



HUMAN
RIGHTS
WATCH

THE MEDITERRANEAN MIGRATION CRISIS

Why People Flee, What the EU Should Do



The Mediterranean Migration Crisis

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Introduction

Unprecedented numbers of people are taking dangerous journeys across the Mediterranean to reach countries of the European Union. Migrants and asylum seekers have been crossing the Mediterranean for decades. The numbers have fluctuated over the years due to a variety of factors, including conditions in countries of origin and transit, geopolitical developments, and EU policies. In 2014, at least 219,000 people made the crossing, up from 60,000 the previous year. According to the UN refugee agency United Nations High Commissioner for Refugees (UNHCR), 92,800 crossed in the first five months of 2015. The principal route has long been from North Africa across the central Mediterranean, but increasing numbers are now crossing the Aegean Sea (eastern Mediterranean) from Turkey to the Greek islands.

The Mediterranean is the world's deadliest migration route. The International Organization for Migration estimates that 22,400 migrants and asylum seekers have died since 2000 in attempts to reach the European Union, many of them at sea.¹ Over 3,500 died at sea in 2014, making it the deadliest year on record. With at least 1,850 estimated deaths in the Mediterranean in the first five months of 2015, a new high record may be set this year.

The EU has recently taken important measures to step up search and rescue efforts in the Mediterranean. This is a welcome, if belated, response to the immediate humanitarian imperative to save lives.

However, robust search and rescue operations need to be accompanied by sustained efforts to ensure the right to seek asylum enshrined in the Universal Declaration of Human Rights and guaranteed in the EU's Charter of Fundamental Rights.

The EU's response in recent years to boat migration across the Mediterranean has focused largely on trying to prevent or discourage people attempting to make the dangerous crossing. This approach is also reflected in the EU's current focus on anti-smuggling measures, including pre-emptive seizure and destruction of boats used by smugglers.

¹ IOM, *Fatal Journeys: Tracking Lives Lost During Migration*, 2014, http://publications.iom.int/bookstore/free/FatalJourneys_CountingtheUncounted.pdf (accessed June 8, 2015).

In reality, attempts to prevent crossings are likely to fail as this approach overlooks the reasons people are willing to risk their lives to attempt such deadly sea-passage. In many cases there are desperate reasons grounded in forced displacement and human rights abuse for making this desperate journey.

This report describes the human rights violations driving dangerous migration to the EU. According to the UN refugee agency, UNHCR, 60 percent of the people who took the dangerous sea journey in the first five months of 2015 came from Syria, Somalia, and Afghanistan, countries torn apart by war and generalized violence, or from Eritrea, which is ruled by one of the most repressive governments in Africa. Many of those coming from other major sending countries — Nigeria, The Gambia, Senegal, Mali — are seeking to improve their economic opportunities or to live in more open and safe societies. But some people in these countries also experience human rights violations or forced displacement arising from conflict and may have valid refugee claims. Some migrants who have resided in Libya since before the current hostilities broke out in May 2014, are fleeing insecurity and violence in Libya.

The report draws on Human Rights Watch's extensive work on the human rights situation in the four main sending countries as well as interviews with Syrians, Eritreans, Afghans, and Somalis who crossed the Mediterranean in May 2015. Human Rights Watch staff interviewed over 150 recently-arrived migrants and asylum seekers in Italy (Lampedusa, Catania, and Milan) and Greece (the islands of Lesbos, Chios, Samos, Leros, and Kos). We use only first names and, where noted, pseudonyms, to protect the identity of the people we interviewed.

While the international community as a whole has a role to play in addressing global migration challenges, the EU as the destination region has a primary responsibility for ensuring that its migration and asylum policies, including its response to dangerous boat migration in the Mediterranean, are fully in line both with international law and with the EU's own regional law. We urge governments to place a human rights perspective at the center of efforts to respond to the crisis.

