*Original article*

# A Perilous but Profitable Crossing: The Changing Nature of Migrant Smuggling through sub-Saharan Africa to Europe and EU Migration Policy (2012-2015)

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**Abstract:** Since 2012, dramatic changes in the geo-political landscape have created a crisis of unprecedented human migration in the European Union (EU). Key events, the conflict in Syria, the collapse of the Libyan state, and significant vulnerability and instability across the Sahara and the Horn of Africa, have both increased the scale of migration but also the way migrant flows are affecting local communities along key transit routes. The Mediterranean Sea crossing between North Africa and the EU has officially become the most dangerous border outside of active conflict zones. In the face of this humanitarian emergency, the dominant EU response has been to shore up the border security. However, the stricter the controls, the more likely that criminal groups become involved in facilitating the passage. Recent research on sub-Saharan Africa indicates that the smuggling of migrants is becoming an increasingly lucrative flow, and consequently, competition for control over key routes is increasing, and smuggling groups are inciting migration from new geographical areas. Drawing on field research in the Sahel and the Horn of Africa, this article charts the evolving phenomenon of smuggling of migrants from Africa to the EU and identifies the implications for the EU migration policy.

**Keywords:** Migration – migrant smuggling – organised crime – EU migration policy – Africa

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# Introduction

Since 2012, dramatic changes in the geo-political landscape have created a crisis of unprecedented human migration toward the European Union (EU). Key events such as the conflict in Syria, the collapse of the Libyan state, and significant vulnerability and instability across the Sahara and the Horn of Africa have not only increased the scale of migration but also paved the way in which the migrant flows are affecting local communities along key transit routes.

The Mediterranean Sea crossing between North Africa and the EU has officially become the most dangerous border outside of active conflict zones (Fargues and Bonafanti, 2014). At the time of publication, more than 5200 people are estimated to have died in the period of this article (2012 – mid-2015) attempting a dangerous journey across the Mediterranean into the EU. They flee conflict, oppressive regimes or abject poverty. At least 80 percent or more of these were facilitated by smuggling groups to whom they would have paid thousands of Euros for the perilous crossing (Reitano *et al.*, 2014).

In the face of this humanitarian emergency, most EU states have adopted a staunch policy to leave the problem to the littoral states—particularly Greece, Italy, and Spain—that have taken a range of measures tighten their border security. Greece has recently put up a fence across its border with Turkey. Spain has turned its enclaves on the North Africa coast into armed camps and patrols and made the Straits of Gibraltar resemble a war zone. Italy has been criticized because its search and rescue operations from the island of Lampedusa were reportedly attracting rather than deterring migrants.

Fundamentally, however, despite the efforts to create a "Fortress Europe," the capacity to prevent migrants crossing the Sahara and the Mediterranean has been limited given the vast borders and weak state capacity of EU external borders. Furthermore, increasing controls without viable legal alternatives creates greater incentives for criminal groups to become involved in facilitating the passage. Recent research indicates that with the growing number of migrants seeking to enter the EU illegally, the smuggling of migrants is becoming an increasingly lucrative business. This trend has in turn resulted in violence because of competition over key routes, and has served as an additional push factor for migrants toward the EU.

Much of the data and analysis on migration and the smuggling of migrants pre-date the extraordinary increases in movement that have been witnessed over the last two years between 2012-14, and the long-held assumptions that underpin policymaking and responses may no longer hold true. Whereas sub-Saharan migration has traditionally been characterised as *ad hoc* in nature and working on clan and familial networks in an informal manner, more recent research presented in this article demonstrates that with the increasing flow and the relatively higher purchasing power of the Syrian migrants, migrant smuggling services both across sub-Saharan Africa and along the North African coast have become significantly professional.

This article focuses on the two highest groups of nationalities of migrants registered in the EU: Syrians and Eritreans (Frontex, 2014). Combining field research in the Sahel and the Horn of Africa undertaken in 2014, a select number of interviews with policy-makers and selected security officials in EU Member States, an extensive review of the literature (including international and national reports, academic articles, key policy documents and strategies), as well as local and international media reporting, this article seeks to analyse the changing phenomenon of illegal smuggling of migrants into the EU, highlight the impact the increasing criminal networks engaged in this activity are having on security and stability along the route, and identify the implications *vis à vis* EU migration policy This article argues that in order to understand the phenomenon today, it is important to recognise that the conflict driven exodus from the Middle East has intertwined with and exacerbated longstanding economic migration from the sub-Saharan Africa. Thus, the nature of these flows requires a different response.

## Transnational organized crime: the illicit business of moving migrants

While often aggregated and overlapping, the crimes of "human trafficking" and "smuggling of migrants" are distinct crimes under the United Nations Convention against Transnational Organized Crime (UNTOC). In specific protocols in the Convention, which has been ratified by 141 States in 2003, human trafficking is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, of fraud or deception"[1] whereas smuggling of migrants is defined as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident"[2]. In the case of illicit migration, both human smuggling and trafficking involve the recruitment, movement and delivery of migrants from a host to a destination state. The distinction is primarily based on whether the migrants have a consensual relationship with their smugglers and whether they are free at the end of their journey (Shelley, 2014). In both cases, however, their inclusion as protocols to the UNTOC indicate them clearly as internationally recognized organized crimes.

The increasingly high barriers to entry presented by the EU's border strategy have created an enormous industry of illicit facilitators to assist those who seek illegal entry into the EU. They range from small groups to complex transnational organized crime networks (Shelley, 2014). The recent UNODC *Global Trafficking in Persons* report establishes a typology spectrum for groups engaged in human trafficking, ranging from small-scale local operations, through medium sub-regional operations, as well as large

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[1]     *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the United Nations Convention against Transnational Organized Crime, art. 3(a).

