

Profile of refugees staying in Ethiopia & influencing factors

While surveying refugees' intentions to move onwards from Ethiopia, the research team also came across groups of refugees who declared no intention to leave their country of asylum. The vast majority of this group is married, older and have stayed in the camps for more than four years.

The main reasons for staying included the safe environment in Ethiopia, a sense of responsibility towards their families, general satisfaction with life in Ethiopia, as well as lack of connections abroad that could support them through the journey to third countries. Both the fear of the unknown and the knowledge of the risks of irregular migration were also pointed to as relevant factors in the decision to stay in Ethiopia. Interestingly, respondents also mentioned that one reason for staying in Ethiopia was access to paid work (even in the informal market), which allowed them to provide for their families and live in safety.

Eritrean refugees in Shire camps

Very few Eritreans in the Shire camps surveyed indicated an intention to stay in Ethiopia (four percent). This group is older than those who wish to leave Ethiopia, with 72 percent over the age of 26. Like the other groups, most are male (56 percent) but those who wish to stay here are more likely to be married (61 percent) and generally have higher education, with 50 percent of respondents having between grade 10 to 12 schooling. This group is most likely to have been in the camps for under four years with 50 percent having been in Ethiopia under two years and 89 percent under four years.

In qualitative interviews, reasons for staying in Ethiopia include lack of finances to engage in irregular migration, desire to find work in nearby towns and family responsibilities leading to aversion to the risks of irregular migration.

INFORMAL JOBS

4+ 26 years old and above
years in the camps
FAMILY RESPONSIBILITIES
EDUCATED (grade 10 and above) **MARRIED**
LACK OF FUNDS TO MIGRATE

“For those who want it, there’s lots of work available ranging from being in charge of water taps in the camps up to working with UNHCR. Those ones who came to stay here, stay here, but those ones who planned to go to Europe have organized their trip long before their initial departure from Eritrea.”

Hitsats camp, female aged 18

Hitsats camp/©DRC



Eritrean refugees in Afar camps

Over one-third (37 percent) of Afari Eritrean refugees wish to stay in Ethiopia. The profile of this group is evenly spread out across age groups and gender. The majority are married (60 percent), have family in the camps (80 percent) and are the heads of their households (55 percent of the 80 percent). The majority have been in the camps for over 4 years (61 percent), with almost a quarter (23 percent) that have been here 2 to 3 years. The majority have no education (59 percent) and about one quarter (23 percent) have between grade 1 to 6 schooling.

A small percentage (3 percent) have attempted to migrate irregularly in the past. The high percentage of individuals with no education may arguably be linked to a greater fear of the unknown that it tied to lack of education about the broader world.

Half of those wanting to stay in Ethiopia cited safety as a factor (50 percent) and 37 percent indicated that it is because of the presence of family in Ethiopia. Other reasons cited include happiness with the situation in the refugee camps (16 percent), strong cultural ties to the community (17 percent) and a lack of money to engage in irregular migration (28 percent). These results are confirmed in interviews where respondents indicated a desire to stay in Ethiopia due to general satisfaction with security and life in the camps and because of a lack of money to move irregularly. UNHCR's partners in the area report that refugees move out of the refugee camps to the towns looking for shelter and work, but that refugees generally return to the camps for food distribution.

4+ 26 years old and above
years in the camps
CULTURAL TIES TO COMMUNITY
SAFETY
MARRIED INFORMAL JOBS
no EDUCATION LACK OF FUNDS TO MIGRATE

"I have food and peace here. Why would I ever go?"

Aysaita camp, female age 25

Remarkably, one percent of respondents also indicated a desire to stay in Ethiopia because of work. Anecdotally, refugees are engaged informally in working in a sugar cane factory in Aysaita and also are known to work on road construction as day laborers.

"Some time ago, when the road was being constructed, the youth were engaged in manual labour that provided some earning. Such opportunities are needed."

Barahle camp, male age 22

Qualitative data gathering reveals that some refugees have no knowledge of what regular or irregular migration is, with many of the youth having no knowledge of any countries outside of Ethiopia and Eritrea. Others have decided to stay in Ethiopia because of fear of irregular migration and because of a lack of personal connections in any other countries. This is corroborated in survey results which indicates that only 14 percent have family overseas and 5 percent have friends overseas.

Somali refugees in Jijiga camps

“No I don’t wish to irregularly migrate. Because how my life turns out depends on me, not where I am.”

Sheder camp, male age 18

4+ 36 years old and above
years in the camps
FAMILY RESPONSIBILITY
KNOWLEDGE OF THE RISKS satisfaction with life in
ETHIOPIA MARRIED

Sixteen percent of Somali refugees surveyed intend to stay in Ethiopia. The age range of this group older than potential irregular migrators, with 43 percent over 36 years of age and 71% over 26. A slight majority (52 percent) are male, most are married (60 percent), and the vast majority (94 percent) have been in the camps for over four years. The majority have family in the camps (72 percent) of which most are the head of their household (60 percent). Slightly more of this group have grade 10-12 and university education (44 percent) as compared to no education (37 percent).

Survey data indicates that perhaps lack of diaspora connections may be a factor as, in this group, only 16 percent had family and friends overseas. Interestingly however, their diaspora was the most willing to support migration (21 percent of these had been encouraged by diaspora to move onwards and 69 percent of these diaspora connections were willing to provide support). In qualitative data gathering, the reasons provided for staying in the camp were old age, responsibility to take care of family members, fear of the risks of irregular migration, the view that Ethiopia is the best country in Africa and the view that one’s destiny is not based on one’s location.

“Out of 54 African countries, Ethiopia is the best place to live. So, I have not thought about leaving.”

Sheder camp, male age 20

Congolese refugees in Assosa camps

Although no Congolese refugees surveyed indicated a desire to stay in Ethiopia, in qualitative data gathering, interviewees indicated a desire to stay in Ethiopia because it is secure and because they had nowhere else to go.





Smuggling and trafficking in Ethiopia

The importance of addressing trafficking and smuggling in the HoA has long been recognized as an urgent problem. In 2006, the Ouagadougou Action Plan (OAU) to combat trafficking, especially in women and children was launched by the European Union (EU) and African Union (AU) and aimed to develop co-operation, best practices and mechanisms to prevent and combat trafficking in human beings between the nations in the EU and AU. The Khartoum Declaration of 16 October 2014 launched the AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants and set out member state commitments to ratify international conventions on human smuggling and trafficking, to address the socio-economic causes of migration, to strengthen law enforcement efforts, to protect victims, and to foster cooperation with international organizations willing to assist in developing capacities. On 28 November 2014, ministers from Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Djibouti, Kenya, Egypt, and Tunisia met with their counterparts from the 28 EU countries as well as the European and African Union Commissioners in charge of migration and development and the EU High Representative. They launched the “EU-Horn of Africa Migration Route Initiative”, also known as the “Khartoum Process”, which aims to tackle trafficking and smuggling of migrants between the Horn of Africa and Europe. The Khartoum process provides political forum to put forth practical measures at the regional, national and international levels^[101].

On 11-12 November 2015, the EU led the Valetta Summit in Malta to which African states from North, West and East Africa were invited to attend. The Summit concluded with a Political Declaration and Valetta Action Plan (VAP). The VAP is arguably the most comprehensive set of agreed actions on migration management and stability between Africa and the EU. Despite purporting to be one “package” of actions for implementation, states are free to pick and choose what they seek to pursue and/or have funded. The Valetta Summit has given renewed impetus to the commitments made through past processes such as the Rabat Process, Khartoum Process and the Joint EU-Africa Migration and Mobility Dialogue, and their mechanisms have been designated to monitor the implementation of the priorities agreed to in the VAP by participating states.

The following discussion will consider the international and domestic legal and policy framework, with a focus on national laws and policies on trafficking and smuggling in Ethiopia as well as implementation with a focus on the study areas of Tigray, Somali, Beningshangul-Gumuz and Afar regions, with respect to trafficking and smuggling in Ethiopia as well as its current state of implementation.

A. LEGAL AND POLICY FRAMEWORK CONTEXT

I. International norms

Ethiopia is a State party to the United Nations Convention Against Transnational Organized Crime (UNTOC)^[102] that sets out the international framework for the prosecution of organized crime (including trafficking in persons), the protection of its victims and the prevention of the crime.

[101] rafficking and Smuggling on the HoA, supra at note 37.

[102] U. N. Convention Against Transnational Organized Crime, 29 September 2003, G.A. Res. 55/25 [UNTOC]. It was ratified by Ethiopia on 23 July 2007.

The UNCTOC is supplemented by three Protocols, two of which are relevant to matters relating to trafficking and smuggling: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)^[103]; and the Protocol against the Smuggling of Migrants by Land, Sea and Air (Migrants Protocol)^[104]. As per Article 2 of the Trafficking Protocol, it aims to prevent and combat the smuggling of migrants, as well as promote cooperation among States parties, while protecting the rights of smuggled migrants and preventing the worst forms of their exploitation which often characterize the smuggling process.

As per Article 2 of the Migrants Protocol, its purpose is to “prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.”

Ethiopia ratified the UNCTOC in 2007 and the Protocols (also known as the Palermo Protocols) in 2012. Ethiopia’s Constitution allows for the automatic domestic recognition of all the international treaties that it has signed on to stating that “all international agreements ratified by Ethiopia are an integral part of the law of the land^[105].”

II. Domestic legal and institutional framework

Ethiopia’s Constitution^[106] provides for numerous fundamental freedoms and rights including: freedom of movement (article 32) and association (article 31); rights to: life, liberty and security of the person (Article 14); life (article 15); liberty (article 17); humane treatment (article 18); fair/due process for persons arrested (article 19), accused (article 20) and/or detained (article 21) by the authorities; equality (article 25); access to justice (article 37); and labor (article 42).

Ethiopia generally prohibits sex and labour trafficking through the Constitution and, previously, through the provisions of the Penal Code of the Federal Democratic Republic of Ethiopia (Penal Code)^[107]. Specifically:

- Article 18 of the Constitution prohibits inhumane treatment including slavery or servitude, trafficking in persons and forced or compulsory labor^[108].

