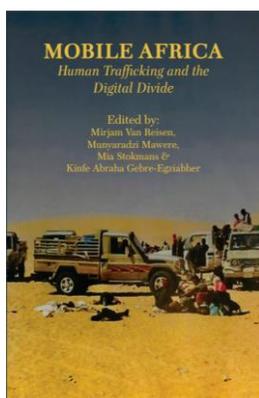


Sudan and the EU: Uneasy Bedfellows

Maddy Crowther & Martin Plaut

Chapter in: Mobile Africa: Human Trafficking and the Digital Divide

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**Connected and Mobile: Migration and Human Trafficking in
Africa**



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Sudan and the EU: Uneasy Bedfellows

Maddy Crowther & Martin Plant

Introduction

Since this chapter was drafted, events in Sudan have brought considerable change to the country. In December 2018, protesters took to the streets demonstrating against the rising cost of living and calling for a change in regime. On 11 April 2019, former President Omar Al-Bashir, who had ruled Sudan for near 30 years, was removed from power, and a coalition of security actors assumed leadership as a self-styled Transitional Military Council, entering into negotiations with democratic forces known as the Forces for Freedom and Change. After months of continued turbulence, the Forces for Freedom of Change and the Transitional Military Council formed a transitional government, the Sovereign Council, in August 2019. The Sovereign Council will oversee a three-year transition to democracy. Second in command of the Transitional Military Council and part of the 11-member Sovereign Council is Mohammed Hamdan or ‘Hemetti’, leader of the Rapid Support Forces, whom we discuss in this chapter as assuming border control on behalf of the European Union.

A convergence has developed between the aims of the EU and the (former) Sudanese leadership, making them uneasy bedfellows. Through the Khartoum Process, the EU seeks to reduce migration, while the Sudanese government sees migrants as useful pawns in their attempts to reduce international pressure for reform. Trapped between them are the refugees and migrants themselves, many of whom are desperate to find sanctuary.

The European Union's (EU's) relationship with Sudan has been shifting. Following the refugee 'crisis', European politicians have been keen to halt (or at least reduce) the influx of refugees and asylum-seekers arriving on their shores, and Sudan has been identified as a key country of transit for those coming from the Horn of Africa. At the same time, the Sudanese authorities have been desperate to break out of the isolation in which they have found themselves as a result of sanctions imposed by the international community, which were aimed at punishing systemic human rights abuses and promoting good governance, particularly following accusations of genocide, war crimes, and crimes against humanity in the Darfur region in the west of the country (International Criminal Court, n.d.).

The EU and Sudan, therefore, have found themselves uneasy bedfellows and have for several years been quietly altering the terms of their relationship without the moral outrage, press attention or research that has accompanied deals struck with other countries like Libya or Turkey.

For the EU, the reduction in the number of refugees coming to Europe has been a high priority in recent years. This agenda has been pursued despite the cost in terms of reputational damage to the EU and the suffering of those who have been prevented from finding sanctuary on European shores. It has been achieved to a considerable degree, with European nations deploying a number of tactics, including establishing direct links with African states via the Khartoum Process (Taylor, 2018), no matter how repressive these regimes might be. As the EU's border agency, Frontex, reported in October 2018:

The number of migrants arriving in Europe via the Central Mediterranean route [along which most refugees from Sudan travel] in September fell to about 900, down 85% from September 2017. The total number of migrants detected on this route in the first three quarters of 2018 fell to roughly 20 900, 80% lower than a year ago. (Frontex, 2018)

At the same time, the Sudanese authorities have made considerable strides in escaping from the pariah status they found themselves in following the international outcry at the atrocities committed in Darfur. In 2004, President George Bush declared that the Sudanese regime's behaviour in Darfur constituted genocide (International Justice Project, 2013). President Omar al-Bashir was referred to the International Criminal Court for crimes against humanity, including murder, rape and extermination (International Criminal Court, 2009). This placed the Sudanese government under intense scrutiny, which it had been attempting to reduce ever since.

The Khartoum Process, initiated by the EU in November 2014, relieved pressure on the Bashir government (European Commission, 2015). It provided the Sudanese authorities with direct access to senior European leaders, who treated its representatives as equals. The United States has moved in a similar direction. One of the first acts of the Trump administration was to lift some trade and economic sanctions against Sudan – a move welcomed by the authorities in Khartoum (Downie & Zaidan, 2018). What now remains is for the United States to lift Sudan from the State Sponsors of Terrorism List, which will in turn give EU member states and members of the Paris Club the chance to offer debt relief. These developments helped the Bashir administration, whose primary objective was to secure its own survival: “Sudan’s national-security policy is driven by one overriding objective: to maintain the rule of the Islamist/National Congress Party (NCP) regime” (International Institute for Strategic Studies, 2018). The regime had existed in various guises since a coup in 1989 (Cowell, 1989), but its lack of legitimacy required it to constantly resort to repressive measures to maintain control.¹

A convergence has, therefore, developed between the aims of the EU and the Sudanese regime: For the EU, the Khartoum Process is a

¹ This has been most notably the case during protests which started in December 2018 and were continued throughout the first half of 2019 and lasted until after the ousting of Bashir in April 2019; during early 2019 live ammunition and tear gas killed dozens of peaceful protestors calling for the fall of the regime (Mohammed, 2019).

means of reducing migration. For the Sudanese, migrants became useful pawns in their attempts to reduce international pressure for reform. Trapped between them are the refugees and migrants themselves, many of whom are desperate to find sanctuary. At the same time, the real political agenda pursued by European leaders came up against the EU's public commitment to human rights and the protection of refugees, which it insists that it adheres to in all its activities (Council of the European Union, 2015). Hence, the question researched in this chapter is: *To what extent has the EU kept its commitments under international law in relation to human rights and refugees in its cooperation with Sudan?*²

Sudanese security state

The US State Department's 2017 annual assessment of human rights provided a concise summary of the nature of the Sudanese state: "Sudan is a republic with power concentrated in the hands of authoritarian President Omar Hassan al-Bashir and his inner circle. The National Congress Party (NCP) continued 28 years of nearly absolute political authority" (US State Department, 2017). The authoritarian state is underpinned by the work of the Sudanese police, defence forces, and security forces, which collectively account for as much as three-quarters of all government expenditure (Baldo, 2016). Understanding the nature of Sudan's security state is essential to obtaining an accurate picture of how EU interventions are implemented on the ground, as these are the partners the EU necessarily engages, emboldens, and even directly funds in its efforts to stem migration from, and through, the country. This is also the world into which a refugee steps upon entering Sudan.