[2]     *Protocol against the Smuggling of Migrants by Land, Sea and Air*, supplementing the United Nations Convention against Transnational Organized Crime, art. 3(a).

transnational operations (UNODC, 2014). While migrant smuggling is not considered a subset of trafficking, the modes of conducting the two crimes are similar and thus, a comparable analysis applies.

**Figure 1**: Typology on the organization of trafficking in persons (retrieved from UNODC, 2014)

| Small Local Operators | Medium Sub-regional Operations | Large Trans-regional Operations |
|---|---|---|
| Domestic or short-distance trafficking flows | Trafficking flows within the sub-region or neighbouring sub-regions | Long distance trafficking flows involving different regions |
| One or few traffickers | Small groups of traffickers | Traffickers involved in organized crime |
| Small number of victims. | More than one victim. | Large number of victims. |
| Intimate partner exploitation | Some investments and some profits depending on the number of victims | High investments and high profits |
| Limited investment and profits | Border crossings with or without travel documents. | Border crossings always require travel documents. |
| No travel documents needed for border crossings | Some organization needed depending on the border crossings and number of victims | Sophisticated organization needed to move large number of victims long distance |
| No or very limited organization required | | Endurance of the operation |

The traditional characterization of migrant smuggling across sub-Saharan Africa fell firmly in the first category. Migration was perceived predominantly as a resilience strategy for vulnerable populations existing across the continent, and the facilitated movement of people was considered a positive economic opportunity for those able to profit from the transit (Reitano *et al.*, 2014a). Broadly overlooked by the states through which the migrants transited, and often closely ingrained into the economies of the border towns along the route, smuggling of migrants did not produce transnational networks on any significant scale (Lacher, 2012). Current evidence, however, suggests that this norm needs to be urgently challenged.

Frontex, the border agency of the EU, whose remit encompasses the Schengen Zone land and sea borders, has detected an increasing sophistication in the facilitation of illicit migration. Whereas previously smugglers were most frequently detected and detained accompanying migrants during high-risk border crossings, such as across the Mediterranean Sea or into the EU land borders, there has been a widespread move towards more sophisticated forms of facilitation including manipulation of legal channels or document fraud and migrants being left to complete the journey alone (Frontex, 2014a). These trends suggest that migrant smuggling is becoming

increasingly professional, more frequently taking on the characteristics of a large-scale transnational operation.

## Migration: drivers and desperation

Since 2013, the rate of migration across the Mediterranean Sea has been escalating sharply, and this trend is distinctly defined by the migratory patterns of two peoples: the Syrians and the Eritreans, as shown in Figure 2 below. While other sub-Saharan nationalities are represented, the disproportionately vast majority of migrants currently attempting to enter into the EU illegally through Africa are of these two nationalities, and in record proportions. Detections of illegal border crossings at EU's sea borders are at the highest level since the EU began collecting this data in 2008 (Frontex, 2014b) and the route has become perilously lethal. According to the International Organization for Migration (IOM), 3279 refugees died while trying to cross the Mediterranean Sea in 2014, and an estimated 1750 have died in the first six months of 2015 alone (Al Jazeera, 2015).

While Syrian refugees are currently seeking international protection in the EU in greatest numbers, representing 20 per cent of all asylum seekers, Eritreans are the fastest growing nationality of asylum seekers—with applications having increased 270 per cent in just the last quarter of 2014, at a rate six times higher than in 2013 (Frontex, 2014a). They flee countries plagued by wars and political instability, poverty and economic wants, social disparities and human rights violations. The dramatic growth in Syrian migration is explainable by the increasingly brutal protracted civil war currently on-going, but the drivers of the exponential increase in migration from Eritrea and other countries in Sub-Saharan Africa and the Horn are less easily discernible and warrant analysis.

In designing appropriate policy responses, a number of key questions have to be considered. Firstly, a nuanced understanding of the motivations and drivers of migration is critical to developing appropriate strategies in the source countries. In the enormous flow of people attempting the dangerous sea crossing, what is the catalyst for their movement? How many are real economic labour migrants, and how many are refugees? A second question that needs to be considered is the extent to which the root causes of clandestine migration across the Mediterranean might in fact lie in the Mediterranean region itself, and the policies of the EU border states.