[103] U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 25 December 2003, G.A. Res 55/25 [Trafficking Protocol]. It is the first global legally binding instrument with an agreed definition on trafficking in persons. The intention behind this definition is to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights. Ethiopia acceded to the Protocol on 22 June 2012 with a reservation not accepting jurisdiction of the ICJ. For more information, see UNODC website at: <https://www.unodc.org/unodc/treaties/CTOC/> and the following link for the full text of the treaties: <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOCpercent20Convention/TOCebook-e.pdf>

[104] The U.N. Protocol Against the Smuggling of Migrants by Land, Sea and Air, 28 January 2004, G.A. Res. 55/25 [Migrants Protocol]. Ethiopia ratified the Convention on acceded to the treaty on 22 June 2012 with a reservation against the jurisdiction of the ICJ. For more information see: <https://www.unodc.org/unodc/treaties/CTOC/>. Note that although trafficking is distinguished from smuggling by the use of force or other forms of coercion as well as having a purpose of movement for exploitation in law, in practice, these definitions have drawn criticism due the difficulty in distinguishing between the two crimes. For example, it is possible for an individual to have been harmed by a smuggler without being trafficked or, as is often the case, an individual may consent to being smuggled but is later sold to traffickers. The treatment of the individuals, when considered from a business perspective, are revealing. A smuggler must provide an effective service to individuals to ensure that their reputations are maintained and business will continue. Conversely, trafficking operates on model of the individual as a commodity from whom the maximal financial benefits should be extracted by whatever means necessary and where fear and a reputation for violence ensure that distant relatives will make requested payments. See *Conditions and Risks of Mixed Migration in North East Africa*, supra at note 17.

[105] Constitution of the Federal Democratic Republic of Ethiopia, 21 August 1995, Article 9(4), available at: <http://www.wipo.int/edocs/lexdocs/laws/en/et/et007en.pdf> [Ethiopian Constitution]. Although beyond the scope of this study, in practice, prosecutors and lawyers appearing before the courts in Ethiopia may rely upon international treaties ratified by Ethiopia. Note however, where there is domestic implementing legislation, the domestic legislation is paramount.

[106] Ethiopian Constitution, *Ibid*.

[107] See the Penal Code of the Federal Republic of Ethiopia 1957, 23 July 1997, Proclamation No. 158 of 1957, available at: <http://www.refworld.org/pdfid/49216a0a2.pdf> [Penal Code]

[108] Ethiopian Constitution, supra at note 106.

• Although no longer in force, the previous relevant provisions of the Penal Code are as follows:[109]:

o Article 243 prohibits the unlawful departure, entry or residence of anyone into or out of Ethiopia and includes specific offenses for those who obtain a benefit from such activities including offenses related to false documents (punishments between 5-15 years of rigorous imprisonment[110])

o Article 596 of the Criminal Code prohibits enslavement (punishment of 5 – 20 years imprisonment),

o Article 597 prohibits trafficking in women and children (punishment of 5 – 20 years imprisonment),

o Article 598 prohibits the unlawful sending of Ethiopians abroad for work (punishment of 5 to 20 years rigorous imprisonment)

o Article 599 makes the relevant laws applicable to illegal associations and juridical persons (maximum fine of 100,000 ETB and dissolution of association or band)

o Article 635 prohibits sex trafficking in women and children (punishment not exceeding five years' imprisonment)

The previous Penal Code scheme was criticized on a number of grounds including that: articles 597 and 635 lacked a clear definition of human trafficking; there was no criminalization of trafficking against adult male victims; there were no protective mechanisms to support victims to take an active role in the investigation and prosecution of traffickers; and there was a lack of legislation preventing the deportation of foreign victims to countries where they could face hardship or retribution[111].

The Ethiopian government has also recognized numerous gaps in the legislation which led to the passage of the new Trafficking Proclamation[112] including that the penalties were inadequate for the severity of the crimes; the crimes focused only on those in charge and not those who were assisting; there were limitations in terms of the ability of the police and prosecutors to properly investigate and prosecute these complex crimes, e.g. lack of specific wiretap laws; crimes were investigated only by federal prosecutors at the federal level resulting in long delays; and there was no support and care for victims and their rehabilitation[113]. In practice, criticism was also leveled at the lack of distinction between smuggling and trafficking offences as public prosecutors had revealed that Articles 596 and 597 were rarely used to prosecute transnational trafficking. Instead, article 598 (smuggling) and article 571 (endangering the life of another) were more commonly used for prosecution because proving the degree of coercion and deception required to establish trafficking was more difficult[114].

The new Trafficking Proclamation, which was adopted on August 15, 2015, supercedes Articles 243, 596, 597, 598, 599 and 635 of the Criminal Code[115].

[109] Penal Code, supra at 108.

[110] Where a sentence of rigorous imprisonment is imposed, the offender has no possibility of obtaining early parole.

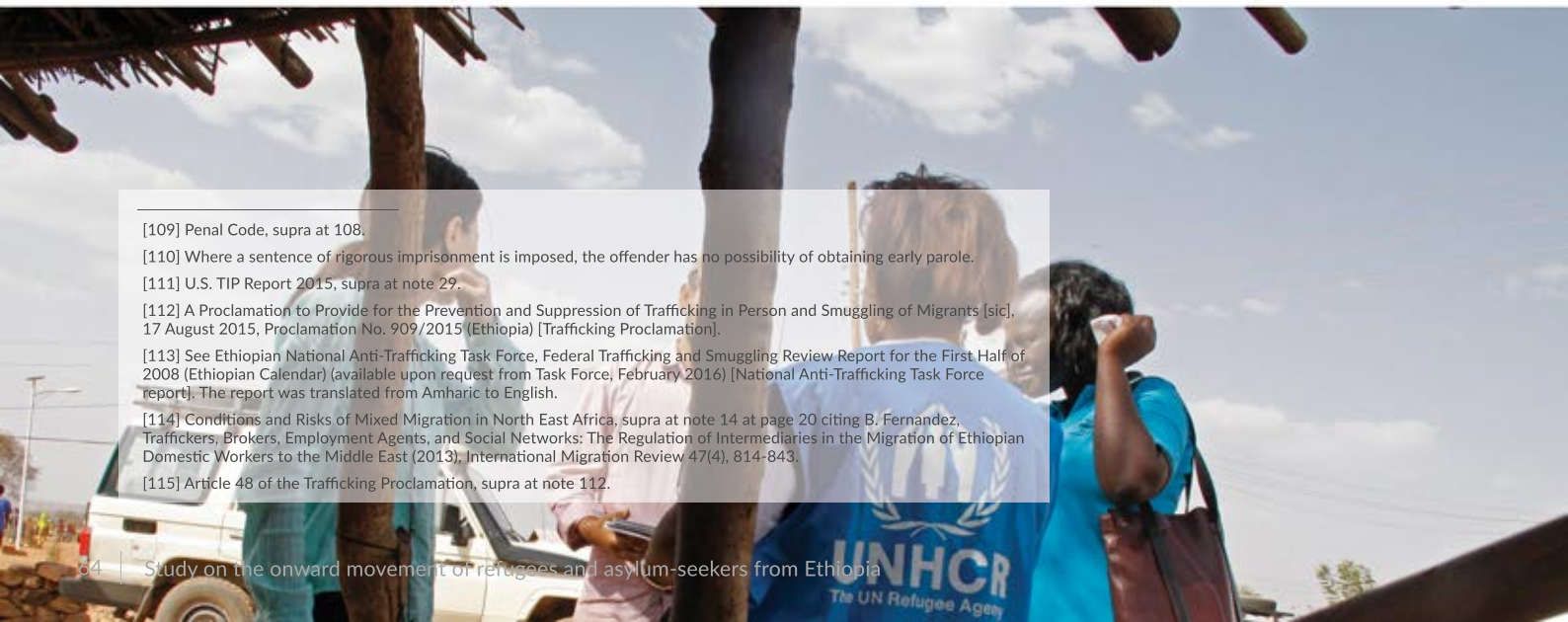
[111] U.S. TIP Report 2015, supra at note 29.

[112] A Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants [sic], 17 August 2015, Proclamation No. 909/2015 (Ethiopia) [Trafficking Proclamation].

[113] See Ethiopian National Anti-Trafficking Task Force, Federal Trafficking and Smuggling Review Report for the First Half of 2008 (Ethiopian Calendar) (available upon request from Task Force, February 2016) [National Anti-Trafficking Task Force report]. The report was translated from Amharic to English.

[114] Conditions and Risks of Mixed Migration in North East Africa, supra at note 14 at page 20 citing B. Fernandez, Traffickers, Brokers, Employment Agents, and Social Networks: The Regulation of Intermediaries in the Migration of Ethiopian Domestic Workers to the Middle East (2013), International Migration Review 47(4), 814-843.

[115] Article 48 of the Trafficking Proclamation, supra at note 112.



The Proclamation attempts to align the Ethiopian domestic legal framework with its international obligations by defining terms like “human trafficker” or “migrant smuggler”, “exploitation” and “victim” (Part One); criminalizing and setting out penalties for a range of activities relating to trafficking and smuggling in persons (Part Two); providing for preventative, investigative and procedural processes (Part Three); providing for the protection, rehabilitation and compensation of victims (Part Four); establishing a fund to protect, control and rehabilitate victims (Part Five); and establishing mechanisms for national (Part Six) and international cooperation (Part Seven)[116].

It is also noteworthy that in 2015, the Government of Ethiopia also finalized its National Plan of Action to Combat Trafficking in Persons 2015/6-2020/1, in which action against trafficking in persons is based on four pillars: prevention of trafficking; prosecution of traffickers and their accomplices; protection of victims of trafficking and those most vulnerable to trafficking in persons (TIP) and; local, national and international partnership to combat TIP.

Ethiopian Governmental anti-trafficking structures

The National Anti-Trafficking Committee, chaired by the Deputy Prime Minister, was established in June 2011 and was also given a legislative basis in Article 39 of the Trafficking Proclamation[117]. The Committee is tasked with coordinating activities designed for victim protection; assistance and rehabilitation; advising on policy plans and implementation; accommodating interests of victims; combatting trafficking and smuggling; and incorporating the social impact of smuggling and trafficking into the educational curriculum. Membership includes the Ministry of Justice; Ministry of Foreign Affairs; Ministry of Labour and Social Affairs, Ministry of Women, Children and Youth Affairs; Ministry of Education; Regional States; other governmental organizations; religions institutions; charities and societies; and other organizations. Although not set out in legislation, the Government of Ethiopia has stated that similar councils have also been set up at the Regional, Woreda and Kebele levels[118] with plans to establish them in other regions, such as Beninshangul Gumuz.

The National Anti-Trafficking Task Force, established by Article 40 of the Trafficking Proclamation, is accountable to the National Committee and is responsible for designing and implementing policies, strategies, action plans and measures to protect and assist victims in collaboration with government, aid partners and international organizations. The Task Force is led by the Ministry of Justice and has 25 members including the Ministry of Foreign Affairs; Ministry of Labour and Social Affairs; Ministry of Women, Children and Youth Affairs; Ministry of Education; and National Security and Intelligence Services. Non-governmental organizations are not permitted to participate in the Task Force.

