same routes, modes of travel and vessels.[125] Unofficial reports put the total number of African migrants in Algeria at 100,000, even as closure routes in Libya compel desperate sub-Saharan African migrants from neighbouring Mali, Niger, Guinea and Burkina Faso.[126] Human Rights Watch has also reported that, since 25 August 2017, the Algerian authorities have deported more than 3,000 sub-Saharan Africans, including pregnant women, families with new-born babies and approximately 25 unaccompanied children, to Niger.[127] It is worth here mentioning that Algeria's closure of its land borders with Morocco in 1994 has impelled the fortification of frontiers with Libya (December 2012), Mali (January 2013) and Tunisia (August 2013). As a result of the border closure and increased defenses, cross-border trafficking and transnational crimes have been on the rise.[128]

A 'political agent'[129] named Tarek al-Tayeb Mohamed Bouazizi, a 26-year-old fruit seller in the rural town of Sidi Bouzid, Tunisia, is considered the catalyst of the Jasmine Revolution in Tunisia and the originator of the Arab Spring.[130] On 17 December 2010, Bouazizi, the breadwinner for his widowed mother and six siblings, was asked by municipal police to produce a permit for selling his goods.[131] Slapped by a policewoman, the humiliated and angered Bouazizi marched in front of a government building and set himself ablaze.[132] George Joffé argues that, while the West often explains the north African crisis as being related to global food prices, 'the real driver for the insurgencies in Egypt, Tunisia and Libya has been the contempt and repressiveness with which Mubarak, Ben Ali and Muammar Qaddafi regimes have treated the people over whom they ruled'.[133] Bouaziz's act of self-immolation, which spawned into waves of protests, resulted in the resignation of former President, Zine al-Abidine Ben Ali on 4 January 2011, after 20 years.[134] Over a six-year period (2011-2016), Tunisia has had seven Prime Ministers. As with Egypt and Algeria, Tunisia faces political infighting, insecurity and instability amidst fatal attacks carried out by

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[122] Frédéric Volpi, 'Algeria versus the Arab Spring' (2013) 24(3) *Journal of Democracy* 104, 105.

[123] United Nations High Commissioner for Refugees, 'Humanitarian Needs of Sahrawi Refugees in Algeria' (Text and Images, United Nations High Commissioner for Refugees, July 2016) 4.

[124] Mohamed Saïb Musette, 'Aspects of Crisis Migration in Algeria' (2014) 45 *Forced Migration Review* 47, 47.

[125] Kumin, above n 8, 49.

[126] Zahra Chenaoui, 'Adrift in Algiers: African Migrants Marooned in a New Transit Bottleneck' *The Guardian* (Algiers, Algeria), 31 October 2017 <http://www.theguardian.com/world/2017/oct/31/algeria-african-migrants-libya-civil-war-europe>.

[127] Human Rights Watch, *Algeria: Surge in Deportations of Migrants* (30 October 2017) Human Rights Watch <https://www.hrw.org/news/2017/10/30/algeria-surge-deportations-migrants>.

[128] Musette, above n 124, 48.

[129] Kirsi Pauliina Kallio and Jouni Häkli, 'Geosocial Lives in Topological Polis: Mohamed Bouazizi as a Political Agent' (2017) 22(1) *Geopolitics* 91, 91.

[130] The Editors of Encyclopaedia Britannica, 'Mohamed Bouazizi' <https://www.britannica.com/biography/Mohamed-Bouazizi>.

[131] Staff Reporter, *The Arab Spring: A Year of Revolution* (17 December 2011) NPR.org <http://www.npr.org/2011/12/17/143897126/the-arab-spring-a-year-of-revolution>.

[132] Ibid.

[133] George Joffé, 'The Arab Spring in North Africa: Origins and Prospects' (2011) 16(4) *The Journal of North African Studies* 507, 508.

[134] The Editors of Encyclopaedia Britannica, above n 130.

Islamic State and Salafi extremist groups. This has slowed down economic progress and also created social tensions, resulting in the loss of hundreds of lives.[135] Interestingly, Tunisia is not featured in IDMC's *Global Report on Internal Displacement* 2017. Similarly, the UNHCR's *Global Trends* 2017 provides no figures on the number of IDPs protected or assisted by the UNHCR, including people in IDP-like situations.[136] However, the total population of persons originating from Tunisia who are of concern to the UNHCR is 3,757.[137]

Libya: A Major Transit Point for African Migrants
It is impossible to write about the forced displacement of African migrants, making their fatal Mediterranean crossings to Europe, without highlighting the socio-political situation in Libya, as this situation both influences and facilitates the migration crisis on the continent. Historically, Libya has always been both host and transit country for migrants. For example, two years before the death of former leader Qaddafi, Libya hosted 2.5 million migrants, mostly from across Africa.[138] Qaddafi ruled for 42 years (1969-2011) until he was tortured, sodomised and brutally murdered on 20 October 2011. This was an outrageous and dehumanising public display, aided by the US-led North Atlantic Treaty Organisation (NATO) military operation.[139] Since the death of Qaddafi, Libya is increasingly becoming a transit country to Europe, even though the country is still a final destination for many migrants across Africa. In fact, starting from 2013, migration from Libya to Europe quadrupled.[140] The total population of concern to the UNHCR in Libya reached 639,708 by 31 December 2016. This population included protected, assisted and returned IDPs, as well as those in IDP-like situations.[141] The IDMC reports that nearly half (304,000) of all displaced peoples in Libya are IDPs,[142] in addition to some 40,000 former residents of Tawargha who were forced out of their homes five years ago.[143] The IOM also suggests that the total number of migrants in Libya is between 700,000 and 1 million, mainly arriving from Egypt, Niger, Sudan, Nigeria, Bangladesh, Syria and Mali.[144] Mattia Toaldo and Luca Barana affirm that '[t]he connection between politics and migration in Libya has not abated after the 2011 revolution that lead to the overthrow of [Qaddafi, where] new kingmakers of post-revolutionary Libya, a mix of