National Intelligence and Security Service

One of the most powerful of Sudan's security bodies is the National Intelligence and Security Service (NISS). It is also often the most harmful and invasive, particularly for those living or working near its

² Considerable changes took place in Sudan during the period of writing and this chapter aims to provide a reflection of the EU's policy with Sudan on migration in the period 2016–2019.

headquarters in the capital city, Khartoum. The NISS functions independent of any ministry and is ultimately responsible only to President al-Bashir.³

Its mission is the strict maintenance of internal security and intelligence, which it interprets as keeping a tight grip on the public according to ‘red lines’ on issues it sees as posing a threat to regime longevity. Opposition politicians, students, human rights activists, or those simply from marginalised groups and conflict areas, are arrested. Journalists disappear and newspapers are regularly confiscated, or print runs confiscated to financially ruin publications (African Centre for Justice and Peace Studies, 2018b).

Those who are detained can expect to be held without charge, incommunicado, and to be beaten and tortured. Methods involve being held in inhumane conditions, for instance, in rooms crammed beyond capacity, being denied food, or sleep, and suffering beatings with electrical rods (Ahmed, 2017). Many are released only to be re-detained after agreeing to become informants, in a ‘cat and mouse’ pattern. When detainees are released it is often on the condition of family guarantee or personal security, which obliges the individual not to engage in political activities or leave the country. It gives the police the right to detain them at any time.

The NISS is effectively immune from scrutiny and prosecution. The 2010 National Security Act gives it sweeping powers of arrest and detention without judicial oversight. Constitutional amendments passed in 2015 further weakened checks on the NISS’s power and grants officers immunity for abuse. According to civil society advocates, “it is like trying to fight an enemy with your hands tied behind your back” (Anon., human rights defender, interview, May 2018).

³ At the time of writing President al-Bashir was still in power. After his ousting in April 2019, the Military Council appointed a new intelligence chief, but structural reforms to the NISS or justice for violations committed by its officers have not yet manifested. Furthermore, the NISS was accused of playing a role in the violent repression of protests in Sudan (Human Rights Watch, 2019).

Police

Police forces report to the Ministry of Interior and are deployed throughout the country. The national police have a standard mandate of maintaining public order, but they are not free from controversy. For instance, in September 2013 they violently repressed protests in Khartoum that led to the death of hundreds of unarmed democracy protestors (Human Rights Watch, 2014b).⁴

The police are often tasked with upholding Sudan's more outdated and repressive laws. For example, a faction of the police called the Public Order Police is responsible for policing behaviour under the Public Order Laws, which unduly target women with stipulations on morality that might, for instance, prohibit the wearing of trousers, or types of informal economic work like selling tea (SIHA & Redress, 2017). These laws also provide cover for the targeting of minorities with less strict or non-Islamic codes of conduct, such as migrants from Christian majority countries like Eritrea and Ethiopia.

Armed forces

The armed forces in Sudan include the regular army and the special forces, which function outside the army structure. Sudan has a long history of fracturing its military power and blurring command and control structures, so that it can claim plausible deniability in the face of investigations into human rights abuses. This was recognised at the height of the Darfur genocide, when the government armed local Arab groups to take up arms against non-Arab neighbours (Waal & Flint, 2005). This led to the formation of the notorious Janjaweed, which conducted acts of mass arson, sexual violence, shooting, and mutilation in Darfur.

⁴ The British government had supported the police with a programme worth GBP 850,000 aimed at improving police performance. The programme was discontinued following the abuse perpetrated by officers during the September 2013 protests. The programme was criticised by the Independent Commission for Aid Impact in their 2015 review for strengthening “capacity that might be misused, without a strong focus on safeguards and accountability” (Independent Commission for Aid Impact, 2015).

In 2013, the Janjaweed was disbanded and a large proportion of its fighters formed a new body, the Rapid Support Forces (RSF) (African Centre for Justice and Peace Studies, 2018a).⁵ Although the RSF was initially incorporated under the NISS, in June 2016 responsibility for the NISS was transferred to the Sudanese Armed Forces, Sudan's main army, where it remains to this day.⁶ However, responsibility-sharing is far from clear, and both report directly, but separately, to the President. It is possible that the rebranding of the Janjaweed into the RSF and its subsequent incorporation into the Sudanese Armed Forces were exercises designed to avoid the implementation of UN Security Council Resolution 1556 of 2004, which demanded that the Sudanese government disarm and disband the Janjaweed militia and bring their leaders to justice. The 2007 Sudan Armed Forces Act provides for this, and only the President was able to circumvent this immunity (African Centre for Justice and Peace Studies, 2018a).

The RSF continues to play a significant role in the campaigns against rebel movements, notably in Darfur, where it helped lead 'Operation Decisive Summer', which caused massive civilian displacement and was characterised by violations of human rights and international humanitarian law (OHCHR, 2017). It also now plays at least a perceived role in border control and management, which is discussed further below.

⁵ Colloquially, the RSF is still known as the Janjaweed to those living in Darfur. Another faction of its fighters splintered into the Border Guard Forces under the leadership of Musa Hilal. However, Hilal and many of his officers have recently been arrested and detained. In recent years Hilal had become more hostile to government policy, particularly to attempts to conduct a disarmament campaign affecting his operations, and spoke publicly about the government's attempts to stoke ethnic violence in Darfur during the height of the genocide, mobilising widespread support for his political movement, the Revolutionary Awakening Council. At the time of writing, Hilal and six others are accused of undermining the constitutional system in Sudan and murder, in a military court, crimes that carry the death penalty (African Centre for Justice and Peace Studies, 2018a).