The Task Force reportedly operates in accordance with a 5 year plan and has four sub-groups: victims’ support sub-group led by the Micro and Small Enterprises Development Agency; justice and law enforcement sub-group led by the Ministry of Justice; prevention subgroup led by the Ministry of Labor and Social Affairs; and the monitoring and evaluation sub-group led by the Ministry of Education[119].

In addition, the Ministry of Justice has established a secretariat which has reportedly already started operations, composed of experienced federal public prosecutors, to support the Task Force. By February 2016, the Task Force itself had met six times and the sub-clusters four times. Since the beginning of the reporting period the following has reportedly been accomplished[120]:

[116] According to key informant interviews, the Trafficking Proclamation, *Ibid.*, is currently being revised and may address the concerns raised as well as English translation issues.

[117] Trafficking Proclamation, *Ibid.*

[118] U.N. Human Rights Council Working Group on the Universal Periodic Review, Ethiopia’s National Report Under the Universal Periodic Review Mechanism, 4 August 2009, A/HRC/WB.6/6/ETH/1 [Ethiopia UPR Report].

[119] National Anti-Trafficking Task Force report, *supra* at note 113.

[120] *Ibid.*

The Ministry of Justice has conducted an extensive advocacy program for the Trafficking Proclamation and issued a directive to regional justice bodies to send the National Task Force a report about their activities to ensure greater coordination. Discussions with the federal courts to establish new court sessions for only Trafficking Proclamation related offenses were held and led to the implementation of two special courts in Addis Ababa and Dire Dawa. There are plans to establish four additional special sessions in Addis Ababa.

Pursuant to the delegation of authority to the regions under Article 47 of the Trafficking Proclamation, the Regional Bureaus of Justice have also reportedly formed Regional Anti-Trafficking Task Forces. These Task Forces have undertaken activities such as the promotion of local employment opportunities and access to vocational training and engagement in “community conversations”, informed by an IOM developed manual that focuses on irregular migration, human trafficking and smuggling and responses to the challenges of irregular migration^[121].

Articles 41 to 44 of the Trafficking Proclamation further imposes responsibility on the Ministry of Justice, Ministry of Foreign Affairs and the Police including to: increase public awareness of all aspects of human trafficking and smuggling and best practices for combatting the crimes; cooperate with law enforcement actors and other relevant stakeholders from different countries on matters relating to trafficking and smuggling; collecting data on victims including in the conditions and countries in which they are found; conducting assessments of trafficking and smuggling risk in different countries; supporting Ethiopian nationals in countries where smuggling and trafficking is found; collaborating with relevant stakeholders on investigations, information exchange and capacity building to suppress.

To speed the investigation and prosecution process, Article 47 of the Trafficking Proclamation delegates implementation to the regional justice bureau and regional police.

The Department for Immigration and Nationality Affairs is mandated to monitor all exits out of the country and accordingly checks for necessary authorization to leave the country at exit points like the Bole International Airport. While it also patrols land routes out of the country, limitations on resources results in an inability to control all the routes^[122]. Border control practices appear to vary significantly depending upon the region. For example, in Somali region reportedly people cross the border freely, without need to show national identification. Rather, the lightly manned border points are primarily concerned only with the trading commerce being transported back and forth across the border. Refugees crossing the border generally make their way to the refugee camps on their own. In Tigray, arriving refugees are met by militias or government troops at the border and transported to Endabaguna Reception Centre. In Amhara region, arriving Eritrean refugees are reportedly screened by immigration officials and, if allowed to enter, are sent to the Shire camps (for more specific information please refer to services to victims of trafficking section).

The Ethiopian government has also reportedly established three Joint Border Administration Committees with Djibouti, Kenya and Sudan, and is in the process of establishing one with Somaliland, to manage borders and address irregular migration and illegal trade^[123]. In addition, in December 2013 Ethiopia and Sudan signed an MOU on cooperation to fight irregular migration and human trafficking.

[121] Marius Oliver, National Labour Migration Management Assessment: Ethiopia (August 2015), International Organization for Migration [Labour Migration Management Assessment].

[122] Yoseph Endeshaw, Mebratu Gebeyehu and Belete Reta, Assessment of Trafficking in Women and Children in and From Ethiopia (undated, pre-2006), International Organization for Migration [Assessment of Trafficking in Women and Children, Ethiopia].

[123] Fourth Meeting of the Regional Committee on Mixed Migration, Ethiopia, October 28-29 2014, available: http://www.regionalmms.org/fileadmin/content/sector_publications/Note_Co_Chairs_4th_Meeting_of_RCMM.pdf

Victims of trafficking

With respect to victims of any offence in the Trafficking Proclamation, a fund to “prevent, control and rehabilitate victims” has been given a legislative basis in Article 32. Article 26 of also requires the government to assist victims including: through procedures for identification, rescue, repatriation and rehabilitation; provide information on protection services available including legal and health services; institute referral mechanism for further assistance and support; and ensure that victims are not kept in police stations, detention centres or prisons.

While it is not clear who is responsible for the foregoing activities, presumably based on the governmental structures set out above, the Minister of Justice will assist in providing information on protection assistance and support for legal proceedings, the police will assist in identification and rescue of victims and the Victims Support Sub-group (formed under the National Anti-Trafficking Task Force) will also play a role in referrals to assistance and support.

The government has established Human Trafficking Control Centres in Amhara, Southern Nation Nationalities and Peoples Regional States and some parts of Addis Ababa^[124]. With funding from IOM, the government has also established reception centres at some border posts for Ethiopian citizens who are victims of trafficking to provide advice, first aid and other services as well as return victims to their families^[125]. These reception centres do not provide any services to refugee victims of trafficking.

Although Article 28 of the Trafficking Proclamation makes clear that the Article 26 provisions relating to assistance to victims also apply to foreign nationals who are victims and are found in Ethiopia, non-national victims of trafficking have only one month to partake in these services. Article 26(5) sets out that any person who is not a national cannot stay in Ethiopia for “more than one month, unless he is required for testimony in the judicial process” and that appropriate measures be taken to repatriate foreign national victims of crimes to their country of origin (Article 28(4)). Additionally, there are no specific provisions dealing with those victims of trafficking who are registered refugees and asylum seekers in Ethiopia.

Legislative gaps and technical concerns

A number of noteworthy concerns with the Trafficking Proclamation were raised by stakeholders interviewed during the research as follows:

- The definition of “victim” in Article 2 has been identified as too broad. It currently includes any person who “sustained harm, including mental and physical injury, emotional suffering, economic loss or substantial violation of basic human rights due to the commission of the crime”. Arguably this could lead to confusion with respect to the difference between trafficking, where there is always a victim, and smuggling, where there may not be a victim;
- The death penalty is imposed where trafficking or smuggling results in death or serious bodily harm to the victim and the offender is the leader of a criminal organization or party to a large scale crime (article 6). It has been argued that this punishment is too severe for the nature of the crime;
- Failure to report cases of trafficking or smuggling may result in a significant 5-year term of imprisonment (Article 12). This raises concerns, particularly for family members and those who may not know this positive obligation;

[124] Labour Migration Management Assessment, supra at 121.

[125] Ethiopia UPR report, supra at note 118.





- There is inconsistency in terminology and definitions in the text of the English translation of the Trafficking Proclamation as well as between the Amharic and English versions. The term “refugee” is defined in Article 2 of the English translation as meaning “any person who fulfills the criteria’s stipulated under Refugee Proclamation” [sic]. However, the term “refugee” does not appear anywhere else in the English version. Rather, the term “migrant”, which is not defined in Article 2, is used throughout the English translation of the Trafficking Proclamation. In the Amharic version, the term “refugee” is defined as per the English version, and used throughout the Proclamation. Acknowledging as well that the Amharic version takes precedence over the English version in any situation where there is conflict, the fact that only “refugees” may be victims of smuggling and its related offences makes it not possible to prosecute those who committed any smuggling related offence against an Ethiopian national. Ministry of Justice prosecutors confirmed that this is a problem that is overcome in practice by prosecuting the smuggling of Ethiopians under the previous, now invalidated, Penal Code offences, with the agreement of the hearing judges;

- As the Trafficking Proclamation has repealed Article 243 of the Penal Code, prosecutors are unable to generally prosecute illegal movements into and around the country^[126];

- In an attempt to prevent the onward migration of potential witnesses to crimes under the Trafficking Proclamation (and contrary to Article 26(4) which explicitly indicates that victims should not, in any case, be kept in police stations, detention centres or prisons), it is reported that witnesses are being detained against their will until they provide their testimony, presumably on the basis that they infringed Article 243 of the Penal Code (already repealed). This raises concerns about the validity of compelled testimony as well as imprisonment without a legal basis;

- The Article 7 offences related to identity cards or travel documents do not clearly require “financial material gain” as an element of the offence. This could result in the criminalization of certain actors who are not profiting from the crime, for example, family members who may be providing fraudulent identity documents;

- While the Trafficking Proclamation appears to be fairly comprehensive in the inclusion of both primary and secondary actors to crimes, it does not clearly criminalize attempts to commit the stated offenses nor does it clearly criminalize the organizing or directing of another person to commit one of the offenses (as required by set Article 5(2) of the Trafficking Protocol and Article 6(2) of the Migrants Protocol). While attempts and the organizing and directing of crimes are covered under Articles 27 and 32 of the Penal Code respectively, the inconsistency between the extreme specificity and then absence of primary and secondary provisions could arguably lead to confusion.

III. Implementation

This section will consider how the Trafficking Protocol and thus its related international conventions have been implemented in Ethiopia with a focus specifically on refugees and asylum seekers in regards to the prevention of smuggling and trafficking, protection of victims and the prosecution and conviction of traffickers and smugglers.

[126] Given the gap in the law, Ministry of Justice prosecutors have reportedly been given permission to continue to use the invalidated Article 243 of the Penal Code, supra at note 108, until such time that the Trafficking Proclamation, supra at note 112 is amended.

Before beginning, it may be worth noting the concerns identified by the National Anti-Trafficking Task Force with respect to the general coordination for implementation of the Trafficking Proclamation^[127]. These concerns include a lack of coordination and standardization between the federal, regional and city level anti-trafficking Task Forces; a lack of full participation by all government institutions in implementing their assigned tasks; the fact that the victims' fund (meant to prevent, control and rehabilitate victims of crime) is not yet operational and does not have a detailed operation plan; limited efforts with neighboring countries to dismantle smuggling networks; and a budget shortfall to implement the plans of the Task Force.