**Figure 2**: Illegal border crossings at EU's external borders (land and sea) (retrieved from Frontex, 2014b)
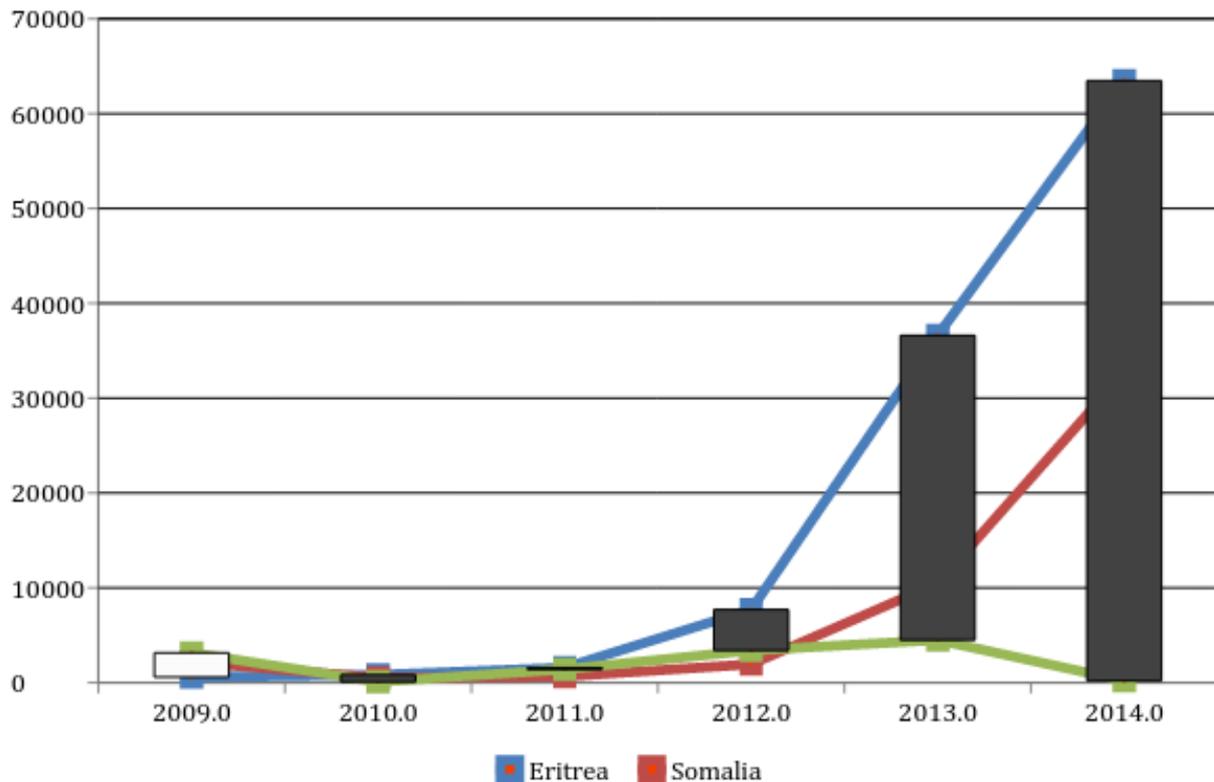


### Syrians

As shown in the graph above, since 2012 Syrians have been the highest nationality of illegal entrants into the EU. In 2013-14, Syrians represented almost a quarter of the total of all illegal border crossings into the EU at all frontiers—land and sea—25,500 in total (Frontex, 2014b). Comparatively speaking, however, the scale of Syrian migration to the EU pales in comparison to the number of refugees currently displaced in neighbouring countries. At the end of December 2014, the UN High Commissioner for Refugees (UNHCR) had registered over 3.2 million refugees, the vast majority of which were located in the neighbouring countries of Lebanon and Turkey (UNHCR, 2014a). Only 150,000 have requested asylum in the EU, though the total scale of migration may be higher, both those who entered the EU via other legal channels or those who avoided detection or regulation completely (Fargues and Fandrich, 2014).

Fargues and Fandrich (2014) identify three possible routes for Syrians to enter the EU. The most direct, and the most expensive, is by air to an EU member state. In order to avail of this route, Syrians must carry a legitimate entry visa to the EU, or have used a facilitator to procure fraudulent travel documents. The second route is by land through Turkey, a country Syrians can enter without a visa, to Greece or Bulgaria. To cross the border, they either have to have a legitimate travel visa, apply for asylum, or

use illicit means and remain irregular. Finally, there is the sea route across the Mediterranean from North Africa to the EU. While there have been no systematic studies conducted on Syrian migration, either at source or destination, it is assumed that the choice of route is commensurate to the profile of the migrants by income, by social status or diaspora connections. As the most hazardous and complex of border crossings, the sea route is presumably only taken by those with the lowest disposable income, the most desperate, with no other viable alternatives (Fargues and Fandrich, 2014).

Now a multi-billion Euro industry, migrant smuggling networks are operating sophisticated smuggling schemes for Syrian refugees from most of their neighbouring countries. Syrian refugees, in comparison to their sub-Saharan counterparts, have broadly a greater access to funds. Before the civil war, the last recorded GDP per capita in Syria was $2,066[3] (World Bank, 2014a), a sharp contrast to the countries of West Africa and the Sahel, where anywhere between 35–60 percent of the population live below the absolute poverty line (World Bank, 2014b). Greater funds have allowed Syrian migrants to seek a fuller package of services from the criminal networks facilitating illicit migration. Numerous media reports and interviews with asylum seekers and refugees cite that Syrian refugees are paying at minimum, several thousands of Euros per head to get to any number of European destinations by endless permutations of road, sea and air, sometimes routed through North Africa, Asia or even Latin America (Sherlock, 2014).

With the growth in smuggling has come a vast network of corruption: border guards, EU embassy staff and police paid to provide documentation, or to turn a blind eye to the migrants (Sherlock, 2014). Commensurate with the growth in Syrian migration, there have been greater incidents of passport fraud on the borders of the EU and an increase in the number of illegal entries by air particularly through Istanbul airport (Frontex, 2014a), both of which are characteristics of higher income migration. By contrast, traditionally the average African migration route was a far less organized or lucrative affair, initiated by the migrants themselves, in most cases with the journey done in stages and taking years to complete (de Haas, 2007). Only the Nigerians were using this type of "full-package" solution that included transit by air, and could cost as much as $10,000 (Reitano *et al.*, 2014a).

## Eritreans and the Horn

Sub-Saharan and the East and Horn of Africa regions in particular are growing hotspots for human trafficking and migrant smuggling, with the flow of irregular migrants reaching unprecedented proportions. In 2013, Eritrean nationals constituted the largest increase of illegal crossings into the EU in 2013 compared to the previous year (Frontex, 2014b). The number of Eritreans detected in the central Mediterranean,

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[3]        Data are provided for 2007, the last recorded GDP per capita provided by the World Bank.

attempting to cross the sea has reached record levels in the last two years, increasing tenfold in just the last quarter of 2014, from 1522 to 16,027 (Frontex, 2014a). While the life chances for an average citizen in the Horn of Africa, in particular Somalia and Eritrea are poor, with limited socio-economic opportunity and greatly restricted political freedoms under an authoritarian and repressive regime, these conditions have been true for much of the last decade, and there has been no obvious domestic change that might have triggered such an increase. What then is driving the rise in migration to the EU witnessed in recent years?