Human Rights Watch calls on all EU countries to make a collective effort to minimize deaths at seas by ensuring sustained, coordinated search and rescue efforts in the Mediterranean at the level of Italy's Mare Nostrum operation, and ensure disembarkation

in safe EU ports where individuals can access full and fair asylum procedures. We also call on EU leaders to support proposals to increase safe and legal channels into the EU, including by implementing generous resettlement programs, easing access to family reunification, and increasing the number of humanitarian visas. The best interests of the child should guide all policies with respect to asylum-seeking, refugee, and migrant children.

Anti-smuggling measures should fully comply with binding obligations under the European Convention for Human Rights (ECHR) to protect the rights to life, liberty and security, an effective remedy, and the non-refoulement obligation. The EU should also ensure that all measures to combat irregular migration are grounded in respect for human rights and dignity, including the right to leave one's own country, the right to seek asylum, and protection against returning people to countries where their lives or freedoms may be at risk (non-refoulement obligation).

Individual member states and the EU as a whole should use their influence and resources to address the major drivers of migration, including systematic human rights violations that serve as the major push factors for refugee and migration flows to the EU from countries like Syria, Eritrea, Afghanistan, and Somalia, as well as from transit countries like Libya.

Desperate Reasons for a Desperate Journey

Human Rights Watch research on the human rights situation in Syria, Eritrea, Afghanistan, and Somalia, and interviews with refugees and asylum seekers in the EU, underscore the importance of access to fair and efficient procedures for determining international protection needs.²

Syria

Civilians continue to pay a heavy price in Syria's increasingly bloody armed conflict. Government forces and pro-government militias continue to carry out deliberate and indiscriminate attacks on civilian areas, including through the use of high explosive barrel bombs. Government forces also arbitrarily arrest, forcibly disappear, and torture those they perceive as opponents, many of whom have died in detention. Non-state armed groups opposing the government are also responsible for war crimes and other serious abuses, including deliberate and indiscriminate attacks on civilians, use of child soldiers, kidnapping, and torture in detention. The extremist Islamist groups, the Islamic State (also known as ISIS) and al-Qaeda's affiliate in Syria, Jabhat al-Nusra, are responsible for systematic and widespread violations including targeting of civilians, kidnappings and extrajudicial executions. Humanitarian aid agencies experience significant challenges in getting vitally-needed assistance to the internally displaced and other civilians within Syria due to sieges imposed by both government forces and non-state armed groups.³

Syrian refugees interviewed by Human Rights Watch in the EU spoke of the paramount need to escape the violence and hardship of war. Mohannad, a 30-year-old lawyer from Raqqah, had reached the Greek island of Lesbos the day before we met him in May 2015. He had been working as a volunteer with an organization combating violence against women. But the constant threat of violence, including from ISIS, compelled him to leave his country:

What is happening in Syria is an international crime. There, they never make the difference between civilian and armed forces. And it's not just [Syrian

² For more Human Rights Watch work on migration and asylum, see <http://www.hrw.org/topic/refugees> and <http://www.hrw.org/keywords/mediterranean-crisis>.

³ For more Human Rights Watch work on Syria, please see <http://www.hrw.org/middle-eastn-africa/syria>.

President Bashar al-] Assad. There are groups such as Daesh [ISIS] doing the same...Syria has become a country that is broken...I left two months ago because I'm an activist and I'm afraid they would arrest me and beat me a lot...My only dream is to go to another European country to show the world what is happening there. I have a big file with the names of victims. Women who have been raped, a list of names of people who have died.⁴

Tariq, a 19-year-old Palestinian from Yarmouk Camp, close to the Syrian capital, Damascus, whom Human Rights Watch interviewed in Serbia, explained, "I left so I could escape from the war and out of fear of being arrested, just like happened to my family members. Also, I was afraid of the army. The situation of Palestinians in Syria is particularly difficult...Yarmouk camp is under siege. There is no food or anything."⁵

Some young Syrian men told us they fled to avoid being forced to fight and kill. Hady, a 26-year-old Palestinian from Syria now in Germany, told us he began what would be a year-long journey to Europe when he received his military draft notice from the government.⁶ Salim, 22, said "I was about to be mobilized by the Palestine Liberation Army to fight on the side of the Assad regime...I did not want to take sides."⁷