⁶ The UK has previously provided military training and assistance to the Sudanese Armed Forces, including officer training at Sandhurst and the Royal College of Defence Studies, which was discontinued following a legal challenge (Deighton Pierce Glynn, 2015).

Scale of the challenge

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), there were nearly 1 million asylum-seekers in Sudan in September 2017 (UNOCHA, 2018). Many are unregistered, and the Commission for Refugees estimates that the true figure may be as high as 2 million. The largest number crossed into Sudan from South Sudan to escape the civil war that is raging there, and will likely return if the fighting subsides. Eastern Sudan is host to some 155,000 refugees and asylum-seekers, many having fled from neighbouring Eritrea or Ethiopia. This is also the site of the Shagarab camp where you are meant to officially register as an asylum seeker in Sudan. Other refugees reach Sudan from Syria, Yemen, Chad, and the Central African Republic.

The hospitality Sudan demonstrates towards different nationalities reflects its policies towards marginalised groups and those from conflict areas in the country, and also its perception of itself as an Arab Islamic country more generally. As such, predominantly Christian Eritrean and Ethiopian populations are forced to live below the radar and largely without state assistance, which they do in large numbers in the east of the country, as well as in Khartoum. Similarly, the 'black African' South Sudanese, formerly the targets of a civil war before the secession of South Sudan, have been demonised by officials, and accused of being sources of insecurity and disease (Al-Araby TV, 2017). Meanwhile, Syrian refugees, who better suit Sudan's self-perception as Arab and Islamic, have a visa waiver programme in place, the right to work and education without permits, and a citizenship track once they have been there for more than six months. There are accusations that Sudanese passports are for sale to this group as well (Suleiman & Van Dijken, 2018).

In addition to these refugees, there is a huge population of internally displaced persons (IDPs) in Sudan. Many fled from Darfur, where government forces have been suppressing a rebellion and who have been unable to return home due to deliberate policies denying them land rights in favour of Arab settlers; others were driven from their

homes in the states that border South Sudan, for instance, South Kordofan, which have been subject to the indiscriminate and targeted bombing of civilian structures. OCHA summarises the situation as follows: “The impact of the conflict in Darfur, South Kordofan, and Blue Nile has been widespread displacement, with some 2 million IDPs” (UNOCHA, 2018).

This helps explain why Sudan is not just a transit route, but also a significant source country for refugees, in fact the fifth largest globally (World Bank, n.d.). Despite this, those transiting Sudan on their way to Europe via Libya and the Mediterranean Sea have become the almost sole focus of the EU’s interventions in Sudan.

European response

In November 2015, European leaders met their African counterparts in the Maltese capital, Valletta, to try to arrive at a plan to stop African migrants reaching European shores. This was made clear in the accompanying EU press release:

The number of migrants arriving to the European Union is unprecedented, and this increased flow is likely to continue. The EU, together with the member states, is taking a wide range of measures to address the challenges, and to establish an effective, humanitarian and safe European migration policy. (European Council, 2015)

The summit led to the drafting of an Action Plan, which has guided the EU’s policy objectives on migration and mobility ever since (Council of the European Union, 2015). Some elements of the plan were welcome, including recognition that African states bear the greatest burden of refugees – only a minority of whom actually make the journey to Europe. There was also an understanding that the camps in which so many languish need to be upgraded. Security in the camps must be improved, education and entertainment needs are to be provided, so that young men and women are not simply left to rot. There are even suggestions that some – a small, educated minority – might be able to travel via legal routes to European destinations.

The Action Plan did not end there. Other elements stood in stark contrast to the commitment in the press release quoted above to address the problem while “taking a wide range of measures to address the challenges, and to establish an effective, humanitarian and safe European migration policy” (European Council, 2015). Paragraph 4 of the Action Plan detailed how European institutions would co-operate with their African partners to fight “irregular migration, migrant smuggling and trafficking in human beings” (Council of the European Union, 2015, p. 12). Europe promised to offer training to “law enforcement and judicial authorities” in new methods of investigation and to assist “in setting up specialised anti-trafficking and smuggling police units” (Council of the European Union, 2015, p. 12). These commitments are an explicit pledge to support and strengthen elements of the Sudanese state that are – as has been seen – directly involved in human rights abuses and the repression of human rights. Displaced people, whether Sudanese, Eritreans, or Ethiopians, now face a Sudanese security apparatus enhanced by the EU and working directly with European officials.

The Action Plan was delivered under the EU-Horn of Africa Migration Initiative, known as the Khartoum Process, the name itself referring to Sudan’s capital city – something of a PR coup for Sudanese authorities. The Khartoum Process was launched in November 2014 as a forum for political dialogue and cooperation on migration between EU member states and several countries from the Horn and Eastern Africa. It is an initiative of the European Commission’s Directorate for Migration and Home Affairs and Italy, in a clear indication of how it was established to address domestic European concerns, rather than African political realities. Funds are provided in part by the Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration in Africa. A smaller pot of money specifically targets smuggling and trafficking, and is known as the Better Migration Management project led by the German government’s aid agency, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). These are both underwritten by substantial sums of money. The EU had provided just under EUR 215 million to Sudan to curb migration by April 2017 (Shah, 2017).

The concrete projects and programmes implemented under the Khartoum Process are often hard to grasp, and have been far from transparent, but it is apparent that there is a divergence between the EU's commitment to human rights and its explicit policy of working with the Sudanese state to restrict migration by almost any means. This has led to frustrations and tensions between policymakers, on the one hand, and civil society representatives and diaspora groups, on the other, among whom this approach has been the subject of intense scrutiny.