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[135] Tarek Amara, 'Tunisian President Names Technocrat as Prime Minister' *Reuters* (Tunis, Tunisia), 3 August 2016 <https://www.reuters.com/article/us-tunisia-politics/tunisian-president-names-youssef-chahed-as-new-prime-minister-idUSKCN10E19E>.

[136] United Nations High Commissioner for Refugees, 'Global Trends: Forced Displacement in 2016' (Text and Images, United Nations High commissioner for Refugees, May 2017) 72, 69 <http://www.unhcr.org/5943e8a34.pdf>.

[137] Ibid.

[138] Mattia Toaldo and Luca Barana, 'The EU's Migration Policy in Africa: Five Ways Forward' *European Council on Foreign Relations Commentary on Middle East and North Africa* (Online), 8 December 2016 2 <http://www.ecfr.eu/article/commentary_the_eus_migration_policy_in_africa_five_ways_forward>.

[139] Max Fisher, 'Qaddafi Was Captured Alive—Who Killed Him?' [2011] *The Atlantic* <https://www.theatlantic.com/international/archive/2011/10/qaddafi-was-captured-alive-who-killed-him/247113/>; BBC News, 'Muammar Gaddafi: How He Died' *BBC News* (Sirte, Libya), 31 October 2011 <http://www.bbc.co.uk/news/world-africa-15390980>; David Williams, 'Who Shot Gaddafi? New Video Shows Blood Pouring from Dictator Immediately before Death but Mystery Surrounds Coup de Grace' *Daily Mail*, 21 October 2011 <http://www.dailymail.co.uk/news/article-2051361/GADDAFI-DEAD-VIDEO-Dictator-begs-life-summary-execution.html>; Robert F Worth, 'Libyan Ghosts: Searching for Truth after Qaddafi' (2017) 96 *Foreign Affairs* 127, 132.

[140] Esther Yu Hsi Lee, 'Why So Many Refugees Are Fleeing To Europe From Libya' <https://thinkprogress.org/why-so-many-refugees-are-fleeing-to-europe-from-libya-f95d570f4d81/>.

[141] United Nations High Commissioner for Refugees, 'Global Trends: Forced Displacement in 2016', above n 136, 68.

[142] Internal Displacement Monitoring Group, above n 85, 115.

[143] Amnesty International, above n 119, 235.

[144] International Organisation for Migration, 'Libya' (Text and Images, International Organisation for Migration, 10 February 2015) <https://www.iom.int/countries/libya>.

politically-driven militias and managed the smuggling of human beings along with other criminal activities'.[145]

After the deaths of over 800 people from shipwrecks off the Libyan coast in June 2016,[146] Esther Yu His Lee has asked '[w]hy so many refugees are fleeing to Europe from Libya? And, why is Libya such a popular route for not only Africans but also migrants from the Middle East and South Asian regions'?[147] Sarah Hamood argues that Libya has not been a migrant-producing country primarily because of its rich oil economy, which attracted migrants to seek gainful employment for a limited period before returning home.[148] Hamood lists a number of factors that make Libya a transit funnel for African migration: (i) ease of entry, (ii) geographical location near some of the world's poorest and most conflict-ridden societies, and (iii) a history as a destination country providing a ready-made supply of refugees and migrants.[149] In spite of Libya's solicitation for, and attraction to, the labour migration market, acting as a 'gateway' to Europe, the status of migrants has been gravely affected by the country's turbulent political upheaval since 2011.[150] Apart from actively expelling migrants, Richard Hall laments that '[t]he Libyan coast guard is threatening and endangering the lives of migrants in need of help on the Mediterranean Sea…[wherein] coast guard vessels fired gunshots into the air and boarded a boat filled with migrants trying to leave the country's shores' during a chaotic rescue operation.[151]

The majority of displaced peoples transiting in Libya with hopes of arriving in Europe are escaping extreme poverty, disastrous environmental conditions, war and (religious) persecution. Approximately 4,579 migrants drowned or went missing while crossing the Mediterranean from Libya.[152] Research carried out by Amnesty International reveals that refugees, displaced peoples and migrants experience diverse forms of human rights abuses from human traffickers and smugglers. These include expulsion, arbitrary detention, abduction for ransom, indiscriminate attacks, torture, unlawful killing and sexual violence.[153] In a survey of 2,783 migrants on the central Mediterranean route from Africa, 71 per cent admitted to experiencing trafficking and other forms of exploitation.[154] As Libya remains divided by armed conflict, even six years after the death of Qaddafi, African migrants are at the mercy of militias and armed groups who subject them to forced labour and extortion,[155] in addition to being 'seized at checkpoints and in raids and incarcerated indefinitely in abusive conditions in both government-run and militia-controlled detention facilities'.[156]