Frontex analysis suggests that many of the migrants now attempting to cross the sea had been resident in Libya for several years, and that they had broadly considered North Africa to be their final destination. However, with the declining security situation in Libya, and the increased opportunities to make the sea transit, they decided to attempt to cross to the EU (Frontex, 2014a) and this explains the increasing numbers from the Horn, and in particular Eritreans who are now seen to be crossing the Mediterranean. By contrast, the Regional Mixed Migration Secretariat (RMMS) in a 2014 study found that, unlike West African migrants going north to Libya, most migrants from the Horn of Africa had no intention of settling in Libya, but had the EU as their primary target (RMMS, 2014). This is consistent with a border survey by the Danish Refugee Council (DRC), which found that 80 percent of Eritreans surveyed had the EU, not Libya, as their intended final destination (DRC, 2014). Given the oppressive regimes and the violent nature of conflicts, they leave behind, Eritrean and Somali migrants are likely to receive *prima facie* asylum status in the EU, thus making the investment in the extra leg across the Mediterranean justifiable by the significant return of increased protection, resettlement or residency (RMMS, 2014). Most of the 350 people who drowned off the Italian island of Lampedusa in early October 2013 came from Eritrea (Crisp, 2013).

The explanation of Frontex appears particularly weak when the evidence of increasing migration in the source countries is taken into account. The scale and scope of illicit migration has become an increasing challenge for the countries in the Horn of Africa. The RMMS estimates that 5000 people leave Eritrea each month, with the final destination for many being the neighbouring countries of Sudan, Ethiopia, or through Djibouti to Yemen (RMMS, 2014). In 2014, however, national security forces of the Government of Djibouti recorded a similar dramatic increase in the number of migrants crossing their borders, and of groups travelling in far larger numbers than it was previously the case. In 2013, Djibouti alone saw over 80,000 irregular migrants crossing its borders from Ethiopia, Somalia and Eritrea, *en route* to other locations within the region and beyond (United States State Department, 2014). In 2014, more than 25,000 people crossed between January and September, and were found in groups of more than 100 men, women and children—a significant departure from the past when migrants tended to move covertly individually or in small groups. In this case, it was predominantly Ethiopians who came down through the western border, heading for a

small town of Obock that boasts being the nearest point to the Arabic Peninsula and only a 12km sea crossing to Yemen (Reitano *et al.*, 2014b).

Freedom of movement in and out of Eritrea, in particular, is extremely restricted: few are granted permission to travel abroad, and reportedly, the military employs a shoot-to-kill policy in restricted and border areas. Consequently, almost every potential migrant will seek the services of a smuggler to help them leave the country, paying anywhere between €800 and €8,000 (RMMS, 2014) depending on the final destination. NGOs working with trafficking victims in Ethiopia estimated that in Addis Ababa alone, there were an estimated 1,000 illegal and unregistered agents or brokers at work in the capital during 2012-2013, facilitating illegal passage from the Horn to the EU or the Gulf states (Reitano *et al.*, 2014b). The completion by Israel of a $400-million wall on its border with Egypt has further obliged migrants from the Horn of Africa to transit through Libya (Crisp, 2013), whose own volatile conflict makes it an inhospitable destination.

It appears that Eritrean smugglers are opportunistically taking advantage of the pressures on the EU border system, and have significantly stepped-up their operations. The number of Eritrean migrant facilitators arrested by the EU in 2014 grew by four-fold. Similarly, the number cases of document fraud committed by Eritrean nationals has grown by threefold since the previous year (Frontex, 2014a), again suggesting a level of professionalisation and sophistication in the illegal trade. The Ministry of Justice in Djibouti observed evolving trends of criminalization, from an *ad hoc* and informal trade by which individual smugglers facilitate transit on an individual basis towards a more organised smuggling trade whereby groups utilise the profits earned from *ad-hoc* smuggling to buy better vehicles and arms to extend their control along a route. In recent months, they have seen cases where smuggling groups have sought to extend the profitability of this activity by extorting families of the migrants they are smuggling, holding them hostage at certain points along the route (Reitano *et al.*, 2014b).

The evidence for Horn of Africa migration is notoriously weak, with a chronic absence of either data or more qualitative assessments that would allow a better understanding of the nature of the drivers and motivations of migrants, the routes of transit or the role of facilitators, or even the scale of the flow. However, the analysis of recent trends indicates that there is a growing professionalisation of people smuggling from the Horn of Africa. This trend is also exacerbated by the increasingly influence of organized criminal networks that often incite illegal migration among vulnerable populations. This phenomenon urgently needs better monitoring, as the scale of migration and the profits apparently being earned are significant. They also have a detrimental impact on the quality of human rights, and have the potential to destabilise an already volatile region.

## *Libya and the Sahel*

The capacity of illicit flows to violate human rights norms, fuel conflict and threaten stability has already been demonstrated in Libya and the Sahel. Imprisoning migrants and extorting their families has become a ready source of income for some of the many militia groups active in Tripoli and Benghazi (Reitano *et al.*, 2014a). Migrants held in detention centres managed by revolutionary brigades have been contracted out as informal work to gangs, receiving no compensation (DRC, 2014) but garnering revenue for those that control them.