Prevention (including information sessions)

Activities were conducted by the Ethiopian government to prevent trafficking generally in Ethiopia, but not related to refugees and asylum seekers in particular. Specific activities in 2014 included:

- Collaboration between the National Anti-Trafficking Task Force and IOM to launch a community conversations trafficking awareness program which was conducted in over 325 neighborhoods with the participation of 25 to 40 residents in each neighborhood session, including local and district officials^[128];
- Two monitoring trips by the National Anti-Trafficking Task Force to the four primary regions of the country where the majority of trafficking victims have originated;
- Nationally owned media companies supported local NGOs in airing a court-based drama series, which portrayed child labor in the agricultural sector^[129];
- The government, in partnerships with NGOs, distributed 42,000 leaflets outlining causes and consequences of child labor, as well as 6,500 manuals portraying personal stories of victims of child labor^[130];
- The government participated in the production and broadcast of both a documentary and weekly radio program addressing the causes and consequences of child labor and human trafficking^[131]; and
- The promotion of local employment opportunities and access to vocational training^[132].



Refugee children at Endabaguna/ ©UNHCR

[127] National Anti-Trafficking Task Force report, *supra* at note 113.

[128] U.S. TIP Report 2015, *supra* at note 29.

[129] *Ibid.*

[130] *Ibid.*

[131] *Ibid.*

[132] Labour Migration Management Assessment, *supra* at note 121.

Camp level prevention activities

Shire

The study found that, up to 2016, there has been limited concerted and regular effort in undertaking information dissemination activities on irregular onward migration and its risks. Activities implemented in the past include, for example, a UNHCR “key messages” document that was circulated to implementing partners in Shire camps with guidance on how to discuss onward migration with refugees including risks of leaving, advantages of staying and ways to protect themselves if they decide to go. There have reportedly also been some efforts by deportees and the Shimelba camp RCC to provide information to refugees about the risks of irregular migration. In Endabaguna Reception Centre, Innovative Humanitarian Solutions (IHS) provides newly arrived UASC with information about irregular onward migration and the risks involved. JRS also reportedly has efforts to communicate migration messaging through plays and concerts aimed at youth in Mai-Aini camp and also now in Adi Harush camp. These activities are uncoordinated with no consistent and prolonged approach as there is reportedly a lack of strong coordination on onward migration and no clear strategy for programming. While there was an IOM led Anti-Secondary Migration Task Force of Eritrean Refugees Hosted in Tigray Region which was started in April 2015, no activities and no follow-up were reported during the timeframe of the study. This lack of coordination is evidenced by the fact that relatively few individuals in any Shire camp reported learning of the risks of onward migration from UNHCR partners (of all respondents only 4 percent in Hitsats camp, 5 percent in Adi Harush camp and 16 percent in Mai-Aini camp and 18 percent Shimelba camp had learned of any risks of migration primarily from “camp workers”), with most learning of the risks through news reports and no one reportedly learning of these risks from ARRA, IOM or UNHCR in 2015.

In April 2016, UNHCR Ethiopia launched the E-Platform “Telling the Real Story” project, an information campaign that targets Eritrean and Somali refugees in countries of transit and first asylum in Africa and having as destination Europe. The campaign aims at informing refugees about the full scope of the perils and difficulties related to irregular onward movements to Europe, but also about other possibilities to find protection and durable solutions. Ultimately it hopes to empower refugees to take an informed decision with respect to possible onward movements. The main tool of the information campaign is an e-platform, where testimonies of Somalis and Eritreans that have arrived irregularly to Europe are recorded. These testimonies can be accessed on the internet in the languages local to Somalis and Eritreans, with subtitles in English. By the time the present study was concluded, and given the early implementation stages of the project in the Shire camps, it was not yet possible to assess its impact on the population.

In terms of preventing smuggling activities in the camps themselves, the Government of Ethiopia has the primary responsibility to ensure security in the camps. In the Shire camps, there are camp police composed of refugee incentive workers, acting in every camp. However, their role is limited to providing an initial response to petty crime such as thievery, resolving domestic disputes and dealing with intoxicated persons. Any serious cases like smuggling are referred to ARRA. While it is known by camp police that there are smugglers operating in the camps, it has been noted that it is difficult to lawfully detain them given the reluctance on the part of refugees to provide any information to law enforcement.



With respect to identifying and tracking missing children, UNHCR's child protection implementing partners reportedly conduct a daily headcount for UASC under kinship, foster and group care arrangements in Mai-Aini, Hitsats and Adi Harush camps. This daily count is provided to UNHCR on a monthly basis. UASC in Shimelba camp are not included in this count as reportedly the situation of onward movement of UASC is minimal from this camp (100 UASC are in this camp and almost all are reportedly separated and living with extended family members). Where UASC are reported to have left the camp, the child protection partner shares the list of names with UNHCR and ARRA. Based on our field research, little coordinated effort is undertaken to follow-up on the whereabouts of missing children. Previous reports indicate that social workers in Mai-Aini camp provide reports of missing children to local authorities but key informant interviewees did not know what actions are taken for follow up.

Jijiga

Until 2016, ARRA and UNHCR reportedly undertook some onward migration awareness raising, although these activities are not targeted specifically towards the youth, which is the population that is predominantly moving. These efforts have had relative success amongst the irregular onward movers as study results indicate that, although most refugees learn of the risks of onward migration from news sources (61 percent) almost one quarter (24 percent) of all respondents had learned of knowledge of risks to migration from ARRA, IOM or UNHCR and almost one third (31 percent) from UNHCR's partners in the camps.

Reports from Jijiga area camps have indicated that some families report that their children were lured away by smugglers to local authorities, but informants were not aware of resulting actions. Conversely, other reports do indicate that reporting missing refugee youth to ARRA has resulted in ARRA assisted return of the refugees to the camp.

In 2016, UNHCR's E-Platform Information Campaign "Telling the Real Story", described above, was also launched in all camps in Jijiga, and implementation is ongoing.

Addis Ababa

In Addis Ababa, organizations like the Norwegian Refugee Council (NRC), Jesuit Refugee Services (JRS), Development and InterChurch Aid Commission (DICAC) and Opportunities Industrialization Ethiopia (OIC-E) have urban refugee programming in partnership with UNHCR that could arguably be seen as targeted towards delaying onward migration, although no organization is reported to have specific programming targeted towards onward movement. For example, NRC currently operates an urban livelihoods program whereby they have been providing cash assistance to selected Eritrean OCP refugees to attempt to start small businesses in the informal sector and OIC-E undertakes urban vocational training activities for urban refugees. NRC and OIC-E are also currently in the process of constructing an education centre for Eritrean OCP and urban refugees that will also provide services to a certain percentage of the host community. The Eritrean RCC in Addis Ababa has indicated that although it counsels against irregular onward migration and talks about the risks, they do not have enough influence or respect in the broader refugee community to deter others from going.

Protection for refugee victims of trafficking

As noted in the Domestic Legal and Institutional Framework section above, Article 26 of Ethiopia's Trafficking Proclamation provides a clear legislative basis for victims' services including prevention and rehabilitation. There is however, no clear guidance about refugee and asylum-seekers victims of the crimes covered by this legislation. Although Article 28(1) of the Proclamation makes it clear that services are to be provided to foreign national victims, it also requires that such victims be repatriated to their country of origin as soon as possible.

Even with respect to Ethiopian nationals who are victims of trafficking, there are a number of gaps in protection services. There are a few national non-governmental organizations that provide services including medical assistance, shelter, counselling and reintegration activities such as livelihoods training and the Ministry of Justice reportedly provides legal aid to victims of trafficking. However, specific gaps in service provision have been noted including the lack of a standard victim referral mechanisms to identify, refer and rehabilitate victims; lack of proper registration of and support to victims caught at checkpoints; insufficient numbers of reception centres to provide services for returnees and victims from border areas and various cities; and a lack of effort to repatriate foreign national victims of trafficking who wish to return to their country of origin^[133].

There are reports that Ethiopia has recently developed a national referral system for victims of trafficking with the support of IOM, however the research team was unable to obtain a copy of such a referral system^[134]. Recently, in March 2016, IOM held a "Workshop to design specialized support packages for vulnerable groups including victims of trafficking, refugees, unaccompanied minors, and migrant women." The results of this workshop were not released during the study.

Based on qualitative data gathering, the actual services available to refugee victims of trafficking in Ethiopia seem to depend upon where they are found. The following will discuss protection services provided for refugee victims based upon location.

Arrival in Addis Ababa from Egypt

Ethiopian embassy officials in Egypt, reportedly regularly visit places of detention to assist and bring home Ethiopians, have been assisting similarly detained Eritreans come to Addis Ababa by issuing them Ethiopian travel documents^[135]. Often these Eritreans come to be in official detention after having paid ransom to their kidnappers or having escaped by other means from captivity and torture^[136]. In the past, individual diaspora members have also worked tirelessly to free, assist and send to Ethiopia those Eritreans who were being detained and tortured by traffickers like the Bedouin in Egypt (For example, see case study of Dr. Al Ganesh below)^[137].



[133] National Anti-Trafficking Task Force report, supra at note 113. Also see U.S. TIP Report 2015, supra at note 29.

[134] Labour Migration Management Assessment, supra at note 121.

[135] This activity is reportedly undertaken as a result of advocacy efforts by the Eritrean RCC in Addis Ababa.

[136] For background on this see for example, Human Rights Watch, I wanted to lie down and die, supra at note 31 which found that from 2010 to 2013 Sudanese traffickers have kidnapped Eritreans in eastern Sudan and sold them to Egyptian traffickers in the Sinai who have subjected at least hundreds of Eritreans to horrific violence to extort money from relatives.

[137] Information that was revealed through qualitative interviews with Eritrean refugee deportees and key informants in the diaspora.



Refugees in Addis Ababa/ ©UNHCR

Upon arrival in Addis Ababa and initial screening by Ethiopian Immigration officials, these Eritrean victims of trafficking are separated from the Ethiopian returnees and met by ARRA and members of the Addis Ababa Eritrean RCC^[138]. There are conflicting reports about the availability of medical care upon arrival, with some indicating that no medical services are provided to the victims of trafficking. Others have reported that victims of trafficking are provided with medical and ambulance services if necessary and a stipend for temporary stay in Addis Ababa. The RCC assists them in finding group accommodations and provides general advice and guidance as to the best means to return, or go for the first time, to the Shire camps. Transportation costs to the Shire camps are provided by ARRA^[139]. Upon arrival in Shire, these refugees are presumably directed to Endabaguna reception centre where they register as necessary. It should be noted that there is no official mechanism to track whether these individuals have actually gone to Shire camps and furthermore no mechanism where by Addis ARRA informs its Shire counterparts that these individuals may be arriving.