Concerns spiked when minutes of a meeting of the ambassadors of the 28 EU member states on 23 March 2016 were leaked in the German magazine *Der Spiegel* (Dahlkamp & Popp, 2016). They contained this chilling warning: "Under no circumstances" should the public learn what was being discussed. The magazine said equipment would be sent to Sudan to assist in the control of its refugee population. "...Europe want to send cameras, scanners and servers for registering refugees to the Sudanese regime in addition to training their border police and assisting with the construction of two camps with detention rooms for migrants".

This precise level of engagement never materialised in the way described by *Der Spiegel*, but (as outlined below with the operation of the Regional Operational Centre) many elements of the policy were implemented. The leak provoked public disquiet. Concerns crystallised around the issue of the EU funding various security actors within Sudan, most notably the RSF. If found to be true this would violate various EU commitments, notably an arms embargo in place dating from the conflict in Darfur. It would also call into question the value of the EU's Cotonou Agreement, which underpins the EU's relationship with developing nations in the African, Caribbean and Pacific (ACP) region, and membership of which is necessary before the EU can supply funds to state structures. Membership has been denied to Sudan because of the outstanding International Criminal Court arrest warrant in place against President al-Bashir.

Worries became most pronounced after the RSF, and its leader Mohamed Hamdan or 'Hemetti', starting making public statements about their role patrolling Sudan's frontiers, and arresting or deterring refugees. "Once we dealt with the rebellion in South Kordofan and Blue Nile and Darfur, we immediately turned to the great Sahara desert, especially after the directives from the president of the republic to combat illegal migration", Mohamed Hamdan, head of RSF, told Al Jazeera (Morgan, 2017). The tactics the RSF reportedly used reflected its historic practices when it was still known as the Janjaweed. Sometimes refugees were killed, sometimes they were forcibly returned to their countries of origin. In May 2016, more than 1,000 Eritreans were rounded up in Khartoum and along the Sudanese-Libyan border and forced to go back to Eritrea. Similarly, more than 100 were returned in August and September 2017 (Morgan, 2017). Such incidents provoked strong condemnation from the UN Refugee Agency (Radio Dabanga, 2017).

However, funding of the RSF has turned out not to be exactly the smoking gun that was expected, although it continues to be a rallying cry for human rights activists and civil society organisations. The EU is often forced to deny any such involvement, for instance, stressing in a recent factsheet and in bold type, "The Rapid Support Forces of the Sudanese military do not benefit directly or indirectly from EU funding" (Alamin, 2018).

It seems the EU may have struggled to convey this to the RSF itself, which continues to make statements to the effect that it deserves payment for the work already completed on Europe's behalf. "We do the job instead of the EU", Hemetti said in April 2018. The RSF also threaten to discontinue this work if they are not paid, effectively warning that they could 'turn on the tap' again by allowing refugees to proceed on their journeys to Europe. Hemetti continued, "That's why they should recognize our efforts and support us as we lost a lot of men, efforts and money – otherwise we will change our minds from carrying out this duty" (Alamin, 2018).

Furthermore, it remains unclear how the EU ensures that the RSF has not and will not benefit from its funding, especially if they are relying on assurances to this effect given by government bodies, like the Ministry of Interior, and without stipulations about end-user accountability. Both the Sudanese Ministry of the Interior and the Eritrean Ministry of Foreign Affairs are designated as ‘political partners’ under the Better Migration Management project (EU Emergency Trust Fund for Africa, n.d.). Such ministries are not concerned to differentiate between security actors with, and without, egregious human rights backgrounds. It is apparent that as the Sudanese security services coordinate the RSF’s operations, assistance for one arm of the state inevitably assists another, especially in a country rife with corruption. Sudan ranks 175/180 in Transparency International’s Corruption Perceptions Index for 2017, the joint-fifth worst global score (Transparency International, n.d.). In any case, what systems does the EU have in place to weed out individual members of the RSF who are assigned to tasks undertaken by the regular police or other parts of the security apparatus?

Whether the EU has, or has not, funded the RSF directly or indirectly does not mean that EU support has not had a direct impact on the ground. It has certainly served to embolden security actors and caused them to adopt new objectives that have little to do with the protection of those migrating through their territory. Rather, it has been a means of curtailing the exodus of refugees, an end that is exactly what European leaders wished for.

This is also seen in the capital, Khartoum, which has a substantial and long-standing migrant population, particularly from Eritrea and Ethiopia. Whereas before the Khartoum Process the security services largely turned a blind eye to migrant communities living in the city’s so-called ‘black belt’ of slum dwellings, the police are now emboldened by messages coming from Europe about the need to crack down on these communities. Some of those who have fled from Sudan more recently say that police harassment and fears for their personal safety, and the news stories of forcible deportations back to Eritrea or Ethiopia, were the reason for their onward travel (SIHA,

IRRI & SOAS, 2017). Previously Sudan was effectively functioning as a bulwark against migration and a container for populations that are unwanted in Europe. Ironically, now it frequently functions as the thoroughfare for repatriation that European leaders originally imagined it to be when drafting the Khartoum Process.

EU-Sudan security cooperation

There are also more direct plans to integrate Sudanese, European, and other Horn of African security actors. A Regional Operational Centre (ROCK) is being established in Khartoum (EU Emergency Trust Fund for Africa, n.d.). This is its role, as described by the EU:

The primary focus of the Regional Operational Centre, which will be developed to support this cooperation, will be human trafficking and people smuggling. Greater cooperation between the countries of the region to gather, share and analyse information, in accordance with relevant international and regional principles and standards, will lead to better and more informed decisions on migration management. This will result in more effective joint approaches to prevent and fight transnational crime. It will also protect victims of trafficking and smuggling. This is in line with the declared aim of the AU-HoA Technical Working Group on Law Enforcement, whose mandate is to conceptualise and develop a mechanism for information exchange and sharing. (EU Emergency Trust Fund for Africa, n.d.)