More than 13,000 children are estimated to have been killed since the beginning of the Syrian conflict, with 3,500 killed in 2014.⁸ Numerous armed groups recruit children for use as soldiers, sending boys as young as 15 into battle.⁹ One boy, recruited by a rebel group at age 14, told Human Rights Watch, "Maybe we'll live, and maybe we'll die."¹⁰ Another, who joined the Free Syrian Army fighting against Assad after being detained and tortured by government security forces, told Human Rights Watch, "I lost my studies, I lost my future, I lost everything."¹¹

⁴ Human Rights Watch interview with Mohannad (pseudonym), Lesbos, Greece, May 21, 2015.

⁵ Human Rights Watch interview with Tariq (pseudonym), Belgrade, Serbia, January 27, 2015.

⁶ Human Rights Watch interview with Hady (pseudonym), Dresden, Germany, February 12, 2015.

⁷ Human Rights Watch interview with Salim (pseudonym), Sjenica, Serbia, November 20, 2014.

⁸ "Syria Deaths Hit New High in 2014, Observer Group Says," *New York Times*, January 1, 2015, http://www.nytimes.com/2015/01/02/world/middleeast/syrian-civil-war-2014-deadliest-so-far.html?_r=0 (accessed June 8, 2015).

⁹ Human Rights Watch, *"Maybe We Live and Maybe We Die: Recruitment and Use of Children by Armed Groups in Syria*, June 2014, <http://www.hrw.org/reports/2014/06/22/maybe-we-live-and-maybe-we-die>.

¹⁰ Ibid., p. 2.

¹¹ Ibid., p. 3.

Before the conflict began in 2011, 93 percent of eligible children were enrolled in primary school; by 2014, more than 3,000 schools had been partially or completely destroyed.¹² According to the UN children's agency UNICEF, at least half of the school-age population are not in school, and in some areas, enrolment rates are as low as 6 percent.¹³ A 10-year old Syrian boy from Deir ez-Zur, who arrived with his family on the Greek island of Lesbos in May 2015, told Human Rights Watch that when his school was bombed, "I felt like my future had been destroyed." His father told us, "We can't allow children to go out of the house, so how can we allow them to go to school?"¹⁴

Children described to Human Rights Watch how they had witnessed ground and air attacks on their schools, raids by security forces that involved beatings and violent arrests, and the use of their schools for military operations by both government forces and opposition armed groups.¹⁵ "[The army] fired on my school with a tank. It was during science class, but I was on my way to the bathroom. Two shells hit the fourth floor. I was on the first floor. ...After that, I only went back to take my exams," said Rami, a 12-year-old boy from Dael.¹⁶

The war in Syria has created what UNHCR has called "the biggest humanitarian emergency of our era."¹⁷ As of early May 2015, UNHCR had registered almost 4 million Syrian refugees in neighboring countries and North Africa; just over half are children.¹⁸ Turkey has taken in over 1.7 million Syrian refugees, while Lebanon is hosting almost 1.2 million—one quarter of its population. But neighboring countries have become less welcoming to fleeing Syrians, in many cases closing their borders and denying them secure legal status. "When I first arrived, Lebanese people were very hospitable to me," one Syrian refugee told Human Rights Watch. "They treated me like a refugee, someone who needed protection and had fled from the war. Now they treat me as if I am a terrorist or a security threat."¹⁹

¹² United Nations, Report of the Secretary-General on children and armed conflict, May 2014, S/2014/339, para. 150.

¹³ Human Rights Watch, *Safe No More: Students and Schools under Attack in Syria*, June 2013, <http://www.hrw.org/reports/2013/06/05/safe-no-more>.

¹⁴ Human Rights Watch interview, Lesbos, Greece, May 21, 2015.

¹⁵ UNICEF, *Under Siege: The Devastating Impact on Children of 3 Years of Conflict*, March 2014, p 15; UNICEF, "Syria conflict depriving hundreds of thousands of children of their education," March 5, 2013.