As of June 2014, 2,317 Eritreans had been brought to Ethiopia rather than repatriated to Eritrea, with the peak number of individuals arriving in Ethiopia in 2011 (837 individuals). Coinciding with the erection of the Israel/Egypt wall at the end of 2013, the numbers of Eritreans arriving in Bole International Airport, Addis Ababa has decreased dramatically with 120 arriving in June 2014 and approximately 100 in all of 2015.

Assistance to Victims of Trafficking outside of Ethiopia: the case of Dr. Alganesh

Dr. Alganesh is an Eritrean-Italian woman who negotiates for the release of kidnapped migrants, mainly Eritreans, from the Sinai desert. She is well known amongst the Eritrean refugee and diaspora communities. Captive refugees held and tortured for ransom in the Sinai contact Dr. Alganesh with the help of local prominent Bedouin families. After negotiations to lower the ransom fees, and sometimes payment for the release of kidnapped Eritreans, she provides further support such as paying for flights or ensuring accommodation and medical care in Egypt before such individuals are deported to Ethiopia.

Dr. Alganesh founded Gandhi NGO that currently informally operates a feeding program for vulnerable children in Mai-Aini camp. In the past, Gandhi NGO has also reportedly provided informal shelters (one for women and one for men) in Addis Ababa for refugee deportees that serviced a total of eight refugee deportees (4 men and 4 women) who all were in need of physical and/or psychosocial treatment as a result of their experiences. The victims were mostly those who had survived ordeals in the Sinai and were rescued by Dr. Alganesh herself. They were housed in rented apartments and were provided by ARRA with medical leave permits and were not considered to be part of the urban refugee program. These refugees received a stipend and food, as well as sanitary items for the women, from Gandhi NGO. ARRA additionally provided a medical leave allowance. No other services, e.g. in house counselling or support, were provided. Within months of beginning this project, there were reports that the victims were abusing alcohol and khat and engaging in dangerous and harmful activities – the men reportedly getting into fights and all victims reportedly engaging in reckless sexual activities. As such, it was decided that urban shelters for refugee victims of trafficking were not a viable solution and instead, all victims of trafficking were sent to Shimelba camp.

[138] Ethiopian nationals who have been deported from or are returning from other countries are referred to the onsite airport medical centre where they receive medical assistance and referrals to national NGOs providing assistance to victims of trafficking like Good Samaritan Association (GSA) and Agar.

[139] Reportedly 700 birr since 2014.

Arrival at the border

Eritrean refugee victims of trafficking (and other Eritrean refugees) arriving at the border are not necessarily allowed into or back into the country. For example Eritrean refugees who were deported from Israel^[140] to Uganda, reportedly move to Kenya and across into Ethiopia where, if caught, they are turned back to Kenya on the basis of national security considerations.

In Metema town, Ethiopian nationals can utilize the migrant reception centres which provide basic first aid, food and water, as well as assistance in going back to their place of origin in Ethiopia. Refugee victims of trafficking entering the country through Metema town do not receive services in these centres^[141]. Rather, upon arrival at the border in either Metema or Humera towns, Eritrean refugees are first screened by immigration officials on various matters, including previous refugee status, criminal warrants, migratory etc. Due to national security considerations some individuals are turned back to Sudan. For example, a common migratory route reported is to leave Ethiopia through Humera, go to Hamdait, Sudan, enter Eritrea, go back to Kasala, Sudan and then back to Ethiopia through Metema. This route raises concerns amongst immigration officials that these individuals are in fact involved in the smuggling network and are returning to Ethiopian refugee camps to recruit more migrants and refugees. Further services depend upon which town the refugee entered Ethiopia.

According to government officials interviewed, for those refugees arriving in Metema, if a refugee is allowed to enter the country after initial screening, ARRA provides such individuals food but they are expected to cover their own accommodation costs. Although ARRA does not have an office in that town, they have officials embedded within the immigration office. For those victims of trafficking who arrive who have severe physical or mental injuries due to their experiences and have no money to pay for accommodation or medical services, they are asked by government officials to utilize their Sudanese SIM cards to contact family in Eritrea or abroad to pay for their expenses. These individuals are temporarily put into hotels with their mobile phones held as collateral. Refugees who are able to travel are escorted to the Shire camps by ARRA officials at their own expense.

In Humera, according to government officials, if an individual is allowed to enter the country after initial screening, the ARRA office provides a living stipend, including providing medical services for such individuals to survive until such time that they are transported to the Shire camps in ARRA vehicles, at ARRA's expense.

In the refugee camps

Each of the four regions has standard operating procedures (SOP's) for child protection (CP) and SGBV which include referral pathways for survivors of trauma. As would be expected, the SOPs are different in each region with different levels of attention paid to victims of trafficking. For example, for Assosa area camps, there are CP SOP's that provide details concerning identification and case management of children in need of protection and also include a specific section on how to manage with child trafficking including prevention and assigns responsibility for assisting with rehabilitation and reintegration. In contrast, the SGBV referral pathway does not specifically mention trafficking victims. In the Shire camps, the SGBV SOP recognizes that physical, sexual and psychological violence can include trafficking in women and provides a comprehensive referral pathway for survivors of SGBV in general.

[140] Due to restrictive policies in Israel, Eritreans are not recognized as refugees and are instead provided temporary residence permits that must be renewed every three months. Since last year, Israel has been offering Eritrean and Sudanese refugees the option to accept one way tickets to their country of origin or another African country, or face imprisonment. See William Booth, Israeli government to refugees: Go back to Africa or go to Prison, Washington Post, May 14, 2015, available at: https://www.washingtonpost.com/world/middle_east/toughening-its-stance-toward-migrants-israel-pushes-africans-to-leave/2015/05/14/e1637bce-f350-11e4-bca5-21b51bbdf93e_story.html

[141] Ethiopian victims are identified by immigration officials or police and are directed to the reception centres where they receive some services including first aid and water. From there, through a partnership with the federal police, victims are assisted to reunite with their families wherever they may be in Ethiopia.

However, there are no specific guidelines on how to manage the cases of trafficked women in particular. In the Afar camps, the CP SOP provides guidelines on how to handle children victims of trafficking and other abuse including referral pathways and case management but does not set out specific guidelines for victims of trafficking. In Jijiga, there is a SGBV SOP that sets out the roles and responsibilities of each implementing partner with respect to survivors, including medical, psychosocial, case management and legal recourse, but there is no specific component to deal with victims of trafficking. Similarly, the CP SOP provides for identification, registration, documentation and referral care pathways for children with protection needs, and while there is a section that mentions the reintegration of child victims of trafficking, no specific guidance is provided. What is clear from these guiding documents is that there is not significant or consistent attention paid to the unique needs and concerns of victims of trafficking who may be in the camps.

The study specifically focused on the Shire camps where it is known that many victims of trafficking reside. Although psychosocial support is available in two of the Shire camps (as described below), there are no specific services targeted for victims of trafficking or their families nor adapted to the particular needs of refugee victims of trafficking^[142]. Victims of trafficking may be identified in the course of the Best Interests Assessment (BIA) which is undertaken for all UASC arriving in Endabaguna Reception Centre. Between January 2014 and June 2015, 121 such children were identified as vulnerable and survivors of abuse, neglect, violence and exploitation. Limited capacity in the Shire camps and lack of systematic mechanisms to identify and refer victims of trafficking leave victims with the burden of having to approach camp workers to seek assistance.

Victims of trafficking interviewed indicated that there was a lack of services to victims of trafficking with special physical or psychological needs. While one victim of trafficking in Mai-Aini camp and one survivor in Shimelba camp had received some psychosocial counseling from CVT and MSF-H respectively, others were not aware of the possibility and complained vehemently about the lack of services and support. Medical treatment, especially for women with reproductive organ health issues is said to be lacking. KII's confirmed that more support is needed with respect to service provision to refugee and asylum victims of trafficking and smuggling.

“My wife was deported to this country from Egypt in a wheelchair. She was thought to be dead when she was thrown out. When she arrived in Ethiopia, the wounds all over her body smelled and she was not even provided with a blanket nor a soft bed to sleep on.”

Adi Harush camp, male

Generally, trafficking victims may access any service available to all Shire camp residents. Of relevance are the services offered by the Centre for Victims of Trauma – Ethiopia (CVT) that operates in Mai-Aini and Adi Harush camps, providing six - month group psychotherapy sessions; psycho education workshops on trauma related issues and coping/problem solving skills; sensitization and community event activities designed to increase support for survivors of trauma; and mental health training for partner organizations.

[142] The Ethiopian government does not provide direct assistance or any financial or in-kind support to victims of transnational trafficking but rather relies upon the services of non-governmental organizations (See U.S. TIP Report 2015, supra at note 29 for more information). These organizations solely provide services for Ethiopian nationals who have been victimized. For example, the national NGO GSA provides shelter, counseling and livelihood activities for Ethiopian returnees exclusively.

Similarly, MSF-Holland provides services in Shimelba and Hitsats camps that include vocational and livelihoods skills training, general medical services, psychosocial counseling and psychiatric care (Shimelba only). MSF-H also has community awareness program sessions about their services in all the camps to inform the general population about services available and assist people in identifying symptoms of potential psychosocial and psychiatric issues. IRC additionally provides training for sexual trauma clinicians and works with SGBV prevention and response in all four camps. NRC implements child protection activities across all camps, shelter in Adi Harush and youth employment initiatives in Adi Harush and Mai-Aini camps.

General programming challenges affecting the Shire camps include a lack of qualified psychiatric doctors and the high turnover of trained refugee incentive workers, like social workers, who could assist in identifying victims of trafficking, as many leave on irregular onward movement themselves.

Access to legal aid for victims of trafficking in the Shire camps was not identified as an available service in individual interviews. UNHCR has indicated that there is legal aid for victims of trafficking and other persons of concern (including detainees and SGBV survivors) in the Shire camps, but that this system needs to be strengthened and more information made available to persons of concern.

Resettlement was identified as an issue of concern amongst many victims of trafficking in the Shire camps who were interviewed. Concerns were raised that, even though such victims were told they would have their cases reviewed for consideration by resettlement countries, many victims of trafficking were still in the camps and did not have any updated information about their cases. In 2015, 564 persons were resettled under the category of “Survivors of Violence and Torture”, although it is not clear what number of these were victims of trafficking.

Prosecutions and convictions of trafficking and smuggling offenses

Due to a lack of a systematized reporting mechanism for trafficking and smuggling offenses, it is difficult to obtain and verify information about the prosecution, conviction and sentencing rates for trafficking and smuggling offenses in Ethiopia^[143]. Moreover, given the relatively recent passage of the Trafficking Proclamation as well as its noted problems (see Domestic Legal and Institutional Framework Section above) it is difficult to obtain and verify information about specific prosecutions under that law.