There is a clear coincidence of interests between the European leaders, who wish to reduce migration, and the Sudanese state, which wishes to increase the capacity of its security services. Trapped between them are the refugees and asylum seekers, with activists attempting to hold the EU to their explicit commitment to protect human rights, which seems to have been abandoned or ignored. The ROCK has become the site of some of the closest collaboration between the EU and Sudanese security officials. A lengthy New York Times article clarified the function of the Regional Operational Centre:

The planned countertrafficking coordination center in Khartoum – staffed jointly by police officers from Sudan and several European countries, including Britain, France

and Italy – will partly rely on information sourced by NISS (National Intelligence), according to the head of the immigration police department, Gen. Awad Elneil Dhia. The regular police also get occasional support from the RSF on countertrafficking operations in border areas, General Dhia said. “They have their presence there and they can help,” General Dhia said. “The police is not everywhere, and we cannot cover everywhere”. (Kingsley, 2018)

It is reported that the German police have reached an agreement with their Sudanese counterparts to provide technology and equipment to fight trafficking and illegal migration (Sudan Tribune, 2016b). The Sudanese Director General of Police, Lieutenant-General Hashim Osman al-Hussein, said the Germans had promised to provide his police-force with advanced crime-detection equipment and training. This is confirmed by the EU in its outline of the role of the ROCK. The document details what the ROCK is expected to achieve:

Capacity building for the development of related political and legislative frameworks to allow structured information sharing and joint operations at regional level. This could involve the signature of relevant cooperation agreements between the Horn of Africa countries, defining the national focal points that are authorised to exchange information with the Regional Operational Centre, the process for this information sharing, the type of data to be collected and the governance arrangements and principles, with full respect of human rights and data protection protocols. (EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa, 2016. p. 11)

The document then spells out how the resources of the EU’s own border agency (Frontex) and the international police organisation (Interpol) will be put at the disposal of the ROCK and the African security agencies, including those of Sudan. The same document accepts that there is a risk of the “misuse or mishandling of data collection” and the “use of data for purposes beyond HT [human trafficking]/smuggling and serious organised crime” (EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa, 2016, pp. 13–14).

It remains to be seen how, for example, Britain's security services, which will allegedly supply up to half of the technical advisor posts within the ROCK (British Embassy representative, personal communication, by email, 2018), will cooperate effectively with their Sudanese counterparts, and whether they can guarantee that information gathered under the aegis of ROCK is not used for repressive purposes. Simply relying on self-regulation within Sudanese forces is misguided at best.

Evidence from Sudan's first foray into providing information for their European partners in an attempt to crack down on smuggling networks shows that the process can end disastrously. In June 2016, following cooperation between Sudan and Britain's National Crime Agency and the UK's Government Communications Headquarters under Project Invigor, and the operations Tokhla and Glauco 2 led by Italy, an alleged smuggling kingpin, Mered Medhanie, was arrested. Serious doubts were cast about whether the man detained was actually the gentleman in question, with Mered's own wife denying as much, and evidence that the real suspect is living the high life in Uganda (Tondo & Mwesigwa, 2018). Indeed, in July 2019, the judge acquitted the man detained and confirmed it was a case of mistaken identity (Tondo, 2019).

Europe also announced plans to build a new detention centre in the Northern Sudanese town of Dongola (Chandler, 2018): "The proposal came from us, because we have nowhere to keep people", the head of Sudan's Ministry of Interior Passports and Civil Registry Authority told IRIN newsletter. "Every month we have to intercept almost 100 or sometimes 500 irregular migrants; we have to process their return and their protection – it gives us real challenges – where to keep them?" Martin Weiss, the Better Migration Management Programme project head in Germany, insists that the programme aims to protect migrants (Chandler, 2018). The "BMM [Better Migration Management Programme] is not about border surveillance, but about protecting refugees, facilitating migration, and improving conditions for people who are fleeing their homes", he wrote in an email (Chandler, 2018). But the EU and its partners do not appear to

have a viable strategy to mitigate human rights abuses. In the case of the Better Migration Management Programme, the EU and GIZ claim that its steering committee, which is composed of the European Commission, Germany, UK, France, Italy, and the Netherlands, oversees human rights risks remotely from Brussels.

Government complicity in human trafficking

There is one further complication: evidence that the very Sudanese authorities with whom the EU are co-operating to end human trafficking are themselves engaged in this practice. Evidence of this emerged in the UN Monitoring Report to the UN Security Council on Somalia and Eritrea for 2011. This report pointed to General Teklai Kifle ('Manjus'), commander of the Eritrean border forces as well as the western military zone, as being at the heart of this operation. The reports laid out the role General Manjus plays in smuggling arms across the border in violation of the UN sanctions, as well as his links with senior Sudanese officials. The experts then explained the General's role in human trafficking (UN Security Council, 2011).

Survivors of human trafficking interviewed by Professor Mirjam Van Reisen, Meron Estefanos and Professor Conny Rijken described how the Eritrean Border Surveillance Unit drove them out of Eritrea (Van Reisen & Mawere, 2017). They were hidden under covers in trucks and four-wheel drive vehicles so as to avoid border check points. Members of the Eritrean diaspora in Western countries reported paying USD 5,000–7,000 for a safe way to get a relative out of Eritrea. This means that if: "...you pay a high rank official, the relative doesn't get checked at the checkpoints, the official will drive your family member all the way to Khartoum and that is where he receives the money". Other researchers have corroborated this conclusion. A report by the Sahar Foundation and the Intergovernmental Authority on Development (IGAD) Security Sector Program described how Eritreans with sufficient money and connections pay for a comfortable four-wheel drive vehicle to take them to Khartoum and are simply put on a flight to a European capital (Sahan & IGAD,

2016). Given the tight security in both Sudan and Eritrea, none of this would be possible without the collaboration or collusion of government officials.