¹⁶ Human Rights Watch, *Safe No More: Students and Schools under Attack in Syria*, June 2013, <http://www.hrw.org/reports/2013/06/05/safe-no-more>.

¹⁷ UNHCR, "Needs Soar as Number of Syrian Refugees Tops 3 Million," news release, August 29, 2014, <http://www.unhcr.org/53ff76c99.html> (accessed June 8, 2015).

¹⁸ UNCHR, *Syria Regional Refugee Response*, May 7, 2015, <http://data.unhcr.org/syrianrefugees/regional.php> (accessed June 8, 2015).

¹⁹ Lebanon: Rising Violence Targets Syrian Refugees, Human Rights Watch News Release September 30, 2014, <http://www.hrw.org/news/2014/09/30/lebanon-rising-violence-targets-syrian-refugees>

Afghanistan

A new period of instability in 2014, characterized by political uncertainty and growing pressure from Taliban insurgents, contributed to a decline in respect for human rights throughout the country. The UN and International Committee of the Red Cross have already documented a steep rise in conflict-related civilian casualties: up 22 percent in 2014 over the previous year.²⁰

The Taliban and other insurgents, including groups who claim some affiliation with ISIS, have mounted bold and increasingly frequent attacks in several traditionally secure provinces in the north of the country, as well as the south, leading to the displacement of tens of thousands of civilians. In March 2015 alone, UNHCR documented more than 20,000 newly displaced due to conflict, up from the 11,000 the previous month and adding to the existing 850,000 internally displaced throughout the country.²¹ These figures are expected to rise.²²

I had problems with the Taliban. They wanted to recruit me. Day after day they would come to our home and tell my father “tell your son to join us.” So I told my father I had to leave.

21-year-old Afghan man

Mubarek, from Parwan, in northern Afghanistan, left the country with his wife and three young sons two months before we spoke in May 2015 on Lesbos, a Greek island in the Aegean Sea.

The Taliban was very active in our area. They kidnapped one of my

relatives, and when they found out he was in the army...they killed him...We had other problems with the Taliban. They would ask for money and ask us to join forces to fight the government. Every day the Taliban would take

²⁰ “Civilian Casualties in Afghanistan Rise by 22 per cent in 2014,” United Nations Assistance Mission in Afghanistan news release, February 18, 2015, http://www.unama.unmissions.org/Portals/UNAMA/human%20rights/2015/18_Feb_2015-Press%20Release_2014_PoC-annual_report-Final-Eng.pdf (accessed June 8, 2015).

²¹ UNHCR, *Afghanistan - Conflict-Induced Internal Displacement Monthly Update, March 2015*, March 2015, <http://www.refworld.org/docid/5534d99e4.html> (accessed June 8, 2015).

²² For more Human Rights Watch work on Afghanistan, see <http://www.hrw.org/asia/afghanistan>.

people and children for suicide bombings. I was worried about my children, my sons, that they would be forced to become suicide bombers.²³

Insurgent groups have increasingly kidnapped civilians for ransom or as hostages to exchange for prisoners. Those most at risk include government employees such as judges and clerks, aid workers and people affiliated with foreign organizations. In recent months, a substantial number of kidnap victims were minority Hazaras with no affiliation to any of the other categories. An Afghan woman with three children who arrived on the Greek island of Samos in May 2015 told Human Rights Watch that her family fled after kidnappers abducted her husband and demanded US\$8,000 ransom. The only way the family was able to pay it and secure his release was by selling their land.²⁴

Women and girls are often the worst affected by restrictions on freedom of movement as wary families are more reluctant to allow them to go to outside the house. Some women are under direct threat for defying the Taliban's norms for women. An elementary school teacher and university student in her twenties who arrived on the Greek island of Samos three days before our interview explained that she had received threatening telephone calls at her home in Herat. "They told me if I went to the university or to teach, they would kill me or abduct my daughter." After two men tried to kidnap her 2-year old daughter as they were walking on the street, she and her husband decided to leave Afghanistan.²⁵

Increasing insecurity is also leading to more school closures, and has had a disproportionate effect on women and girls who are unable to attend school or go to work in insecure areas. Ahmad K. explained to Human Rights Watch why he wouldn't let his granddaughters attend school, "Local strongmen and commanders will kidnap young girls they see and like. They see the routes to school as the perfect opportunity to take our girls. Because of this we won't let them travel very far."²⁶

Decades of insecurity and conflict have taken a heavy toll on the country's children, resulting in daily violence and some of the highest child mortality and child malnutrition

²³ Human Rights Watch interview with Mubarek (pseudonym), Lesbos, Greece, May 21, 2015.