While some militia groups have oriented themselves to preventing illicit migration, others are flourishing as human smugglers. In particular, the Tebu, an African clan present in Southern Libya and Northern Niger, have become dominant in the migrant smuggling trade (Reitano and Shaw, 2015). The nomadic clans of the Sahara have played a role in facilitating the transport of migrants for centuries; this was, as many analysts have observed, largely on an ad hoc basis (Lacher, 2012). With the growing migrant flows in the past few years, however, the Tebu are now reportedly earning upwards of $60,000 per week, which has allowed them to consolidate and expand their territorial control from Agadez in Niger, to Al Kufra in Libya, and east from Lake Chad to the Salvador Triangle on the border with Mali (Reitano and Shaw, 2015). Media reports and anecdotal accounts also indicate that they smugglers professionalizing their services to offer a more comprehensive, end-to-end migration service, and reaching through their Diaspora communities to recruit new migrants from across the trans-Sahel, both South to North, and from West to East (Interview[4]).

Territorial expansion by the Tebu has brought them increasingly into conflict with the other dominant nomadic tribe in the region: the Tuareg. According to an old political agreement signed between the Tebu and the Touareg in 1875, Tuaregs are in charge of territory to the west of the Salvador Triangle[5], and Tebu are given control over the territory to the east of it (Mokhefi and Antil, 2014). In recent months, however, there have been a number of violent clashes between the Tebu and the Toureg, as the Tebu have gained increasing access to illicit resources to buy arms and transport (Al Jazeera, 2014), and now secure one of the largest oilfields in the country. Despite their growing prominence as a source of regional instability, thus far, the Tebu have remained largely marginalized from the discourse around the central state in Libya (Shaw and Mangaan, 2014). As the political situation in Libya remains deeply tenuous, the Tebu hold considerable sway should they decide to more actively engage in the on-going

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[4]　　Discussions with two local journalists from Agadez, Niger, in the context of a workshop organized by the Global Initiative in Dakar, Senegal Dakar (October 2014) and presentation of a Senior UN Official at a conference hosted by the Global Initiative in Oslo (March 2015). Interviews by Tuesday Reitano.

[5]　　The Salvador Triangle is situated at the intersection of the borders of Algeria, Libya, and Niger. It has been conventionally considered the hub of all trans-Saharan trafficking.

wrangling between pro- or anti-Government forces, and could equally spread discord and conflict further south or east to Niger, Mali or Chad (Borzou, 2014).

The Libyan state under Gadhafi had previously been the frontline preventing the majority of sub-Saharan migrants from reaching the EU. In a heavily criticized deal between the Italy and Libya in 2009, known as the Rome-Tripoli Accord, which intensified joint sea patrols by both navies to intercept migrants and return them to Libya rather than allowing them to land in Italy where they could seek asylum. Within one year of the Accord going into effect, illicit migration into Italy fell by 75 percent (Traynor, 2010). The EU was considering expanding the agreement, with Gadhafi reportedly demanding €5 billion as without his support, "[t]omorrow Europe might no longer be European, and even black, as there are millions who want to come in" (BBC, 2010). However, as the Arab Spring movement coincided with the Greek fiscal crisis and weakened state capacity on that border nation, the capacity of the EU to prevent illicit migration was quickly outstripped (Traynor, 2010).

Following Gadhafi's fall in October 2011, the transitional government, reliant on volatile militias and wracked by on-going violent civil conflict, lacked the ability to prevent the departure of boats from their coastline, or to dismantle facilitation networks that had strong organizational and logistical capacities (Frontex, 2014a). In May 2013, the EU Council approved a €26 million border assistance mission for Libya, EUBAM, with the mandate to develop an integrated border management strategy for the country and build the capacity of the Libyan authorities to secure its borders (EEAS, 2014). However, the level of violence across Libya and the fragility of the central government have made most of these efforts impractical, and the country remains a porous sieve for criminal networks controlling trafficking routes from Africa to the EU. This has essentially opened the floodgates of illicit migration into the EU, and undermined the longstanding bastion of EU migration policy.

## EU policy: building barriers and strengthening borders

The EU strategy to counter irregular immigration is enshrined within the 2008 Global Approach to Migration and Mobility (GAMM) that endeavours to promote regular migration, prevent irregular migration and enhance international protection, within an overall framework of the Charter of Fundamental Rights (European Commission, 2008). In the period 2004-2013, the European Commission has committed more than €1 billion to more than 400 migration-related projects, with Southern Mediterranean and sub-Saharan African countries having been leading beneficiaries of this funding (European Commission, 2014). In practice, however, in order to protect the much vaunted freedom of movement within the EU Schengen zone, the resources dedicated towards border control efforts have vastly exceed investments in the other pillars, leading to the creation of a so-called "Fortress Europe" (ISIS Europe, 2014) as the countries on the EU's external borders literally build higher and thicker walls.

The Dublin Regulation (No. 604/2013), which is an integral part to the EU's migration strategy, dictates that the country where an asylum claim is lodged henceforth has the onus of responsibility for dealing with the asylum seeker. This places disproportionate strain on the border nations, particularly in periods of high migration and has come under criticism from a number of international organizations for violating the rights of migrants and migrant seekers by potentially preventing their asylum claim fairly and adequately considered (ECRE, 2009).