Evidence from Sudan points to a similar conclusion. A report by Clingendael (Tubiana, Warin & Saeneen, 2018) contains a wealth of evidence showing the collusion of the RSF in smuggling, with testimonies describing RSF guards simply driving migrants back to Khartoum “from time to time ... in order to show the authorities that we are doing the job”. A report by Human Rights Watch (2014a) found that in Eastern Sudan police and military officials had handed victims over to traffickers, and turned a blind eye at checkpoints, as well as routinely failing to identify and prosecute traffickers and corrupt officials, even when they clearly violate the Human Trafficking Act passed by Sudan’s Parliament in March 2014. This raises questions around the authorities’ willingness or capacity to uphold the rule of law. It would appear evident that the officials and governments with whom the EU is negotiating have very different objectives in relation to the migrants and refugees caught up in this process. For the Sudanese and Eritrean officials, these people are seen as ‘hostages’ from whom they can extract financial rewards, while at the same time using them to enhance their standing with their international partners.

Hovil and Oette (2017) summarised the situation as follows:

The involvement of Sudanese, Eritrean and Egyptian officials – both street level bureaucrats but also some officials of senior rank – in smuggling and trafficking has been documented. SIHA [the Strategic Initiative for Women in the Horn of Africa], for instance, argues that “the human trafficking and smugglers networks operating in Sudan, Eritrea and Egypt are led by top government and military officials in all three countries. These networks expand from these countries reaching to Europe and Asia. These smuggling and trafficking networks are strong, profitable, well established and protected.

In the circumstances, the EU’s decision to focus only on the criminality of non-state actors, and to strengthen the capacity of

government bodies, is questionable at best. It means that European officials are almost certainly collaborating with the very people directly or indirectly involved in the human trafficking and smuggling that the programme is designed to eradicate.

Blocking the Mediterranean crossing

These developments are only one element of a much more complex response to the arrival of asylum seekers on European soil by the EU, and the construction of a system of what might be described as ‘defences in depth’, from Europe far into Africa itself. This was outlined in the EU’s New Migration Partnership Framework of 7 June 2016 (European Commission, 2016a). The Framework’s aim was explained as:

Building on the European Agenda on Migration, the priorities are saving lives at sea, increasing returns, enabling migrants and refugees to stay closer to home and, in the long term, helping third countries' development in order to address root causes of irregular migration.

The reality of this Framework soon became clear. For African migrants it means that the EU is working with the Libyan government to halt the flow of asylum seekers and migrants across the Central Mediterranean, preventing rescue attempts by international NGOs and supporting the Libyan government in its efforts to arrest, detain and return potential migrants to their countries of origin. As one report put it, this policy: “focuses largely on equipping the Libyan government with the means to prevent maritime departures, pull back boats that depart, and offer stranded migrants a one-way ticket home” (Collett, 2017).

Amnesty International provided a detailed analysis of how this is operating and the consequences of what they term the ‘outsourcing’ or ‘externalising’ of the EU’s borders (Amnesty International, 2017). The report says that some 10,000 Africans were being held in Libyan detention centres, in appalling conditions. A small number (around 2,000 as of August 2019) have been freed and flown to Niger from

where they await re-location to third countries, but the majority remain imprisoned (Elumami & Lewis, 2018). Their appalling treatment, including slavery, torture and rape, has not deterred European politicians from dealing with Libya:

EU member states have entered into a string of co-operation agreements with Libyan authorities responsible for grave human rights violations, in particular the Libyan Coast Guard (LCG) and the General Directorate for Combating Illegal Migration (DCIM) within the Ministry of Interior, with the aim of increasing their capacity to tackle smugglers, carry out search and rescue operations, and prevent irregular departures. The policy has been successful: the number of arrivals in Italy has fallen by 67% between July and November 2017, compared with the same period in the previous year, and deaths at sea have reduced commensurately. But EU countries should not feign shock or outrage when the human cost of these deals is laid bare. (Elumami & Lewis, 2018).

The crux of the EU's policy is, therefore, to work as closely as possible with African governments, including notoriously abusive regimes like Sudan and Eritrea. The opening of the ROCK in Khartoum is an example of this intention. Similar pacts have been signed with other Sahel nations, including Niger, an important transit-route to the Mediterranean (European Commission, 2016b). This was strengthened in April 2017 when the Italian government signed agreements with tribes in southern Libya to halt the inflow of Africans (Grignetti, 2017). These initiatives are designed to keep migrants as close to their country of origin and well away from the states in northern Africa that border the Mediterranean Sea, and Libya in particular. The second element is designed to halt attempts to cross the Mediterranean Sea by preventing marine rescues by organisations like Medicines Sans Frontiers or Open Migration, or equipping the Libyan security services with the ability to close down the smuggling operations (Petrillo & Bagnoli, 2018).

Most recently, EU leaders have agreed to establish 'migrant centres' around the Mediterranean Sea to allow for the speedy assessment of those that disembark from boats on the northern side of the sea and for their return to African centres on its southern edge

(Baczynska, 2018). The EU decided at a summit in June 2018 to explore what it termed ‘regional disembarkation centres’ as a key objective (ECRE, 2018). This is the clearest example yet of the EU’s policy of border externalisation, which reimagines northern Africa as Europe’s southern periphery. It comes at a time when there has been a massive reduction in those making this perilous journey, which seems to be the only indicator Europe uses in assessing the success or value of migration partnerships like the Khartoum Process.

Right to asylum or forcible repatriation?

While the EU has given priority to halting migration, the question remains, what to do with those who have successfully made it to Europe and claimed asylum? What we are seeing across Europe is an attack on the arguments Sudanese asylum-seekers use to verify their claims, as well as practical steps to identify and return those whose claims are rejected as a result. The denial of the right to asylum of Sudanese nationals is built into the very core of the Khartoum Process, which imagines Sudan as purely a country of transit, not origin, for substantial numbers of asylum seekers. However, Sudanese are in fact one of the largest asylum-seeking groups (World Bank, n.d.). In a key example of how Sudanese were at the forefront of the so-called ‘refugee crisis’, they formed up to half of the residents in the ‘Jungle’ camp in Calais before it was demolished (Patterson & Jackson, 2017).

There has been a similar change in attitude among UN bodies, which regularly report on the improved security situation in Sudan, despite human rights activists casting doubts on any rose-tinted interpretations of recent developments. A key example is the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which is negotiating its own exit from the country, partly due to budgetary concerns imposed by the United States, but employing the logic of improvements on the ground.