²⁴ Human Rights Watch interview with Amira, Samos, Greece, May 24, 2015.

²⁵ Human Rights Watch interview with Rabea, Samos, Greece, May 24, 2015.

²⁶ Human Rights Watch, *We have the Promises of the World: Women's Rights in Afghanistan*, 2009 http://www.hrw.org/sites/default/files/reports/afghanistan1209web_o.pdf

rates in the world. In 2013, child casualties increased by 30 percent from the previous year, with at least 545 children killed and 1149 injured, including from air strikes, improvised explosive devices, and suicide attacks.²⁷ Armed groups, including the Taliban, recruit children as young as eight to serve as combatants, sex slaves, and suicide bombers, and to manufacture and plant explosive devices. Government forces also recruit children as soldiers.

The Taliban and other insurgents, as well as militias associated with local warlords have attacked schools with improvised explosive devices, landmines, rocket attacks, grenades, and suicide attacks. In addition, the military use of schools by the Afghan national security forces continues to put children at risk of attacks by armed groups and affect their access to education.

The Taliban has also abducted children, and in some cases, executed them, for suspected support of government forces, or in reprisal for family members who allegedly worked with government or international forces.²⁸

Powerful individuals in high-level civilian positions as well as security forces and pro-government militias are involved in torture, rape, and extrajudicial and summary executions. These individuals are emboldened and protected by an atmosphere of impunity for human rights violations.²⁹

Torture in the custody of Afghan security forces is common. Mahmoud, a teacher, described to Human Rights Watch how he was detained by Afghan Local Police forces in 2012, beaten nights on end with the butt of a Kalashnikov, and threatened with death to confess that he was a Taliban: “After seven or eight days, they said: ‘We will kill you. They brought a person’s bloodied shirt and said: ‘See this? This person was also like you. He did not admit he was a Talib—we killed him and this is his bloodied shirt.’”³⁰

²⁷ United Nations, Report of the Secretary-General on children and armed conflict, May 2014, S/2014/339, para 25.

²⁸ Ibid, para 30.

²⁹ “Afghanistan: Abusive Strongmen Escape Justice,” Human Rights Watch news release, March 3, 2015, <http://www.hrw.org/news/2015/03/03/afghanistan-abusive-strongmen-escape-justice>.

³⁰ Human Rights Watch interview with Mahmoud (pseudonym), Kabul, Afghanistan, November 2012.

The inhospitable situation for Afghan refugees, asylum seekers, and migrants in Iran, and the inability to return to Afghanistan because of security risks, has pushed some to take the difficult journey to Europe.³¹ Iranian officials have in recent years limited legal avenues for Afghans to claim refugee or other immigration status in Iran, even as conditions in Afghanistan have deteriorated. A 15-year-old Afghan boy we interviewed shortly after his arrival on Lesbos said his parents borrowed money to send him to a better, freer future:

I was born in Iran, two years after my parents left Kabul after the Taliban took power. In Tehran, we lived like small animals in our home. We were afraid to go out. We had no documentation. You could not walk in the streets. If they catch you, they will deport you to Afghanistan. Refugees are also not allowed to study in university in Iran, so I decided for my future to go somewhere else. I didn't want to go back to Afghanistan. Every day we heard about suicide bombings and someone or some group of people losing their life, even in Kabul. Everyday there is a bomb blast. If I went back there, I imagine a dark future. If I have a chance to continue my studies, I want to become a doctor or an engineer. I just want to have a chance to continue my education, nothing more.³²