Keeping in mind these limitations, the following information, primarily obtained from law enforcement and judicial officials as well as secondary reference materials, broken down chronologically, has been gleaned:

2014

- “Some” traffickers and smugglers were found guilty and sentenced from 5 to 15 years of imprisonment^[144].
- The Ethiopian Federal Police’s Human Trafficking and Narcotics Section reportedly investigated 99 suspected trafficking cases and the federal government reported prosecuting 93 cases involving 118 defendants. Of these cases, the Federal High Court convicted 46 individuals and had 58 ongoing cases. Sentences reportedly ranged between two and 11 years imprisonment^[145].

[143] This is a criticism that has been remarked upon in the past by UN mechanisms. See for example the UN Committee ICCPR concluding observations from 2011 where concern was raised about the lack of information on the investigation and prosecution of trafficking cases, found at: http://www.bayefsky.com/pdf/ethiopia_t4_ccpr_102.pdf U. N. Human Rights Committee, Consideration of Reports Submitted by States parties under Article 40 of the Covenant: Concluding Observations Ethiopia, 19 August 2011, CCPR/C/ETH/CO/1.

[144] Ethiopia UPR Report, supra at note 118.

[145] U.S. TIP Report 2015, supra at note 29.

- Courts in the Southern Nations, Nationalities and Peoples Region (SNNPR) reportedly investigated 468 alleged child trafficking cases at the district level^[146].

- There were no sex trafficking prosecutions initiated by the government^[147].

- There were no investigations, prosecutions or convictions of public officials allegedly complicit in human trafficking offenses^[148].

- Cases originating in Asgere Tsimbila woreda (which includes Hitsats camp and Endabaguna reception centre), Tigray region, include:

- o In May 2014, an Ethiopian man was charged with aggravated kidnapping (Articles 589 and 590 of the Penal Code with a maximum sentence of 25 years) of three Eritrean children from Hitsats camp. The man kidnapped the children and attempted to obtain ransom payments from their relatives in Israel, Dubai and Adi Harush camp. The family in Adi Harush camp contacted the camp police, who informed ARRA, who involved local law enforcement. The smuggler was apprehended and the trial is ongoing at the State High Court in Shire.

- o In April 2014, a 30 year old Ethiopian man who normally worked as a chauffeur was caught trying to transport 16 Eritrean refugees in a truck over Tekeze River (on the road to Humera) when he was caught by police. The refugees were to pay him 90,000 Eritrean Nakfa through the informal hawala system upon arrival to their destination in Sudan. He is currently being tried at the State High Court in Shire.

- o In April 2014, three Ethiopian nationals tried to smuggle 27 Eritreans through Humera to Sudan. At the Tekeze River, in fear of being caught, they dropped the refugees off and had them try to cross the river on foot. The smugglers were apprehended by the police and the 28 Eritrean refugees picked up and brought to the police station. Each refugee had paid between 70-90,000 Eritrean Nakfa. The case is currently being heard at the State High Court in Shire.

Between 2014 and 2015

- Between 2014-2015 the federal police of Ethiopia reportedly investigated 400 cases of human smuggling and made 200 arrests, most of which related to smuggling on the Northern route^[149].

- In Assosa region, in 2014/15 there were reportedly seven cases relating to smuggling and trafficking where the verdict had been delivered, eight people still on trial and another six people whose cases had been closed due to insufficient evidence.

- A record of arrests of smugglers obtained from Mai Tsebri town, Tselemti woreda (Tigray region near Adi Harush and Mai-Aini camps) indicated that 35 smugglers were apprehended (23 cases) involving the smuggling of between 1 and 22 individuals (with a median number of 3). No destination was indicated, but the majority of individuals being smuggled paid about 1500 ETB. About half were caught on foot and the other half in vehicles. About half the individuals apprehended were Eritrean (17 out of 35) and the other half (18 out of 35) Ethiopian nationals. All individuals were apprehended between March 30, 2015 and November 28, 2015^[150]. It is unclear whether these individuals were charged and if so, under what legislation.

[146] Ibid.

[147] Ibid.

[148] Ibid.

[149] Trafficking and Smuggling on the HoA, supra at note 37.

[150] Key informant who provided the research team with a list of apprehended smugglers, Mae Tsebri town, Tselemti woreda.



After the passage of the trafficking proclamation

- The National Task Force has reported that between September 2015 and February 2016, 294 Trafficking Proclamation cases at the regional and federal levels were investigated and of these 69 smugglers and traffickers were sentenced, 12 cases the accused were found not guilty and 16 cases were closed due to inadequate evidence. The specifics provided are as follows^[151]:

- o 21 cases involving Proclamation offenses have been investigated and tried at the federal level;

- o Including ongoing cases from previous years, verdicts were handed down from federal courts in 28 cases and in 14 of these cases, sentences were imposed ranging from two to 18 years as well as monetary fines. For example, one specific smuggling case from northern Shoa, Amhara region was sentenced to 18 years and a 7,500 ETB fine;

- o In Oromia region, 47 cases were investigated and verdicts given in 23 of these;

- o In Amhara regional state, 109 cases were investigated and 73 tried. Four of these were sentenced to between four and nine years imprisonment and a fine of 10,000 ETB; 48 witnesses were provided with protection;

- o In Tigray region, “over 20 smugglers were caught and many were put on trial and sentenced”;

- o In the SNNPR there were 66 cases on trial. Verdicts were handed down in 31 of those cases, six cases were dropped, five closed due to inadequate evidence and 24 are still in progress;

- o In the “Criminal Investigation Division of the East”^[152] 11 smuggling verdicts were handed down with sentences ranging between six and 12 years imprisonment and a 15,000 ETB fine; 31 cases are still in progress and 18 cases have been sent to the federal police for further investigation;

- Our data gathering indicates that in Shire, Endasilase zone, Tigray region, in 2015, there have been reportedly:

- o 4 to 5 cases charged under the new law. These included the arrest of hotel owners where 20 Eritrean refugees were being held during smuggling.

- o 15 cases (including 8 Eritrean) with four of the 15 perpetrators reportedly sentenced with between 8 and 19 year imprisonment terms

- o Arrests were made of between 8 and 19 individuals.

- In Jijiga there is a case of a smuggler who was caught near Harar smuggling refugees, two of which are children from Sheder camp.

- There was one successful prosecution of an Ethiopian national who smuggled refugees at the federal level in Addis Ababa. On September 4, 2015, he took four Eritrean refugees from Hitsats camps, promising them that he would help them get to Djibouti through Aysaita. The refugees agreed to pay him 6000 ETB each and gave him 10,000 ETB total prepayment. The day after they embarked on their journey they were caught in Logia by police, via an anonymous tip. On December 15, 2015, he was convicted of smuggling under Article 9(2) of the Trafficking Proclamation and sentenced to six years rigorous imprisonment with a fine of 21,000 ETB. While this offence is generally punishable with rigorous imprisonment from 10 to 15 years and a fine from 100,000 to 500,000 ETB, the court reduced his sentence pursuant to Article 79 of the Penal Code (General Extenuating Circumstances) because of a number of mitigating circumstances including, his admission of guilt; the small amount that had actually been paid; the fact that he was not educated; and because of his calm behavior in general.

[151] National Anti-Trafficking Task Force report, supra at note 113.

[152] Presumably comprising Jijiga and Afar regions.

Impact of the trafficking proclamation on prosecutions and convictions

In terms of the positive effects of the Trafficking Proclamation on prosecutions and convictions for trafficking and smuggling offenses, it was found that the perception of some law enforcement officials interviewed for this study is that the rate of smuggling in the country has decreased with the government awareness raising about smuggling^[153]. For example, reportedly there used to be 20-30 trafficking cases annually in Jijiga before 2015 but this number reportedly decreased to 10 in 2015. Moreover, the increased penalties under the Trafficking Proclamation allow for bail denial to suspected smugglers and traffickers which assists in preventing suspect disappearance before the trial^[154].

To the extent that prosecutions and convictions are low (although it is difficult to conclude this based on the cases gathered for the purposes of this study and considering that information is not easily accessible), this can arguably be tied to lack of proper implementation of the laws. In 2014, prior to the passage of the Trafficking Proclamation, criticism was leveled by the international community against Ethiopia for failure to investigate and prosecute internal trafficking crimes and failure to support and empower regional authorities to effectively do so. While regional law enforcement was trained to identify trafficking victims, they lacked the capacity to properly investigate and document cases, including collecting and organizing relevant data^[155]. Under the new Proclamation there is inconsistent knowledge and usage about the new law itself in the various regions studied. Nonetheless, initiatives by UN agencies are reportedly underway to strengthen the capacity of law enforcement agents and support the Government with the implementation of the new legislation.

Nationally, implementation problems in ensuring prosecutions and convictions under the new law have been noted to include: gaps in protecting witnesses and victims when enforcing the law; ambiguous wording in the Trafficking Proclamation which have caused disagreements in interpretation^[156]; and the illegal detention of potential witnesses, e.g. detention of persons who have engaged the services of smugglers or are victims of trafficking, to ensure their testimony in court.

In Tigray, although there appears to be a high level of awareness of the laws dealing with trafficking and smuggling amongst the judges and ARRA officials spoken to, authorities raised some concerns during key interviews. These were mainly related to the very limited knowledge or understanding of frontline government officials about trafficking and smuggling, its harms, or what needs to be done to address the issue; as well as the fact that refugees generally refuse to testify against smugglers due to a desire to ensure that smuggling networks remain open.

[153] Key informant who indicated that the Trafficking Proclamation, supra at note 112 has resulted in a 60 percent decrease in the flow of smuggling in the region and other KILs who have noted less smuggling activity in the Shire area.

[154] Key informant who confirmed that Article 63 of Proclamation 185 of 1961, the Criminal Procedure Code of Ethiopia, November 2, 1961 (Ethiopia) allows for bail to be denied where the offence carries the death penalty or rigorous imprisonment of 15 years or more.

[155] United States Department of State, Trafficking in Persons Report 2014 (July 2014), found at <http://www.state.gov/documents/organization/226844.pdf>

[156] National Anti-Trafficking Task Force report, supra at note 113.





In Jijiga town, the judiciary, although aware of the new legislation, reportedly still utilizes the old (invalidated by the Trafficking Proclamation) Penal Code provisions to charge, prosecute and sentence trafficking offences. Indeed, the public prosecutor interviewed by the researchers was not aware of the existence of the new Trafficking Proclamation.