This has emboldened home ministries across Europe to start amending asylum guidance and make decisions along similar lines,

arguing that Sudan is now safe, or at the very least that relocating outside of the conflict areas, such as Khartoum, is a viable option. There are also attempts to downplay the palpable risks to physical security that individuals face upon return to the country, particularly as an asylum seeker. The most egregious example of this is Country Guidance (case law) in the UK, which states that because of “the extremely common phenomenon of arrest and detention”:

The evidence draws a clear distinction between those who are arrested, detained for a short period, questioned, probably intimidated, possibly rough handled without having suffered (or being at risk of suffering) serious harm and those who face the much graver risk of serious harm. (UK Upper Tribunal, Immigration and Asylum Chamber, 2016)

An exact definition of ‘rough handling’ and its legal differentiation from the legal term assault or from torture, which is prohibited by the Refugee Convention, is not provided. As a result, in the UK and around Europe it is increasingly difficult for Sudanese to claim asylum (European Commission, 2018).

The increased security cooperation under the aegis of the Khartoum Process has provided a model for bilateral agreements between Sudan and various member states. These are outlined by country below, but all involve the use of Sudanese officials to interview and adjudicate on individual claims. On the one hand, the EU is externalising borders into Africa, on the other hand, it is allowing the long arm of the continent’s security services to reach deep into Europe in an attempt to weed out those with allegedly baseless claims. This risks violating the principle of non-refoulement.

The Netherlands

The Netherlands has had a memorandum of understanding with Sudan since 2011, which provides for cooperation for the voluntary or forced repatriation of Sudanese nationals and the issuing of ‘laissez-passers’ by the Sudanese diplomatic representation (Netherlands Ministry of Foreign Affairs, 2017). The domestic branch of Amnesty has since documented at least one case where a

man was subjected to a 13-day ordeal involving torture, following his return to Sudan on 6 December 2017 (Amnesty International, 2019).

Italy

Italy was one of the first European governments to put in place a formal bilateral agreement on returns and readmission. It signed a memorandum of understanding in August 2016 aimed at increasing police cooperation in the fight against transnational organised crime and especially irregular immigration (Borletto *et al.*, 2017).⁷ It included provisions for missions of officials from the respective territories to help investigate details to facilitate returns, for instance, the ability to conduct identification interviews in consular offices, but also in ports, police stations, and detention centres, and the subsequent production of documentation for removal (*laissez-passers*). The agreement allows Sudanese officials to be based in Italy and embedded in the Italian immigration process. Press statements at the time made explicit links to the framework of the Khartoum Process (Sudan Tribune, 2016a).

This cooperation led to the forcible return of at least 40 individuals (estimates are as high as 48) who were arrested in Ventimiglia while attempting to cross into France, on a charter flight to Sudan in August 2016, after Sudanese officials were allowed to interview them for repatriation. Testimonies received by NGOs confirm accounts of detention and interrogation on arrival, with some individuals witnessing beatings, as documented by Amnesty International (Amnesty International, 2016). The human rights monitoring group Huqooq also provided the testimony of a gentleman nicknamed ‘Barakat’ in 2016 (Huqooq, 2016). Barakat claims he was beaten by the NISS while the returnees were detained and has since gone into hiding. Other testimonies suggest that the deportees now live in fear for their physical security, as well as that of their families, and that they believe they are being monitored by the NISS, including via their mobile phones. Five of the returnees lodged an application before the European Court of Human Rights claiming they had been forcefully

⁷ The same organisation (Associazione per gli Studi Giuridici sull’Immigrazione) believes Italy has signed similar agreements with Tunisia and Libya.

repatriated in violation of the prohibition of torture, prohibition of collective removal of foreigners, right to an effective remedy, and prohibition of discrimination (ANSA, 2018).

Belgium

In December 2017 it was reported that several individuals deported to Sudan from Belgium alleged being tortured. The decision to deport them was made by the Federal Secretary of State responsible for Asylum and Migration, Theo Francken. This followed Francken inviting Sudanese officials on an identification mission to assess Sudanese migrants, some of whom had been arrested in a raid on a makeshift camp in Brussels' Maximillian Park (Crisp, 2017). The delegation was widely believed to have been from Sudan's NISS. They were allowed to question Sudanese without Belgian officials present.

In total, the testimonies refer to nine Sudanese who were sent home. All describe a period of detention on arrival at the airport and interrogation lasting several days, then being released subject to a family guarantee/personal security, as described earlier in this chapter. A few describe physical torture (being beaten with a stick) or emotional torture.

As it stands, the Belgian Commission that independently handles asylum claims (Office of the Commissioner General for Refugees and Stateless Persons) has reported that on balance it did not find the testimonies credible, although doubts do remain (Commissioner General for Refugees and Stateless Persons, 2018). In the meantime, Sudanese identification missions will continue, although with greater oversight by Belgian officials.

France

There are rumours that bilateral discussions have been held between the French and Sudanese governments to arrange for the return and repatriation of Sudanese living in France from as early as 2014. Internal memos of the Sudanese Embassy, seen by Street Press journalist Tomas Statius, show there were regular discussions between Embassy staff and the French police about identifying

rejected asylum applicants or other Sudanese migrants, also mentioning plans for an identification mission including NISS officials (Stadius, 2017). This contributed to 205 forcible expulsions of Sudanese nationals from 2014–2016.

Then Street Press found that in early 2017 an identification mission had been allowed to visit at least three removal centres, and also misrepresented themselves as NGO staff (Stadius, 2017). The mission delegates seemed to show particular interest in those individuals who had been formerly imprisoned in Sudan. Mr Stadius suggests this may be because the security services are able to verify their presence and activity in the country through fingerprint technology implemented in 2012. Mr Stadius has identified four people deported to Sudan following a Sudanese delegation visit. He said that he encountered difficulties when trying to monitor those returnees and report on their wellbeing post-return (Stadius, 2017).