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[145] Toaldo and Barana, above n 138, 2–3.
[146] Efthymios Papastavridis, 'Interception of Human Beings on the High Seas: A Contemporary Analysis under International Law' (2008) 36 *Syracuse Journal of International and Commerce* 145, 4.
[147] Lee, above n 140.
[148] Hamood, above n 52, 18.
[149] Ibid 19.
[150] Sakuma, above n 49.
[151] Richard Hall, 'Libya's Coast Guard Is "Endangering Lives" of Migrants Trying to Reach Europe' *Public Radio International* (International), 26 May 2017 <https://www.pri.org/stories/2017-05-24/libya-s-coast-guard-further-endangering-migrants-crossing-mediterranean>.
[152] Human Rights Watch, 'World Report: Events of 2016', above n 108, 403.
[153] Amnesty International, above n 119, 20, 52; Human Rights Watch, 'World Report: Events of 2016', above n 108, 257.
[154] International Organisation for Migration, 'Analysis: Flow Monitoring Surveys - The Human Trafficking and Other Exploitative Practices Prevalence Indication Survey' (Text and Images, International Organisation for Migration, 6 October 2016) 11, 3 <http://migration.iom.int/docs/Analysis_-_Flow_Monitoring_and_Human_Trafficking_Surveys_in_the_Mediterranean_and_Beyond_-_6%20_October_2016.pdf>.
[155] Human Rights Watch, 'World Report: Events of 2016', above n 108, 403.
[156] Amnesty International, above n 119, 52.

Impact and Consequences: Vulnerability of Children and Women

> In Nigeria there is Boko Haram, there is death. I did not want to die. I was afraid. My journey from Nigeria to Libya was horrible and dangerous. Only God saved me in the desert, no food, no water, nothing. The guy who was sitting next to me on the trip died. And once one dies in the desert, they throw away the body and that's it. I have been here [in the detention centre] for seven months. Here they treat us like chickens. They beat us, they do not give us good water and good food. They harass us. So many people are dying here, dying from disease, freezing to death. – Jon, 15-years old[157]

> I left Niger two and a half years ago. I wanted to cross the sea, look for work, work hard to earn a bit of money, to help my five brothers back home. My father collected money for my journey, he wished me good luck and then let me go. – Issaa, 14-years old[158]

A nine-month-old Nigerian girl, called Favour, survived a shipwreck after her father and pregnant mother died of petrol burns when an overcrowded migrant boat gave way in the Mediterranean.[159] Jon, Issaa, Favour and her dead mother are just a few of the thousands of children and women compelled to make the fatal journey across the Mediterranean. War and violent conflicts are the main reasons for displaced peoples making the perilous journeys across the Mediterranean. The impact and consequences of war and violence on forcibly displaced populations last a life-time,[160] with children and women bearing the worst. Whether it is being smuggled, trafficked, sexually abused,[161] enlisted as child soldiers, or tortured and killed, children and women are the most vulnerable to the effects of forced displacement. According to UNICEF, some 50 million children were on the move in 2016, fleeing violence, war, poverty and climate change.[162] Even more disturbing is the alarming rate at which children are making such journeys on their own. UNICEF reports that in 2015 and 2016, 170,000 unaccompanied and separated children applied for asylum in Europe; 100,000 were apprehended at the Mexico-US border; 90,000 were internally displaced and crossed borders in the Horn of Africa; and 19,000 applied for asylum in other countries.[163] As at September 2016, a third of the 23,102 children (9 per cent) and 28,031 females (11 per cent), out of 256,000 migrants identified in Libya, were unaccompanied minors.[164] Sixteen per cent (28,223) of the 181,436 migrant arrivals in Italy in 2016 were children, of which at least 700 of them died out of the estimated 4,597 fatalities *via* the central Mediterranean route between Libya and Italy.[165]

Why do children migrate? Most children are caught up in global mixed migration routes, a journey fraught with human suffering and fueled by the need to control economic wealth, such as oil, metals, diamonds and drugs, and contested territorial boundaries.[166] Armed conflict (e.g. in

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[157] United Nations Children's Fund, 'A Deadly Journey for Children The Central Mediterranean Migration Route' (UN, United Nations Children's Fund, February 2017) 20, 3 <https://www.unicef.org/publications/index_94905.html>.
[158] Ibid 7.
[159] BBC News, 'Orphan Who Touched Italy Starts New Life' *BBC News* (Lampedusa, Italy), 26 May 2016 <http://www.bbc.com/news/world-europe-36391060>.
[160] Kingsley, above n 85, 3.
[161] United Nations Children's Fund, above n 157, 2.
[162] Ibid.
[163] United Nations Children Fund, 'A Child Is a Child: Protecting Children on the Move from Violence, Abuse and Exploitation' (United Nations, May 2017) 64, 12 <https://www.unicef.org/publications/index_95956.html>.
[164] United Nations Children's Fund, above n 157, 2.
[165] Ibid.
[166] Salome Bukachi and Florence Juma, 'Baseline Survey on Gender and Long-Term Forced Migration' (Private, Passion Africa and Akina Mama wa Afrika, 2010) 86, 15 <http://www.akinamamawaafrika.org/index.php/publications/research-reports/81-gender-and-immigration-report/file>.