In Addis Ababa, some federal Ministry of Justice prosecutors are of the view that Trafficking Proclamation offences can only be tried in Addis Ababa at the federal level and not regionally. This understanding seems to conflict with Article 80(4) of the legislation, which states that the State High Courts (located in each zone) can exercise the jurisdiction of the Federal First Instance Court.

Weaknesses in the legal and investigative process that affect trafficking and smuggling convictions in Ethiopia and worldwide include:

- The nature of the crime itself, being secretive, trans-jurisdictional and transnational in nature, makes it difficult to obtain enough evidence against traffickers to effectively prosecute^[157];
- The speed at which witnesses and victims disappear or move on again make it difficult to build and bring a case^[158];
- Determination of whether a crime has actually been committed is challenging. Victims or witnesses may not report any crime due to the general lack of public awareness about the criminal nature of trafficking, or to ensure the continued existence of the smuggling networks. There is often not a systematic and proactive reporting system in place and the police might only become aware of cases where victims or their family members lodge complaints or are referred from other organizations^[159];
- A lack of available human resources in law enforcement agencies and the judiciary to ensure the timely handling of trafficking cases^[160];
- Disappearance of the accused leading to the closure of trafficking cases^[161];

[157] Assessment of Trafficking in Women and Children, Ethiopia, supra at note 122.

[158] Ibid.

[159] Ibid.

[160] Ibid.

[161] Ibid.



Summary of findings

A. ONWARD MOVEMENTS FROM REFUGEE CAMPS IN ETHIOPIA

The study found that Eritrean refugees in the Shire camps are the group most likely to irregularly migrate onwards from Ethiopia, with 56 percent indicating an intention to do so. Amongst the unaccompanied youth between the ages of 16 and 18, this rate was even higher, with 71 percent indicating an intention to move onwards. Indicative of the high rate of onward movements is that, in spite of an average rate of 2,000-3,000 new arrivals per month, official camp populations have remained relatively stable, with similar number of new arrival registrations and ration card inactivations for those absent from the camps for more than three months.

Other population groups intending to leave towards third countries include Somali refugees in the Jijiga area camps, where one-third intend to migrate irregularly; and Congolese refugees in the Assosa area camps, where one quarter intend to move irregularly.

The study also found that Eritrean refugees living in Afar region camps are extremely unlikely to move onwards irregularly to third countries, with only one percent of respondents indicating an intention to do so. Rather, the large majority (62 percent) wish to migrate through regular channels. Many Afaris interviewed demonstrated no knowledge at all of the possibility of irregular onward migration to third countries.

B. PROFILES OF REFUGEES INTENDING TO MOVE IRREGULARLY

Eritrean refugees in the Shire camps falling under this category are predominantly young, male, single, relatively well educated and without family in the camps. The majority has been in the camps for less than two years. Significant number of unaccompanied and separated Eritrean children are also on the move, departing from Shire camps, where an average of 250 UASC go missing per month. These children are mostly male, living in community care arrangements and are from Hitsats camp.

Somali refugees in Jijiga camps intending to move onwards are equally men and women, primarily single, young and relatively well educated. Most have been in the camps for more than four years and have family members in the camps. Gender analysis shows that female Somali refugees intending to migrate are generally less educated, slightly older and more likely to be married than their male counterparts. Youth of both genders are particularly targeted by smugglers.

Congolese refugees in Assosa camps intending to move irregularly are all male, fairly young, well educated, likely to have been in Ethiopia for over four years and most have family members in the camps.

The few Eritrean refugees in Afar camps intending to move onwards irregularly are mostly male, under the age of 25, better educated than the general Afari Eritrean refugee population, single and with no family in the camps. Almost fifty percent have been in the camps for more than 4 years.

C. MAIN REASONS FOR MOVING ONWARDS

All population groups of refugees intending to move onwards from Ethiopia had fairly similar motivations:

1) General feeling of hopelessness

Nearly all refugees mentioned a sense that they cannot have a real life in Ethiopia, nor do they have any expectation of “good” or success. Refugees also mentioned that the feeling of having nothing to look forward to make “death not look so bad”, as a reference to their willingness to accept any risks to reach a place where they are able to have a dignified life.

2) Lack of access to work and livelihoods

Between approximately 60 to 80 percent of refugees intending to move irregularly from Ethiopia indicated that they are motivated to do so because of their inability to access to work and livelihoods, and this rate is particularly higher amongst the youth. Increasing desperation resulting from inability to financially support or repay family in their country of origin, in Ethiopia or elsewhere, coupled with the frustration of having nothing to do in the camps and seeing life pass by without any meaningful achievement, were highlighted as some of the main push factors for onward migration.

3) Inadequate or insufficient education opportunities

Some 50% of refugees, particularly the Somalis and Eritreans in Afar camps, mentioned that inadequate or insufficient education features prominently as a push factor for onward movements. Inadequate or insufficient education opportunities were also often linked to what happens beyond graduation of post-secondary schooling: return to the camps and a complete inability to apply their skills and knowledge to productive livelihoods.

4) Limited alternatives to regular migration

There is a strong desire to achieve family reunification, particularly amongst the UASC and young adults. Nonetheless, refugees claim that either they are not aware of or do not have access to reliable information regarding family reunification procedures. Moreover, restrictive eligibility criteria and differing concepts of family ties lead to skepticism on the part of refugees to family reunification being an actual possibility for them.

Likewise, limited opportunities for resettlement are commonly cited as reasons for irregular migration. Despair at never being resettled, the lengthy resettlement process, and fear/realization of being rejected for resettlement after the interview are reasons reported by refugees for losing hope and resorting to irregular migration. According to refugees, “resettlement takes 2 to 3 years. In a week, a person can get to Europe”.

5) The role of the diaspora: family and peer pressure

The most important pull factors for irregular migration amongst the youth are direct and indirect family and peer pressure, often articulated directly or through perceptions of success conveyed through social media by other refugees who have arrived in Europe. The vast majority have friend or family connections overseas and their existence, as well as their level of support, financial and otherwise to potential irregular migrants, is highly influential on the decision to undertake irregular migration. Those without diaspora connections are less likely to irregularly migrate and if they do, tend to take more dangerous piece meal migratory routes.

6) Other push factors

Protection issues were also raised as a push factors, most significantly fear of sexual exploitation, particularly early forced marriage and FGM, and feelings of insecurity from other refugees. Other push factors include inadequate food rations and the reportedly difficult living conditions in some of the camps - extreme heat, coupled with malaria and no water or electricity, no access to cooking utensils (and for many a lack of knowledge of how to cook with the limited food rations in general) and no basic NFIs like blankets.

D. AWARENESS AND PERCEPTIONS OF RISKS TO IRREGULAR MIGRATION

The study has demonstrated that the majority of refugees, including children, who choose to embark on irregular onward migration have at least some knowledge of the migratory dangers involved at different stages.

Refugees who cited knowledge of particular risks mentioned awareness about the legal and physical risks including: physical abuse; death; kidnapping; torture; sexual assault (for both men and women); drowning; ransom; organ removal; forced labor; robbery; rejection at the border; car accidents; being left behind in the desert; crocodile attacks during river crossings; hunger and thirst; forced religious conversion; and being burned with melting plastic.

Knowledge of risks affects refugees differently. While some are deterred from irregular migration because of the risks, many are not because of the perception that the benefits of irregular migration outweigh the risks. Some have indicated that it is better to take risks and have a chance at success than stay in Ethiopia where there are no opportunities to have a “real life”.

Most refugees learned of risks through news reports and articles. Additional sources include other refugees, family and friends, UNHCR’s partners in the camps, diaspora, previous personal experience and through the experience of other refugees. Such information is conveyed via phone calls from family and friends abroad; social media like Facebook, accessed on mobile phones or through internet café’s in neighboring Ethiopian towns; and information sessions upon arrival to refugee camps in Ethiopia.

E. REFUGEES WHO PREFER TO STAY IN ETHIOPIA OR PURSUE OTHER OPPORTUNITIES

The study found two groups of refugees who either intend to pursue or await opportunities for resettlement and opportunities for regular migration (e.g., family reunification, scholarships); or who simply do not want to leave Ethiopia.

While surveying refugees’ intentions to move onwards from Ethiopia, the research team came across groups of refugees, primarily Eritrean’s of Afari descent, who declared having no intention to leave their country of asylum. The majority of refugee populations in this group are married, older and have stayed in the camps for more than four years.

The main reasons for staying were the safe environment in Ethiopia, a sense of responsibility towards their families, general satisfaction with their situations, as well as lack of connections abroad that could support their journey to third countries. Both the fear of the unknown and the knowledge of the risks of irregular migration were pointed to as relevant factors for the decision to stay in Ethiopia. Interestingly, respondents also mentioned that access to work (even in the informal market), which allowed them to provide for their families and live in safety, was a reason for staying in Ethiopia.

Those refugees who want to migrate through regular channels refugees are largely Eritreans of Afari ethnicity. Amongst other Eritreans and Somali refugees, an average of 30-40 percent declared that they wish to migrate through regular channels.

Amongst this group, and similar to those who intend to engage in irregular migration, the feeling of hopelessness stemming from the lack of employment and insufficient/inadequate education opportunities were cited as the main motivating factors. Lack of diaspora connections linked to inability to finance irregular migration, as well as fear of irregular migration and hopes of resettlement were also raised as factors for pursuing regular channels.

Family reunification, particularly family sponsorship for children, is a significant pull factor and indeed one of the main avenues for regular migration towards third countries. Some refugees are also still hopeful that they will be resettled to third countries or are looking for educational scholarships overseas, preferring to wait for these options rather than risk the dangers of irregular migration, take on the financial burden of such a journey and/or recognizing that finding employment in Europe is not easy.

F. SMUGGLING NETWORKS AND PREFERRED ROUTES

The smugglers or their intermediaries operate directly in the camps and neighboring towns, and target mainly the youth with diaspora connections or strong family connections in Ethiopia. The networks are generally heavily utilized not only by refugees but also by the host community. For refugees, making contact with the smugglers is not difficult, whether through personal connections or through smuggling intermediaries. The refugee/smuggler relationship is multifaceted and not restricted to simple views of victim and criminal but rather understood from the point of view of mutual interest. To protect this network and themselves, the refugee community is generally extremely secretive about the smugglers and their personal travel plans, although have been known to cooperate with law enforcement in certain egregious trafficking cases.

Refugees in Ethiopia intending to move onwards indicated Europe as their primary and preferred destination. Movements towards Europe is perceived as a cost-effective and well-established route; less difficult security wise to enter as compared to countries like Canada, the United States and Australia; combined with quality of life, opportunities for finding work and safety. Few respondents indicated an intention to go along the Eastern Route towards Yemen and beyond. For some, reluctance to take this route stems from a perception that it is difficult to obtain any type of work or refugee status in the countries along that route.