## Border Control

The EU's "Integrated Border Management System" is embodied in two entities, Frontex, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, and the European Border Surveillance System (Eurosur). In response to the growing pressure of illicit migration since 2012, a number of southern EU states have significantly upgraded their border security capacity. As of 2013, Frontex has been employing drones for aerial surveillance. Adopted in June 2014, the EU Maritime Security Strategy under the auspices of the EU's Common Security and Defence Policy (CSDP) additionally sought to tackle illegal migration (Gil *et al.*, 2014). Individual states have also taken important anti-illegal migration measures. Spain has invested considerable resources in strengthening and increasing surveillance along its €33-million border fence along its enclaves in North Africa, bordering Morocco. Despite the border fence's realisation, however, there have been several occasions in the past year, when migrants rushed the fence in groups of hundreds in attempt to set foot on European soil, at which point they could file an asylum claim. In one notable incident in May 2014, more than one thousand migrants attempted to scale the 20-foot high razor-wire wall (Elgot, 2014). A number of migrants have died attempting to swim around the flotation barriers dividing Moroccan waters from Spanish ones, as well as attempting to sail from Morocco to Gibraltar. Syrian refugees in Spain have reported spending in the region of €2,000 per head to buy stolen or fake Moroccan passports to cross into the Spanish cities of Melilla and Ceuta before seeking asylum (El Hadad, 2014).

Other EU countries with external borders are also increasingly following the Melilla model, under pressure from Syrian refugees crossing from Turkey. Bulgaria, with EU support, constructed a 33km metal fence along a section of the border closest to Turkey (The Economist, 2013). Between 2011 and 2012, Frontex invested about €37 million in "Operation Poseidon" to secure the Greek-Turkish border. This project included the construction of a 12.5-km wall on its land border with Turkey at the Evros river and 26 floating barriers along the river itself, and the deployment of 1,800 additional border guards in an attempt to keep out the wave of Syrians fleeing the country through Turkey (Fargues and Fandrich, 2014). The report of the European Parliament's Special Rapporteur for Migration, refugees and displaced persons noted that between 2011-2013, Greece received over €250 million in EU support, but the focus

of this funding on border control and detention measures came to the detriment of the EU's protection obligations (Strick, 2013). The result, as the European Parliament regretfully concluded in an in-depth analytical report published in March 2014, was that "the growing militarisation of the response to irregular migration in the Mediterranean region" has come at the cost of human rights, human security and human lives (Gil *et al.*, 2014). In short, the massive reinforcement of land borders has driven desperate refugees seeking international protection into the hands of smugglers and into the sea.

## *Prosecution of migrant smugglers*

The legal framework for preventing the facilitation of illegal immigration, informally known as the "facilitators package", was enacted by the European Council decision 2002/946/JHA on 28 November 2002 on the "strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence" (European Council, 2002). The EU enacted the UNTOC Protocol against the Smuggling of Migrants via the Council Decisions of 2006/616/EC and 2006/617/EC of 24 July 2006. The protocol makes provisions for the full range of criminal justice responses aimed at prevention of migrant smuggling, protection of its victims, prosecution of perpetrators, and the promotion of international cooperation efforts to achieve the same (European Council, 2006). The intent of the these policies is not to criminalise the act of illicit migration itself, though the Protocol does leave room for EU Member States to penalise illegal entry. Instead, emphasis is on the fight against smugglers and criminal organisations that take financial advantage of the vulnerability of migrants.

A number of EU law enforcement operations that have taken place have targeted migrant smuggling networks, including, for example a Europol coordinated sting operation that arrested 103 members of a migrant network operating across ten countries, that specialized in bringing people from Libya, Iraq and Syria into the EU (Deutsche Welle, 2013). Tunisia has initiated investigations into smuggling groups operating in its territory, while also creating migration resource centres about their rights, the risk of fraud, and the dangers of exploitation and trafficking (Reitano *et al.*, 2014). There have, however, been precious few successful prosecutions of migrant smugglers by EU countries and those that have been tried have invariably been lower level transporters or facilitators who are easily replaced and of limited value in ending the trade. Arguably, more effort needs to be made to trace and seize the profits and other assets of migrant smugglers that would allow convictions to reach the mid- or higher-level controllers of the operations (Shelley, 2014).

## *Resettlement and readmission*

The policy that has most focused on migrants' protection is Directive 2004/81/EC (European Council, 2004), which lays down the criteria for issuing a residence permit, the conditions of stay and the grounds for non-renewal and withdrawal of permits. For the protection of victims of migrant smuggling, the EU has also adopted Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims (European Parliament and Council, 2012). However, like the majority of the EU instruments, these framework remains insufficiently robust to deal with the extent of the current migration crisis, and while the policy framework may be in place to promote a common European approach, in practice, responses remain highly fragmented, allowing smugglers the opportunity to arbitrage between states (Gil *et al.*, 2014).

Sweden is the traditional destination for Syrian migrants and regularly receives approximately two thirds of the total refugees into the EU. Since September 2013, it has been the only EU country to offer permanent residence to refugees (European University Institute, 2014). About 1900 places per year are offered under Sweden's formal refugee policy, whereby refugees are assigned by the UNHCR (Migrationsverket, 2014), but an estimated 30,000 Syrians have travelled illegally to Sweden and sought asylum there since the crisis began (European University Institute, 2014), at the extraordinary rate of 1,200 per week (Brenner, 2014). For the refugee or asylum seeker, residence in Sweden comes with a broad package of social support services, including housing, education—cultural, linguistic and vocational—and the right to work, as well as the chance to extend resettlement benefits to your family members (Migrationsverket, 2014).

It is little wonder therefore, that the Swedish migration board projects 95,000 people will arrive in the country, seeking asylum in 2015, of which the largest portion will be from Syria (Kakissis, 2014). Interviews in Sweden with both NGO caseworkers and the Swedish police report that smuggling rings are charging between €15,000 to €20,000 to travel from Syria to Sweden, including the cost of transport, falsification of documents, and other services (Lallerstedt, 2014). Even on the most conservative of estimates translates smuggling refugees to Syria into an illicit business worth hundreds of millions of Euros to criminal networks.