In addition, documents produced by Sudan’s Foreign Ministry have come to light that mention Sudanese concerns about a particular community in a Paris suburb that Sudanese authorities wanted to see returned to Sudan, and a request for France to share a contact database (it is unclear if this was agreed to). This letter indicates Sudan’s clear interest in the behaviour and members of its diaspora, particularly as Paris is a hub for opposition activity (Stadius, 2017).

United Kingdom

Having historically been a ‘critical friend’ to Sudan, as its former colonial power, the UK changed the nature of its relationship with the country in 2016 to one of ‘phased engagement’, launching a UK-Sudan Strategic Dialogue. Meetings are held biannually to discuss areas of mutual concern, among which migration has remained topmost, especially given the predominance of Horn of Africa asylum-seekers and migrants among the total number reaching the UK (Sudan has consistently remained in the top five countries of origin for asylum seekers in Britain) (Gov.UK, 2019). Returns and readmission procedure is an active area of interest for strategic dialogue delegations, whereas the creation of safe, legal migration

pathways is not. It remains to be seen what form this will take, but domestic NGOs like Waging Peace⁸ have warned about inappropriate procedures, including the disclosure of confidential information (for instance, about region of origin or family background) to Sudanese officials, which could then easily be forwarded to the NISS, and that individuals were threatened, or even bribed, without Home Office or independent interpreters present.

Although these interviews did not lead to forced removals, Waging Peace and others have documented dozens of instances where individuals were ill-treated, or even tortured, upon arrival in Sudan after having travelled from the UK. These testimonies also evidence the fact it is sometimes an individual's 'sur place' activity abroad that provides the basis for their asylum claim, as Sudanese intelligence officials operating in the UK take an active interest in diaspora activities, readily (and often rightly) assumed to be anti-regime.

It is surprising then that the UK officially states that it knows of no substantiated cases of returnees being mistreated on return, as does other EU member states (UK Home Office, 2018). The information gap here is the lack of appropriate post-return monitoring systems, as under refugee law it is presumed that once an adverse decision is made regarding an individual's asylum claim then it has been determined that they do not need to avail themselves of the protection of another state and can be returned without incident. Worse still, there are few organisations able or willing to monitor the fate of those returned.⁹

That those who return to Sudan are not safe is amply demonstrated by the above. Thus, the presence of Sudanese officials in European capitals places asylum seekers and migrants from Sudan doubly at risk. It increases the reach of the Sudanese intelligence, while minimising the checks and balances in place to guard against

⁸ One of the authors, Maddy Crowther, is Co-Executive Director of Waging Peace.

⁹ Waging Peace is in fact listed as the only viable option for monitoring returnees on several public forums, despite admittedly having few options open to it.

inadvertent or intentioned refoulement. The fate of those who are returned to Sudan is neither known nor particularly cared about.

However, the weight of evidence is becoming difficult for home ministries to ignore in domestic asylum cases and case law. Most notably, in June 2018, a man named Bishara Hassan Jameel Allah managed to film himself being detained and tortured on arrival at Khartoum International Airport. The Sudanese officials focused their physical abuse at his chest after he explained that he had only recently undergone surgery in that area. There are also rumours that a companion travelling with him was killed (see Arends, 2018 and, for a version with English subtitles, Apache.be, 2018). This is good evidence of what happens to a returnee to Sudan, and the possible circumstances of those forcibly removed to Sudan, whose fates are currently unknown.

Conclusion

The European Union's relationship with the Sudanese government (and the wider Sudanese security state) is worrying. The Khartoum Process has cemented formal ties between the EU and Sudanese authorities. This has taken place despite the well documented and internationally-acknowledged human rights abuses carried out by the Sudanese government, led by President Omar al-Bashir, himself indicted by the International Criminal Court. It is difficult to square this with the oft-repeated assurances of European officials that human rights are integral to EU activities. There is evidence that strengthening the capacity of the Sudanese and Eritrean state has meant collaborating with officials and bodies implicated in the human trafficking the EU says it is attempting to end.

Reciprocally, the EU has even allowed these security actors direct and deep access to European states, either because of bilateral deals relating to the forcible deportation of rejected asylum-seekers, or under formal bodies like Regional Operational Centre in Khartoum (ROCK). All of this exists in the context of the EU's 'defences in depth' approach to deterring migration. Every avenue has been

explored – whether it is preventing aid agencies from rescuing drowning refugees from the waters of the Mediterranean, to the construction of detention centres in Sudan. One is forced to conclude that there is an overt European policy that respects human rights, while simultaneously a covert policy that accepts that these niceties must be ditched if targets to reduce migration are to be met.

The unilateral assumption of power by the Transitional Military Council in the spring of 2019 continued to face opposition on the streets of Khartoum, with protesters congregating in a square in front of the army headquarters, staying there for weeks, and taking part in creative forms of solidarity and resistance. On 3 June 2019 the Transitional Military Council, led by Hemetti's RSF forces, stormed the square, killing over 120 individuals, raping over 70, and prompting international condemnation.

Largely in response to this outcry, the EU has put on hold the more controversial aspects of their migration and human trafficking control programmes, namely any aspects of the Better Migration Management programme that involve contact with the Sudanese Ministry of Interior, as well as the ROCK, both of which are challenged in this chapter.

At the time of writing (August 2019) two things remain unclear: what the EU is planning to do to reconsider its approach to tackling migration in the region considering this drastic turn of events in Sudan and how, and if, Sudan itself will develop governance structures that better respect human rights, equal citizenship, and peace now that the Transitional Military Council and Forces for Freedom and Change have reached a tentative agreement and formed a transitional government.

We urge readers to be part of efforts to monitor what happens in Sudan, with respect for the wishes of the Sudanese people, and those who live in or pass through its territory. Among the victims are the many migrants and refugees. The circumstances that forced these vulnerable men, women and children to flee from their countries have

not altered, particularly in Sudan and Eritrea. The question, therefore, remains: Where can these vulnerable populations seek shelter, and find protection under international law, and are they safe once they get there?

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