South Sudan); harsher climate conditions and natural disasters (e.g. in Ethiopia); persecution (e.g. in northern Nigeria); and generally, escape from poverty, are the main push factors for children to undertake such perilous journeys, even at the risk of going it alone.[167] It is important to note that the causes of forced migration are not restricted to armed conflict, natural disaster and poverty. Slow or failing economic growth in Africa since independence from colonial rule in the mid to late 1950s, as well as the pressures of globalisation and international institutions (e.g. the World Bank), have resulted in development-induced displacement.[168] Development-induced displacement ventures may be in the form of multi-national corporate projects, such as the construction of roads, dams and mines.[169] Others are natural resource and/or agricultural concession agreements, resulting in land dispossession and the forced displacement of indigenous populations and customary practices.[170] It is therefore not surprising that Mark Curtis and Tim Jones reported that, although Africa is rich in mineral wealth, skilled workers and biodiversity, the 'countries of Africa are collectively net creditors to the rest of the world to the tune of US$41.3 billion in 2015', with an estimated US$29 billion stolen from illegal logging, fishing and trade in wildlife or plants every year.[171] In addition to the sheer human suffering associated with forced migration in Africa, the economic cost of mixed migration is also troubling. For example, 'brain drain' due to the migration of health workers in Africa was priced at US$6 billion in 2016.[172]

While most children migrate to find education or work opportunities, women and girls, who have far less control over the decision to migrate than men and boys, leave home for reasons other than finding education and employment. Women and girls are compelled to migrate to avoid the prospects of unwanted child marriages, female genital cutting, forced conscription and myriad forms of gender-based violence.[173] The uncertainties of navigating negative and shifting landscapes through rough channels for indefinite periods predispose women and girls to deprivation and constant lack of basic social services, including health, housing and safe drinking water.[174] These inherent risks associated with mixed migration further exacerbate women and girls' vulnerability to being smuggled, trafficked, forced into labour, discriminated against or sexually-abused and exploited.[175] Unaccompanied migrant children, in particular, are detained, humiliated and abused, and often left in limbo when countries prolong or deny legal status or close their borders.[176] It is claimed that this is why international and regional institutions, such as the UN, the EU and the African Union (AU), insist on enacting laws and establishing policies that

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[167] United Nations Children Fund, 'A Child Is a Child: Protecting Children on the Move from Violence, Abuse and Exploitation', above n 163, 14.

[168] Jomo Kwame Sundaram, Oliver Schwank and Rudiger von Arnim, 'Globalisation and Development in Sub-Saharan Africa' [2011] (102) *Department of Economic and Social Affairs Working Paper* 1, 1,3; Harry J Stephan, *The Scramble for Africa in the 21st Century: A View From the South* (Renaissance Press, 2006) 22.

[169] Bukachi and Juma, above n 166, 16.

[170] Elizabeth Leiserson et al, 'Governance of Agricultural Concessions in Liberia: Analysis and Discussion of Possible Reforms' (Allard K. Lowenstein International Human Rights Clinic, Yale Law School, 13 March 2017) 61, 17–19 <https://law.yale.edu/system/files/area/center/schell/document/liberia_final_2017.pdf>; Elizabeth Ashamu, 'Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v Kenya: A Landmark Decision from the African Commission' (2011) 55(02) *Journal of African Law* 300, 306,309.

[171] 'How the World Profits from Africa's Wealth' (May 2017) 12, 2 <http://www.globaljustice.org.uk/resources/honest-accounts-2017-how-world-profits-africas-wealth>.

[172] Ibid 9.

[173] Ibid.

[174] United Nations Children Fund, 'A Child Is a Child: Protecting Children on the Move from Violence, Abuse and Exploitation', above n 163, 15.

[175] Ibid.

[176] Ibid 16.

help protect those forced to leave their habitual places of residence, including internally displaced persons, refugees, and other migrants, especially women and children.

Legislation and Policy: International Migration Policy Frameworks

United Nations

On 1 January 2016, over 150 world leaders adopted the Sustainable Development Goals (SDGs) at a historic UN Summit titled 'Transforming Our World: the 2030 Agenda for Sustainable Development'.[177] Building on the success (or failure) of the Millennium Development Goals (2000-2015), the 17 SDGs (2015-2030) aim to continue efforts at ending all forms of poverty, fighting inequalities and tackling climate change, over the next 15 years.[178] SDG #5 (achieve gender equality and empower all women and girls) and SDG #16 (promote just, peaceful and inclusive societies) provide for the protection of people caught up in forced mixed migration, with an emphasis on access to justice for children and women. There are numerous international UN instruments that have been created to deal with mixed migration, including forced and voluntary migration. These include, *inter alia*:

- *UNHCR Refugee Convention* 1951
- *UNHCR Refugee Protocol Relating to the Status of Refugees* 1967
- *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* 1990
- *The Guiding Principles on Internal Displacement* 1998

As a legally non-binding instrument, the *Guiding Principles*, aimed to fill a major gap in the international protection system for uprooted people. Whether its development is a significant reference toolbox for those seeking to develop standards in the field of mixed migration remains an issue to explore.[179]

The *Guiding Principles* address the specific needs of IDPs, identifying rights and guarantees that are relevant to the protection of forcibly displaced persons. The *Guiding Principles* define an IDP with particular reference to the reason for leaving (i.e. to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters).[180] This definition recognises the complexity of contemporary mixed migration, whether displaced migrants making the fatal journeys across the Mediterranean Sea are undocumented, voluntary, or forced because some have already been displaced as due to war, harsh climatic conditions or development-induced displacement. To this end, the *Guiding Principles'* definition ensures that the rights of displaced migrants who have already been internally displaced multiple times but are disqualified as IDPs because they have, in fact, crossed several international borders. Any solution to this conundrum is beyond the scope of this paper. However, it is necessary to examine regional efforts towards and responses to the African migrant crisis, starting with the EU and then the AU.