A close second to Sweden is Germany, which as of December 2014, was the country that has received the highest number of asylum applications in the EU. Germany has offered 30,000 places under their Humanitarian Admission Programme, providing a two-year residence permit and a package of social services similar to those offered by Sweden. However, an increasing number of demonstrations directed at the growing Muslim community in Germany have raised concerns about the sustainability of the policy (Deutsche Welle, 2014) and counter-demonstrations have raised social tensions across the country.

In contrast to Sweden and Germany, the remaining 26 countries of the EU are far less hospitable. According to the UNHCR, combined they have pledged only 5,105 resettlement places for 2015. This uneven provision of protection and the

inconsistencies of asylum rates throughout the EU have led the UNHCR and other aid agencies to encourage the EU to uphold the principles of the EU's Common European Asylum System (Fargues and Fandrich, 2014).

Faced with high barriers to entry and few legal options, little commitment or capacity for prosecution of criminal networks, and relatively low penalties involved, EU policy forced those with goals of reaching Europe's shores to use illegal channels (UNHCR, 2014b) and has provided the perfect conditions for criminal smuggling networks to thrive. It further increases the number of unregistered, illegal migrants left to their own devices within the EU. Without the legitimate right to work, they become vulnerable prey to criminal groups and networks trafficking humans, drugs and engaging in other criminal acts (Shelley, 2014). There is also a risk that as communities of illicit migrants grow in size and disenfranchisement, they become more susceptible to extremists groups and ideologies.

## *Development Approaches*

Some of the most powerful tools in the EU arsenal are part multilateral development cooperation, and EU policy has long recognized the "migration-development nexus" both within the GAMM and in other instruments (Gil *et al.*, 2014). Under the Global Public Goods and Challenges thematic programme of the new Development Cooperation Instrument (DCI) for 2014-2020, the EU has earmarked €357 million towards migration and asylum work. This includes, *inter alia*, a €10 million programme to promote and protect the rights of migrants, including those who fall victim of human trafficking, including in Ethiopia and Zimbabwe; €1.5 million support to an International Organisation on Migration (IOM) regional programme strengthening regional protection of trafficked migrant children through the Gulf of Aden and a €11 million programme to support civil society action for promoting the rights of migrants in a number of countries including in North Africa and the Horn (EEAS, 2014). While these are positive initiatives, their scale and scope is not commensurate to the challenge, and are insufficiently integrated with efforts to understand changing dynamics and trends in migration.

## Implications

Facilitated by smugglers, there is no shortage of evidence that the walls of "Fortress Europe" have been penetrated. The Dublin system places unsustainable pressure on the littoral states, which is now penetrating into the heartland of Europe and threatening internal security. In Milan, Syrian asylum seekers are camped out in droves in the railway station; in Calais, Syrians are staging sit-ins, hunger strikes and threatening to kill themselves if they are not allowed to cross the Channel into the UK; and in Bulgaria, a growing number of refugees and asylum seekers are being accommodated in

conditions that UNHCR has described as "sickening, disgusting and inhumane" (Crisp, 2013). In most tolerant states, such as Sweden and Germany, social tensions are rising, expressed in social protests, and attacks on Mosques and Islamic communities (Eddy, 2015).

As the challenges of illicit migration into the EU grows more acute and widespread, there can be little doubt that new approaches are needed to tackle the problem These will need to distinguish between economic migration and asylum, and adhere to the human rights and civic responsibilities entailed in each case. Five key features will be required for a more nuanced response by the EU, and in particular, engagement will be required in three places—Syria, Eritrea and Libya.

## Open the doors

Illicit migration into the EU is a long-term challenge that comes as a facet of global economic disparity, of conflict and instability. The present levels of movement will surely not last forever, but the period has been instructive in highlighting the necessity of a shift in the EU approach to human movement. Building walls, digging trenches and other efforts to reinforce borders do not stop people from attempting to migrate regardless of the risks, if they do not have a viable alternative. Efforts to strengthen border controls only enriches and empowers the more potent criminal networks involved in smuggling, with the perverse result of exacerbating criminality and insecurity.

A worrying trend that appears to be accompanying the building of physical borders is a restriction of civil liberties to contend with the growing fear of domestic security threats. For example, Spain has introduced a new public security law, *Ley de Seguridad Ciudadana*, also known as the *Ley Mordaza*, the gag law. The bill, passed by the lower chamber of the Spanish parliament in January 2015 and debated in the Senate in February 2015, allows the Spanish authorities to immediately deport immigrants, without giving them opportunity to seek asylum, and permits random identity checks, a measure that civil society advocates fear will affect migrants disproportionately (Ordonez, 2014).

Rather than tightening restrictions, both physical and civil, policies need to be revised to allow opportunities for asylum for populations that need them, and to allow for the legal movement of economic migrants to supply sectors of the European economy where workers are needed. Effectively managed migration policies can have significant economic benefit for the host states, and well-managed integration policies reduce rather than exacerbate potential social tensions.

## Update the evidence basis

As the analysis herewith has shown, for both refugees from conflicts in Syria and the Middle East, as well irregular migrants from the Horn of Africa, the causes for migration, the routes and facilitators engaged in the trade are changing rapidly. There is an urgent need to chart the phenomenon, and to update the evidence basis upon which migrant smuggling responses are being defined. In all cases, even in most recently published reports, the data are at least a year old, if not drawing from sources that are far more out-dated. In light of the extent to which the smuggling phenomenon is changing, some basic assumptions about the nature of illicit migration, both from Syrian and other conflict zones in the Middle East as well as from across sub-Saharan Africa, need to be challenged. Similarly, even while the attention is high on the vulnerability of the Mediterranean Sea, statistics on migrants smuggled via the sea into the EU have historically been, and remain, extremely limited. Cases are rarely tracked after the migrant has landed, and little is known about the migrant's fate in the EU (Fargues and Bonafanti, 2014).