Eritrea

Eritrea's dismal human rights and economic situation, exacerbated by indefinite military conscription, is causing thousands of Eritreans to flee their country every month. The UNHCR estimates that as of late 2014, more than 357,000 Eritreans – over 5 percent of the population – have fled.³³ There was a sharp increase in arrivals in Europe in 2014, including large numbers of children, often traveling alone. Of the 10,500 unaccompanied children who arrived by sea in 2014 to Italy, 3,394 were Eritrean.³⁴

³¹ Human Rights Watch, *Unwelcome Guests: Iran's Violation of Afghan Refugee and Migrant Rights*, November 2013, <http://www.hrw.org/node/120429>. The situation for Afghans in Pakistan, which has hosted about 1.5 million registered Afghan refugees for over 30 years and where an estimated one million unregistered Afghans live, is also of concern. See "Pakistan: Stop Forced Returns of Afghans," Human Rights Watch news release, February 22, 2015, <http://www.hrw.org/news/2015/02/21/pakistan-stop-forced-returns-afghans>; and Human Rights Watch, *"We Are the Walking Dead:" Killings of Shia Hazara in Balochistan, Pakistan*, June 2014, <http://www.hrw.org/reports/2014/06/29/we-are-walking-dead>.

³² Human Rights Watch interview with 15-year-old boy, Lesbos, Greece, May 20, 2015.

³³ UNHCR, "Sharp increase in numbers of Eritrean refugees and asylum-seekers in Europe, Ethiopia and Sudan," news release, November 14, 2014, <http://www.unhcr.org/5465fea1381.html>.

³⁴ For more Human Rights Watch work on Eritrea, see <http://www.hrw.org/africa/eritrea>.

The most common patterns of abuse prompting Eritreans to flee include open-ended military conscription; forced labor during conscription; arbitrary arrests, detentions, and enforced disappearances; torture and other degrading treatment in detention; restrictions on freedoms of expression, conscience, and movement; and repression of religious freedom. Members of the Afar and Kunama ethnic groups flee because of land expropriations and discrimination by the government. There is no independent media in Eritrea, and there are no local independent nongovernmental organizations. The Eritrean government uses a vast apparatus of official and secret detention facilities to incarcerate thousands of Eritreans without charge or trial. Many are detained because they tried to evade the indefinite national service or flee the country.

“I love my country, but I hate the way it is there. If I go back, they will put me in prison.”

Mogos, 26, Lampedusa, May 15, 2015

By law, each Eritrean must serve 18 months in national service starting at age 18. In practice conscripts serve indefinitely. While most young Eritreans begin military training in the last year of high school, children as young as 14 are sometimes conscripted. One asylum seeker who was conscripted at the age of 14 explained

why he fled: “The military does not have an end, it is for life.”³⁵ According to reliable expatriate website, desertions and refusals to report became more common in 2014.

Conscripts receive grossly inadequate pay to support family members, a financial plight exacerbated by food-price inflation in 2014. Conscripts are subject to military discipline and are harshly treated throughout their long service. Perceived infractions result in incarceration and in physical abuse often amounting to torture at the whim of military commanders and jailers. Female conscripts are frequently sexually abused by commanders. Some conscripts are used as forced labor on construction sites and government-owned farms. Habtom, 28, was in the army for eight years before he fled in order to be able to support his family. When we spoke with him in Catania, Italy, in May 2015, he told us:

People think we are coming [to Europe] for jobs, for work. What they don’t realize is that in Eritrea we are in the army forever, we get just 450 Nafka a

³⁵ Human Rights Watch, “Eritrea,” *World Report 2015*. <https://www.hrw.org/world-report/2015/country-chapters/eritrea>.

month [approximately 10 Euros] - that's slave wages, it's not enough for anything, and since we're in the army all the time we have no other way to earn any more money. Being a soldier means that your family starves so we have to find a way to escape.³⁶

Eritreans interviewed by Human Rights Watch in Catania, Milan, and Lampedusa, Italy, in May 2015 confirmed that the desire to escape military service is a primary driver of flight from Eritrea. Daniel told us he escaped from military service three times, and each time was caught and imprisoned for six months in an underground cell at May Surawa prison in Dekemhare.³⁷ Tadesse, 18, explained,