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[177] United Nations General Assembly, 'Draft Outcome Document of the United Nations Summit for the Adoption of the Post-2015 Development Agenda' (Text A/69/L.85, United Nations, 12 August 2015) 35 <http://www.un.org/ga/search/view_doc.asp?symbol=A/69/L.85&Lang=E>.

[178] United Nations, *United Nations Sustainable Development Agenda: 17 Goals to Transform Our World* (2016) United Nations Sustainable Development <http://www.un.org/sustainabledevelopment/development-agenda/>.

[179] Robert Cohen, 'Lessons from the Development of the Guiding Principles on Internal Displacement' (2014) 45 *Forced Migration Review* 12, 12.

[180] Deng, above n 1, 5.

European Union

As noted earlier, Europe (especially Italy and Greece), is indisputably the destination for the majority of forcibly displaced peoples from Africa.[181] In October 2016, prior to the 2017 AU-EU Summit, Angela Merkel, the first female Chancellor of Germany and one of the leading EU figures following her win in the 2005 elections, undertook a three-day visit to three African countries. Dagmar Engel, reporting for Deutsche Welle, said that 'pressure caused by illegal migration across the Mediterranean has forced the Chancellor to revisit the continent'.[182] Merkel's first stop was Mali, where, for three years, 540 German soldiers stationed in Gao had been assisting the UN Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA) to support Mali's peace effort and sustain security.[183] While Merkel focused on the strengthening of military training in Mali, President Ibrahim Boucabar Keïta stressed the reduction of the number of refugees headed for Europe: '[w]e want our young people to stay in our country and not drown in the Mediterranean'.[184]

In Niger, President Mahatma Issoufou has stated that it will take significant aid, something similar to that of a 'Marshall Plan', to stop migration from one of the world's poorest nations, which has become a major transit country for migrants attempting to reach Europe via the Mediterranean.[185] Regarding President Issoufou's 'Marshall Plan' aid request, Owoeye Olumide, a demographer at Bowen University in southwest Nigeria says, '[y]ou can't resolve this [migration crisis] by just paying money'.[186] There are too many people involved, and it requires a significant decrease in fertility rates, as well as educating and empowering women.[187] The IOM Regional Director for West and Central Africa, Richard Danziger, exemplifies the inefficiency of total dependency on aid to address Africa's migrant crisis. 'Pretty much the whole population of Agadez [generally recognised as the smuggling capital of Africa] now lives off providing services to migrants in transit', said Danziger.[188] 'What we can't do right now is offer real alternatives, [however] a mixture of development aid and job creation is the only way forward', Danziger added.[189] Merkel's final visit was to Ethiopia where she told the AU to do more to stop migration to Europe, starting by using its influence to help solve the Libyan crisis, which she called a 'sad example'.[190] For the first time since the founding of NATO, and to the Chancellor's credit, Germany did not support military action against Qaddafi, siding instead with Brazil, China, India and Russia.[191] Regardless of Merkel's admonition to the AU, her visit to Africa generally focused on building partnerships between the two regional organisations to curb the Mediterranean migrant crisis. So, what policy does the EU have in place to deal with Africa's migrant crisis?

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[181] International Organisation for Migration, 'Mediterranean Migrant Arrivals Reach 114,287 in 2017; 2,385 Deaths', above n 43.
[182] Dagmar Engel, 'Merkel's Migration Mission to Mali' *Deutsche Welle* (Africa), 10 October 2017
<http://www.dw.com/en/merkels-migration-mission-to-mali/a-36006297>.
[183] Ibid.
[184] Ibid.
[185] Jessica Dafoe, 'A Boom in Africa's Population Now Causing "Unstoppable" Migration to European Nations' *The Inquisitr* (Africa), 14 October 2016 <https://www.inquisitr.com/3596669/a-boom-in-africas-population-now-causing-unstoppable-migration-to-european-nations/>; The Federal Government of Germany, *Expanding Assistance for the Niger* (10 October 2016) The Chancellor's Africa Trip <https://www.bundesregierung.de/Content/EN/Reiseberichte/2016/2016-10-10-merkel-in-niger_en.html;jsessionid=2C960D3C3C43BA338615666315281507.s2t1>.
[186] Cocks and McAllister, above n 79.
[187] Dafoe, above n 185.
[188] Cocks and McAllister, above n 79.
[189] Ibid.
[190] Adam Withnall, 'Angela Markel Tells African Union It Must Do More to Stop Migration to Europe' *The Independent* (Addis Ababa, Ethiopia), 11 October 2016.
[191] Staff Reporter, 'Berlin's Stance on Libya Has Isolated Germany in NATO' *Deutsche Welle* (Bonn, Germany), 13 April 2011 <http://www.dw.com/en/berlins-stance-on-libya-has-isolated-germany-in-nato/a-14985036>.