## *Recognise and respond to migrant smuggling as a transnational organized crime*

While the economic and humanitarian drivers are both important and verifiable, this has been significantly amplified by the presence of increasingly professional transnational organized crime groups that are inciting and perpetuating smuggling. In particular, the massive escalation of the phenomena from the Horn of Africa, where the socio-economic and political circumstances may be dire, but have not substantially changed in recent months, can arguably be attributed to the proactive recruitment policies by criminal networks. Thus, there is an urgent need to adapt the policy framework of the response to recognize the crime as such, and provide a comprehensive range of strategies to prevent the exploitation of irregular migrants, refugees and asylum seekers by unscrupulous human smugglers.

While addressing the transnational organised crime of smuggling of migrants may have the effect of closing one of the few means by which those seeking international protection can enter the EU, it will also prevent many desperate people from losing their money and their lives in the attempt. In particular, this should be focused on those groups active around crossing the Mediterranean Sea, as it is here that the most vulnerable are transiting. On the day that this article reaches its conclusion, the Italian navy rescued nearly one thousand migrants, the majority Syrians, from a "ghost ship," an unmanned cargo ship apparently procured in Turkey, and set on a programmed course to physically crash into Italy's shores by an unscrupulous smuggler. Had they succeeded, the death and environmental damage would have been considerable (Sylvers, 2014). Thus, an integral part of this strategy must be to make more vigorous efforts to identify and break transnational groups active in smuggling, and to inform prospective asylum seekers of the risks that they run when they place themselves in the hands of

individuals and gangs who are motivated only by profit. There are some nascent efforts in this regard, particularly in terms of law-enforcement action, but they need to be supported by all tools and coordinated action to reduce and seize the profits of the trade, and to fully prosecute the controllers involved.

That said, while smugglers are unquestionably amplifying both the scale of the migration flow and are responsible for the most devastating of the humanitarian consequences of the trade, this is not to say that smugglers are the root cause of the problem. Thus, while addressing the transnational organized crime of the smuggling of migrants must be a priority, it is the wrong response to people who are desperate for international protection. Smugglers proliferated in response to a demand, and for a sustainable alleviation of the current migration crisis, it is the demand that must be addressed (Fargues and Bonafanti, 2014).

### Engage closer to the source: Libya, Eritrea and Syria

A European policy response that looks beyond its own borders, but also that aligns with international norms and obligations should not be to maintain or turn back refugees in the last step of their journey—for which, in most cases, is Libya. Arrangements need to be found to ensure a safe country of resettlement and asylum, which Libya in its current context most surely is not.

While there are undoubtedly challenges engaging in Libya at this time, it must be a continued effort as part of the EU's overall engagement, and this must extend beyond the central government institutions. Capacity building of customs and law enforcement officials alone will not be successful. With their increasing financial and territorial dominance, engaging the Tebu is going to be critical both to stabilization efforts in Libya, but also to sustainable efforts to reduce trans-Saharan migration. The longer they are left to profit from this increasingly illicit resource flow, the harder it will be to find incentive frameworks around which to negotiate. As a leading voice in the stabilization efforts for Libya, and the largest provider of development assistance, the EU has the leverage to ensure that all parties are brought to the table in this regard. In addition, efforts need to be redoubled to stop the haemorrhage of people from the main source countries, Eritrea and Syria. Within the context of bilateral development relations, efforts need to be made to facilitate formal mobility partnerships with the Eritrean government, and greater support and advocacy needs to be provided to Eritrea and the other countries in the IGAD region to proactively monitor and manage their population movement, clamp down on facilitators and provide viable livelihood alternatives.

As far as Syria is concerned, by far the most utilitarian strategy to reduce the flow of Syrian refugees into the EU will be to increase assistance needs to be given in the source and neighbouring countries. There are more than 2 million Syrian refugees in Jordan, Lebanon, Turkey, Iraq and Egypt. Yet the UN System is unable to secure

sufficient funding to provide for even their most basic needs: in December 2014, the World Food Programme (WFP) was forced to suspend the food voucher system to refugees, and reduce food assistance within Syria to 40 percent of requirements, due to an 89 percent funding shortfall (WFP, 2014).

For more than a decade, analysts have argued that the costs of defending the European "Fortress" from unstable states in its neighbourhood are much higher than the costs of promoting prosperity and security beyond its borders (Castan Pinos, 2008). Furthermore, the grudging provision of resettlement opportunities and humanitarian assistance does little to garner the respect of Syria's neighbouring states that are carrying a far higher burden. It also undermines the EU's voice in international relations, as it is hard to preach the doctrine of the responsibility to protect when EU member states are wilfully refusing protection to asylum seekers or assistance to vulnerable migrants at sea.

In conclusion, the EU urgently needs to reshape its current approach to migration and asylum seeking, as the *status quo* is seriously damaging its credibility internationally and causing significant and unnecessary human suffering. A genuinely linked up approach to security and development will need to be achieved to provide a sustainable solution to the current crisis. It is time for EU member states to project a more open and tolerant view of migration, recognizing the rights and freedoms offered to those external to the Schengen Zone, rather than just to those within it. Furthermore, a more open approach may in fact calm rather than exacerbate some of the region's greatest concerns: the risk that illegal, alienated and marginalised populations present a security threat within domestic borders.

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