The main transit points in Ethiopia mentioned by refugees irregularly migrating towards third countries were the towns of Humera, Metema, Assosa, Jijiga, Harar, Debre Zeit and Addis Ababa. Countries of transit included Sudan, Egypt and Libya, but to a lesser extent also South Sudan, Kenya, South Africa and Turkey.



Refugee students in Dollo Ado camps/ ©UNHCR

G. TRAFFICKING AND SMUGGLING IN ETHIOPIA: LEGAL AND INSTITUTIONAL FRAMEWORK

Ethiopia is a State party to the UNCTOC and its corresponding Trafficking and Migrants Protocols. The obligations under these international instruments are generally implemented through the Trafficking Proclamation of August 2015. Pursuant to this Proclamation, Ethiopia has in place a number of governmental structures designed to address trafficking. The National Committee to Combat Trafficking in Persons is chaired by the Deputy Prime Minister and is tasked with coordinating a wide range of matters related to combatting trafficking and smuggling and victim protection, assistance and rehabilitation. The National Anti-Trafficking Task Force is accountable to the National Committee and is responsible for designing and implementing policies, strategies, action plans and measures to protect and assist victims of trafficking.

While the Proclamation rectified the problems with the previous Penal Code provisions, there have been a number of gaps and technical issues which have been identified with the Trafficking Proclamation itself, including inconsistencies in terminology and definitions that makes it difficult to prosecute those who have committed any smuggling related offenses against Ethiopian nationals.

With respect specifically to refugees and asylum-seekers, the provisions of the Trafficking Proclamation are not implemented in such a way to provide sufficient prevention, protection and prosecution of trafficking and smuggling offenses.

The study found that there is a general lack of strong coordination on activities aimed at preventing irregular onward migration of refugees in the camps and in the urban setting, including with respect to coordination of information campaigns and initiatives to follow-up on the location of missing children.

In terms of protection services for victims of trafficking, there are no specific organizations that offer services specifically for refugee victims of trafficking in Addis Ababa or in the camps under study. While Shire camp refugee victims of trafficking are able to access the general protection, medical, psychosocial support, education and shelter arrangements available to all refugees, there is no significant or special attention paid to the unique needs and concerns of victims of trafficking who may be in the camps and there are limited efforts undertaken to identify victims of trafficking.

It is difficult to obtain and verify information about the prosecution, conviction and sentencing rates for trafficking and smuggling offenses in Ethiopia. There have been successful cases of prosecution and sentencing of traffickers and smugglers under the previous Penal Code provisions and some of the cases are still ongoing. Under the new Trafficking Proclamation, there have been 294 investigations and 69 traffickers and smugglers have been sentenced. Geographically, these cases are found throughout the country, federally and in Amhara, Oromia, Tigray, SNNPR and Somali regions. Despite these reported prosecutions, there is inconsistent knowledge and usage of the new Trafficking Proclamation in the various regions studied as well as at the federal level.





Policy recommendations

Preventing or mitigating irregular onward movements

Based on the foregoing findings, a number of recommendations are made to prevent or mitigate against dangerous onward movements.

A. PROGRAMMING

1. Increase the livelihood opportunities and employability of refugees and asylum seekers in the formal or informal sectors. The means to accomplish this may range from implementing in practice the already existing legal avenues for refugees to access work permits or seek amendments to the existing labour laws; the establishment of special economic zones for refugees to work; to merely increasing refugee incentive pay and opportunities for those already employed in the camps, by actively engaging refugees in the delivery of services that will benefit their communities. Consideration should also be taken to providing labor protection conditions for refugee workers.

2. Expanding Ethiopia's "Out of Camp Policy", currently limited to Eritrean refugees only, to other nationalities and/or groups of refugees with vocational, family or other interests and reasons to reside outside of camps, which will give refugees an opportunity to build a meaningful life outside the camps.

3. Increase the numbers and quality of recreational and entertainment activities available to refugees in the camps and in the host communities, particularly for the youth, to provide them with more of a semblance of a "real life". In relation to this, implement programming that could be helpful in creating a sense of real community, particularly in the Shire camps.

4. Increase the availability and quality of education in all camps. As a corollary to this, ensure that the schools are accessible to all students and that students are provided with the support to learning the local language and basic essentials to make school a successful experience, e.g. meals, clothing and books.

5. Find means to assist Eritrean and Somali refugees to learn of the well-being of their families and loved ones in their countries of origin.

6. Implement creative and culturally appropriate programming for the youth in Shire and Jijiga to build self-confidence and explore ways to counteract negative peer pressure and family pressure to undertake irregular migration. This programming could be combined with sessions which assist in dispelling myths about life for refugees in Europe.

7. Undertake regular assessments in the camps to address protection needs that may be prompting some individuals to irregularly migrate.

8. Improve, to the extent possible, the quantity and cultural appropriateness in the provision of food rations and NFIs like clothing and soap. This is particularly necessary in Hitsats camp.

9. Increase and improve follow-up on cases of missing children in the camps, particularly the UASC. This can be done, for example, by providing timely alerts to local authorities, especially authorities along the routes commonly utilized by smugglers, of cases of missing children. In addition, coordination in terms of information sharing with other actors along the Northern Route, particularly in Sudan and Libya but also in Europe would assist in understanding the phenomenon and providing appropriate protection services for children, particularly UASC, in the camps as well as along the migratory route.

B. INFORMATION SESSIONS AND AWARENESS RAISING

Build upon existing initiatives like the E-Platform “Telling the Real Story” project, undertake extensive ongoing and continuous information and awareness campaigns, that are appropriately age and gender targeted, in all camps with respect to:

1. Legal migration, including family sponsorship, reunification, and work migration to dispel myths and assist those who may have valid claims.
2. Resettlement, including transparent and easy to access methods to ensure that refugees have up to date information about their resettlement cases.
3. Access to post-secondary scholarship opportunities in Ethiopia. Information on these learning opportunities should be made available not just to those in high school but also to those in elementary and secondary school to give them some hope for the future.
4. Availability of the Out of Camp Policy and other opportunities to live outside the camps, for those in the Shire and Afar camps. This could include a number to contact to obtain more information and support.
5. Creative awareness raising activities on the particular risks to irregular migration, especially with the youth. Efforts should be made to ensure that participants understand how such risks could apply to their specific situations. Consider the incorporation of safe migration modules into such sessions, e.g. how to protect themselves against risks if they do in fact choose to irregularly migrate. Secondary research suggests that individuals tend to respond better to information if the messenger and that individual have demographic and behavioural similarities. Thus, messaging coming from social networks regarding the risks of irregular migration are of great importance as irregular migrants tend to listen to each other and their families and rely on these relationships to undertake their journeys^[162].

C. COORDINATION MECHANISMS

1. Establish and operate a strong coordination mechanism in each region to address irregular onward movement of refugees. Ideally, the issue of onward movements of refugees should be included and mainstreamed in the existing governmental structures (National Committee and Anti-Trafficking Task Forces), as the phenomenon affects Ethiopian nationals and refugees alike. These mechanisms should provide overall guidance and support for all activities to address and prevent onward movement and deal with the ramifications of onward movement on programming. This mechanism should also undertake regular impact assessments are undertaken to ensure effectiveness of any onward migration programming.
2. At a national level, mainstream migration considerations into all refugee programming, e.g. factor in the high levels of irregular migration amongst refugee incentive workers in the Shire camps to better plan for movements of staff to ensure high quality services.
3. Consider establishing cross-border coordination mechanisms with partners in Sudan and Libya to increase protection services for those who have embarked on irregular onward migration.

[162] EC Study on smuggling of migrants, 2015, supra at note 15.



D. OUTREACH

1. Engage with Eritrean and Somali diaspora communities to explore ways to cooperate in order to mitigate against dangerous irregular migration. These discussions should incorporate discussions about creative and effective means to assist family and friends in the camps to prevent irregular migration, e.g. investing in businesses and programming in the camps. In addition, discussions should include ways to message information about onward migration including risks of the journey and actual life in destination countries to ensure maximum impact.

E. FURTHER RESEARCH

1. Undertake further longitudinal research to examining the Afari Eritrean refugee context given the high numbers of individuals who desire to stay in Ethiopia or only wish to move onwards through regular channels. Further research could also explore the dynamics and reasons behind other population groups who have no intention to move onwards, even in contexts where the majority of refugees are on the move.

2. Appropriately tailored and child protective research should be undertaken on trends and drivers of irregular migration specifically focused on children and UASC as a sub-category.

3. Further study should be taken with respect to the large urban Eritrean and Somali populations (both registered refugees and other persons of interest). Little is known, from a quantitative perspective, with respect to the needs of this group nor their intentions with respect to irregular migration.

F. IMPROVEMENTS TO THE TRAFFICKING PROCLAMATION AND IMPLEMENTATION

1. Revise the Trafficking Proclamation to have the smuggling related offenses clearly apply to those who smuggle both refugees and Ethiopian nationals.

2. Revise the Trafficking Proclamation to require the need “financial material gain” in the offense related to falsification of identity and travel documents to be consistent with the Migrants Protocol.

3. Consider revising the Trafficking Proclamation as set out in the technical concerns listed in the Domestic Legislation and Compliance Section of the report.

4. Increase capacity of law enforcement officials, including police, prosecutors and judges, with respect to understanding the provisions of and implementation of the Trafficking Proclamation. Priority should be placed specifically on officials operating in the Shire and Jijiga area camps as well as along the known migratory paths within Ethiopia.

G. IMPROVEMENT OF SERVICES TO REFUGEE VICTIMS OF TRAFFICKING

1. Establish SOPs in relevant camps to assist in the specific identification and referral of refugee victims of trafficking to appropriate services. Increase the capacity of relevant implementing partners to provide tailored services to victims of trafficking, specifically in the Shire area camps.

2. Ensure partners consider the needs of trafficking victims specifically in their service delivery of food and NFIs, medical, educational and psychosocial activities.

3. Seek to protect the rights of victims of trafficking by ensuring they are not detained until they provide testimony and also ensuring the provision of legal aid and access to justice in Addis Ababa and also in all the camps.

4. As an essential component of reintegration, ensure that victims of trafficking, and their families and communities are considered in any programming.

5. Improve and provide consistent identification and referral services to refugee victims of trafficking in Ethiopia. Ensure that such victims are provided medical services at their port of arrival, and provided proper accommodations and the necessary transport to the relevant refugee camps. Furthermore, improve coordination between the port of entry and the reception centres at each camp to ensure proper service provision and case management.



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