The EU has no specific convention on migrants or internally displaced peoples. However, free movement of workers is one of four freedoms enjoyed by EU citizens. The freedom of workers encompasses (i) the rights of movement and residence for workers, (ii) the rights of entry and residence for family members, and (iii) the rights to work in another Member State and be treated on an equal footing with nationals of that Member State.[192] The following conventions of the Council of Europe all have relevance to displaced migrants, such as those crossing the Mediterranean from north Africa to Europe:

- *European Code of Social Security* 1949
- *European Convention on Human Rights* 1950
- *European Convention on Extradition* 1957
- *European Convention on Suppression of Terrorism* 1977
- *European Convention on the Legal Status of Migrant Workers* 1977
- *European Convention for the Prevention of Torture, and Inhuman or Degrading Treatment or Punishment* 1987
- *Convention on Action against Trafficking in Human Beings* 2005

Despite these legal provisions, increased pressures from migration have propelled the EU to collaborate with other regional bodies. The Africa-EU Partnership, a formal channel through which the EU and AU work together, has migration as one of three partnership aims. Since 2014, the EU-Africa Summit of Heads of States and Governments under the auspices of the Africa-EU Partnership,[193] has aimed to 'foster synergies between migration and development including reducing the costs of remittances…address trafficking in human beings…[and]…strengthened migration management, return and readmission'.[194]

On 25 January 2017, ahead of the most recent AU-EU Summit in Malta, the EU pledged €200 million to the fragile and unstable government in Libya to step up funding in the management of boat migration along the central Mediterranean route.[195] In an EU press release, the European Commission President, Jean-Claude Juncker said:

> Too many people are still dying in the Mediterranean. We have implemented actions to address the situation but we need to do more. Today we are presenting possible short and medium term actions to address the flows to and from North Africa. First and foremost, stability in Libya and the region as a whole is required. While continuing our support to this process, we can take forward actions to help make a difference, save lives and break the smugglers' and traffickers' business model – which will also impact the flows towards Europe.[196]

As attested by Merkel, the EU's attempt to negotiate with Libya, a country riddled with violent conflict and political instability, is inherently flawed and deficient. Michael Asiedu sees the EU-Libya Migrant Deal as one of convenience. Asiedu observes:

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[192] Marion Schmid-Drüner, *Free Movement of Workers* (June 2017) European Parliament: Fact Sheets on the European Union <http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuId=FTU_3.1.3.html>.
[193] Africa-EU Partnership, *The Africa-EU Partnership* (2017) AU-EU Summit <http://www.africa-eu-partnership.org>.
[194] EU-Africa Summit, 'EU-Africa Summit Roadmap 2014-2017' 36 <https://www.africa-eu-partnership.org//sites/default/files/documents/2014_04_01_4th_eu-africa_summit_roadmap_en.pdf>.
[195] Staff Reporter, 'EU Leaders Ink Deal to Stem Refugee Flow from Libya' *Al Jazeera* (European Union), 3 February 2017 <http://www.aljazeera.com/news/2017/02/eu-leaders-ink-deal-stem-refugee-flow-libya-170203151643286.html>.
[196] European Commission, 'Managing Migration along the Central Mediterranean Route – Commission Contributes to Malta Discussion' *EC Press Release* (Brussels, Belgium), 25 January 2017 <http://europa.eu/rapid/press-release_IP-17-134_en.htm>.

Libya as a country is still aching with gaping wounds that need urgent attention and treatment on both the political and security front. […] Whilst UNHCR and IOM officials are envisaged to be the main processors of migrant issues, the fact is they cannot do this solely as migrants' numbers are too large for them. This deal also fails to acknowledge the deplorable migrant conditions in Libya. Essentially, migrants who shall be returned to Libya are likely to end up in detention centers. […] That the EU has rolled out such a plan portrays how far it has fallen in terms of moral leadership, vouching for such a flawed plan demonstrates the lengths at which the EU is willing to go to ward-off migrants from its shores. The difference here is that these are not just any migrants, some of them are fleeing persecution and yearn for a standard of common human decency.[197]

Writing for the Migration Policy Institute in February 2017, Elizabeth Collett critiques the EU's partnerships in north Africa. According to Collett, as EU leaders met in Malta for a progress report on its AU-EU partnership framework, '[t]he European Union finds itself in much the same position as two years earlier, with hundreds of desperate individuals cramming into flimsy boats and setting off each week from the Libyan coast in hope of finding swift rescue and passage to Europe'.[198] Collett argues that any option by the EU to curb the flow of African migrants crossing the Mediterranean is limited since European laws prohibit the return of vessels.[199] Therefore, the EU is compelled to rescue and transfer passengers to its territory, which is subject to the full application of European asylum laws.[200] Although, since May 2016, the Navy in individual European countries have made concerted efforts to help strengthen the Libyan coastguard in hopes of stopping arms smuggling to Islamic State and enforcing embargo in international waters;[201] the 'blunt truth'[202] is far from real-life expectations.

For whatever reason, it may seem easy to criticise EU efforts to reduce fatal journeys across the central Mediterranean. However, the real issues of concern for the African migrant crisis rest with the AU. Do leaders of the AU's national governments have sufficient political will and commitment to prioritise the safety, security, health and wellbeing of their citizens who are compelled to migrate because of civil conflict, economic hardship or lack of access to basic needs at home?

The African Union
On 26 May 2001, the AU replaced the Organisation of African Unity (OAU), founded in 1963, and shifted its focus from '…supporting liberation movements in the erstwhile African territories under colonialism and apartheid…' towards a new vision of being '[a]n integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in global arena'.[203] In efforts to address complex socio-economic and political problems resulting from the legacy of slavery, colonialism and other leadership problems, the OAU/AU has been innovative

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[197] Michael Asiedu, 'The EU-Libya Migrant Deal: A Deal of Convenience' <http://www.e-ir.info/2017/04/11/the-eu-libya-migrant-deal-a-deal-of-convenience/>.
[198] Elizabeth Collett, 'New EU Partnerships in North Africa: Potential to Backfire?' *Migration Policy Institute Newsroom* (Washington, DC), 2 February 2017 <https://www.migrationpolicy.org/news/new-eu-partnerships-north-africa-potential-backfire>.
[199] Ibid.
[200] Ibid.
[201] Andrew Rettman, 'EU Navies to Help Libya Coastguard Stop Migrants' *EU Observer* (Brussels, Belgium), 24 May 2016 <https://euobserver.com/migration/133523>.
[202] Collett, above n 198.
[203] The African Union, *Vision and Mission* (2018) Vision of the African Union <https://au.int/en/about/vision>.

in developing several legal frameworks to help protect human rights and restore peace and justice for all peoples (including displaced migrants) on the continent:

- *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* 1969[204]
- *African Charter on Human and Peoples' Rights* 1986
- *African Charter on the Rights and Welfare of the Child* 1990
- *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* 2003
- *African Common Position on Migration and Development* 2006
- *African Union Convention for the Protection and Assistance of Internally Displaced Person in Africa* 2009 (Kampala Convention)

In theory, these are all exceptionally useful legal instruments for protecting the human rights of forcibly displaced populations in Africa. However, establishment of effective mechanisms to implement these laws and policies at the national level has been undeniably difficult. Regardless of the existence of these well-written legal instruments, the continent has been plagued with violence, political instability and socio-legal fragility since the first country gained independence from colonial rule in 1957.

Since the colonisers set foot on the continent of Africa and decided to 'scramble for Africa', as per the Berlin Conference 1884-85, leadership has never been the same. Integral to the arguments in this paper is the rate at which violent conflicts occurring across Africa result in the forced displacement of migrants. Accordingly, an examination of the role of the AU, which includes its institutions and national governments, in managing violent conflicts is a central focus of this discussion. During the first wave of independence from colonial rule (1955-1984), 101 different c*oups d'états* took place in Africa.[205] Research carried out by Ibrahim Elbadawi and Nicholas Sambanis show that the relatively high prevalence of civil war in nearly 20 African countries over a 40-year period (between 1960 and 1999) 'is not due to extreme ethno-linguistic fragmentation but rather to high levels of poverty, heavy dependence on resource-based exports and, especially, to failed political institutions'.[206] After enduring years of no transition to new 'democratic governments',[207] over time, citizens' frustrations have turned into anger and vengeance. Desire to purchase illicit arms for the purpose of staging *coups d'états* then become actualised in the face of corruption, greed, 'one-man party states', election rigging, human rights violations, poor governance, poverty, ethnic marginalisation, and small arms and light weapons proliferation.[208]

There should be no reason to doubt that implementation of the AU human rights instruments listed above, especially the OAU Refugee Convention and the Kampala Convention, would lead to the promotion and strengthening of regional and national migration policies to prevent and eliminate the root causes of forced migration in Africa. While regional integration

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[204] The *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* 1969 is highly esteemed for being comprehensive, inclusive and culturally sensitive to Africa's unique refugee problem.

[205] Veronica P Fynn, *Legal Discrepancies: Internal Displacement of Women and Children in Africa* (Flowers Books, 2011) 192–194 <https://www.amazon.com/Legal-Discrepancies-Internal-Displacement-Children/dp/1453873414>.

[206] Ibrahim A Elbadawi and Nicholas Sambanis, 'Why Are There so Many Civil Wars in Africa? Understanding and Preventing Violent Conflict' (2000) 9(3) *Journal of African Economics* 244, 445.

[207] Jason Burke, 'Robert Mugabe's Grip on Zimbabwe Ebbing Away after Military Takes Control' *The Guardian* (Harare, Zimbabwe), 15 November 2017 <http://www.theguardian.com/world/2017/nov/15/mugabe-family-military-takes-control-zimbabwe-mnangagwa>.

[208] Annan, above n 53, 5–9.

through free movement of people and labour to counter forced migration could significantly enhance growth and development in Africa, what remains practical, realistic and possible by way of adhering to migration policies is not without challenge. Henrike Klavert argues that most of the AU migration policy framework focuses on capacity-building and standard-setting, which are initiatives put in place by national governments and regional economic communities, such as ECOWAS.[209] But since such migration policies are relatively new, governments and regional organisations need time to operationalise and implement these.[210] Klavert also highlights the extent to which the EU has influenced the development of AU migration policy frameworks based on financial constraints of member states, which raises important questions of ownership and accountability.[211] Klavert reasons that although the AU's migration policy framework is comprehensive, with constructive ideas for implementation, there are limitations with respect to the implementation and monitoring obligations that are embedded in weak terms that are not legally binding on member states.[212] For example, Wafula Okumu criticises the AU for making too many decisions and implementing too few.[213] According to Okumu:

> Since its formation in July 2002, the AU Assembly, the supreme organ and highest decision-making body, has met seventeen times and made 209 decisions and thirty-six declarations. In comparison, the Executive Council, the other key policymaking organ, has in the same period taken 469 decisions and made three declarations. Due to a number of reasons, these decisions are poorly or not implemented at all. These decision fail because they are made hastily and not informed by thorough research and knowledge of the problems they aimed to address.[214]

Apart from the AU's enforcement and implementation concerns, there is also a perception that the EU is solely responsible for African migrants' fatal journeys across the Mediterranean Sea. After all, it is at European borders and seashores that deceased Africans arrive. This perception is authenticated by actual examples. As at 25 May 2016, the Italian Coast Guards had rescued approximately 37,000 migrants,[215] and according to IOM, so far 32,800 migrants have so far been brought to land since the beginning of 2017.[216] In her article of 26 September 2014, Sede Alonge asserts that the AU appears to be doing so little to 'secure its borders and prevent smugglers from transporting thousands of the continent, often to their deaths. The AU should encourage those Africans who feel forced to leave their countries, or who are displaced, to choose African destinations rather than European ones'.[217] On 31 October 2013, the AU declared a day of mourning for victims when a boat carrying some 545 migrants, mostly from Somalia, Eritrea and Syria, sank off the coast of Lampedusa, Italy, drowning approximately 359 migrants.[218] In a press

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[209] Henrike Klavert, 'Africa Union Frameworks for Migration: Current Issues and Questions for the Future' [2011] (108) *European Centre for Development Policy Management Discussion Paper* 1, iv.

[210] Ibid.

[211] Ibid.

[212] Ibid 14.

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release, the AU Commission affirmed its commitment to 'advocating for international protection and human rights of all migrants, regardless of their status' and vowed to 'continue to work with Member States, Regional Economic Communities and Partners in promoting the rights of migrants'.[219] That was almost three years ago. During the Euro-African Summit on Migration in November 2015, AU Commission Chairperson, Nkosazana Dlamini-Zuma, restated concerns that even though 'less than 25 per cent of migrants caught up in the current crisis are African', they represent the largest number of casualties.[220] Many are frustrated with the AU's inability or unwillingness to move beyond sheer utterances and take action to address the continent's migrant crisis, as Assumpta Lattus of Deutsche Welle's English Department openly expressed:

> What I find strange is that hardly anyone, at least in Europe, seems to expect African governments to take part in a solution to this crisis. Europeans often say they need to find solutions, they need to make the places these immigrants come from better. But they don't ever seem to hope, or expect, that African governments will help them find that solution. Maybe EU leaders think it is enough to have the head of the African Union Commission (23.04.15), Nkosazana Dlamini-Zuma, speak at a one-day annual bilateral meeting, during which the migration crisis was just one of the topics on the agenda. No, that is not the way we have to work to solve the problem. Africans don't need European pity, what they need is to be expected to step up to the plate.[221]

Even after somehow managing to disregard its obligations to address African refugees' problems, protect and assist internally displaced persons, and safeguard human and peoples' rights, the AU, financially supported by the EU, launched the EU Emergency Trust Fund on 12 November 2015.[222] This Emergency Fund finances a €1.8 billion project to tackle the root causes of unprecedented levels of mixed migration in Africa.[223] A year after the launch of the Emergency Fund, the Mediterranean death toll soared, making 2016 the deadliest year on record.[224]

Indisputably, AU and EU migration laws and policies will continue to expand in the future, for as long as the AU is dependent on the EU for financial support. The establishment of the first ever Global Commission on International Migration, by the UN Secretary-General and a number of governments, on 9 December 2003, reflects unrelenting migration concerns.[225] With the aim of promoting a comprehensive debate on international migration, the Global Commission conducted, *inter alia*, a review of government and other migration expertise, policy approaches and best practices, completing its work on 31 December 2005. What now remain are several challenges that could be turned into opportunities, provided that the AU, regional economic communities and national governments can actually implement and enforce aspects of their migration policy frameworks, in particular, those that focus and emphasise socio-economic development, women and girls' empowerment, protection of children's rights and access to justice.

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[220] Liesl Louw-Vaudran, *Fortresses in Our Midst* (27 November 2015) ISS Africa <https://www.issafrica.org/iss-today/fortresses-in-our-midst>.

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Conclusion
There has been a rapid increase in global migration trends in the last 15 years. In Africa, migrants, including internally displaced persons, refugees and stateless persons, are forced to leave their places of habitual residence due to war, harsh climatic conditions and poverty. Deadly voyages across the central Mediterranean Sea epitomise Africa's migration crisis. Many, especially women and children, are subjected to all manner of human rights violations, abuse and exploitation. By discussing the state of the Mediterranean crossing and dissecting the root causes of migration in the main countries of origin, this paper has assessed the efficacy of AU and EU migration policy frameworks. The paper has argued that while the EU has made significant financial contributions towards preventing deaths across the Mediterranean, the AU's dependence on the EU for financing and its extremely poor track record of enforcing and implementing its migration policy frameworks remain as major challenges. Nonetheless, any efforts by the AU, regional economic communities and national governments to redirect focus to socio-economic development, women and girls' empowerment, the protection of children's rights and access to justice will go a long way in addressing the root causes of the continent's forced migration crisis. The limitation of empirical data and scholarly research challenges in-depth examination of fatal journeys across the Mediterranean. By the same token, a shortage of material on the topic provides an opportunity to advance research with a focus on the efficacy of national, regional and sub-regional migration law and policy.

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