Why would I want to be a soldier for my life? I want to have a normal life, so I tried to escape before military training. I was caught at the border and thrown in a shipping container for five months. They used to tie us up and leave us in the hot sun for days on end as punishment. Then they took me to Nakfa for four months military training. After two months I escaped, and managed to get across the border into Sudan. I will never go back, not as long as there is military service.³⁸

Family members are pressured and sometimes jailed over desertions. Asmeron, 21, told us his father was imprisoned for a week in October 2014 after Asmeron refused to return to military service and fled to Ethiopia. "The problem is that the youngest to the oldest have to do military service. All the young people are leaving because of military service. With no rights, it's difficult to stay in the country," he said.³⁹

Those caught trying to leave the country, or upon return after a period abroad, are subjected to harsh punishment. Amene, 31, was arrested when he returned to Eritrea in 2011 after years in Sudan to visit his ailing father. "Over the next two years, I was in five different prisons, including one underground. I was beaten repeatedly...they would hang me upside down and beat the bottom of my feet."⁴⁰

³⁶ Human Rights Watch interview with Habtom (pseudonym), Catania, Italy, May 14, 2015.

³⁷ Human Rights Watch interview with Daniel (pseudonym), Lampedusa, Italy, May 15, 2015.

³⁸ Human Rights Watch interview with Tadesse (pseudonym), Catania, Italy, May 16, 2015.

³⁹ Human Rights Watch interview with Asmeron, Lampedusa, Italy, May 15, 2015.

⁴⁰ Human Rights Watch interview with Amene (pseudonym), Catania, Italy, May 15, 2015.

Although senior Eritrean government officials have suggested to visiting European immigration officials and members of the diplomatic community that they would limit service for conscripts to 18 months, the government has not made any official announcement of this policy to the Eritrean population.

The scale and gravity of the human rights concerns in Eritrea prompted the UN Human Rights Council to establish a commission of inquiry in 2014 to investigate human rights violations in Eritrea “since independence.” The commission’s report, issued in early June 2015, found “systematic, widespread and gross human rights violations” and concluded that violations “in the areas of extrajudicial executions, torture (including sexual torture), national service and forced labour may constitute crimes against humanity.” The commission called on the international community to provide protection to those who flee Eritrea “owing to the severe violations of their rights or fear thereof.” Human Rights Watch’s interviews with recently-departed Eritreans in May 2015 support the commission’s finding that Eritrea’s human rights situation remains terrible. Until there are formal and tangible human rights reforms in Eritrea, the exodus will continue.

Somalia

Somalia’s long-running armed conflict continues to take a heavy toll on civilians in much of south-central Somalia. The warring parties displace, kill and wound civilians. Restrictions on humanitarian access exacerbate the human rights and humanitarian crises. Ongoing insecurity in government-controlled areas, including Mogadishu, and political infighting and reshuffles detracted from progress on justice and security sector reform.⁴¹

While the armed Islamist group Al-Shabaab abandoned several towns following a series of military offensives by the African Union Mission to Somalia (AMISOM) and the Somali National Armed Forces (SNAF), Al-Shabaab maintains control of large areas of south-central Somalia where it administers public executions and beatings and severely restricts basic rights. Al-Shabaab carries out deadly attacks in government-controlled areas such as Mogadishu, targeting civilians, including lawmakers and other officials, and civilian objects. Somali government security forces, African Union troops, and allied

⁴¹ For more Human Rights Watch work on Somalia, see <http://www.hrw.org/africa/somalia>.

militias are responsible for indiscriminate attacks, sexual violence, and arbitrary arrests and detention.⁴²

Young men interviewed by Human Rights Watch in May 2015 shortly after their rescue and disembarkation in Lampedusa emphasized the lack of security and the risks posed by Al-Shabaab as reasons for their flight from Somalia. Abdishakur, a 19-year-old from Mogadishu, said Al-Shabaab approaches “guys like me to convert them, get them to blow themselves up. If they come, you do the mission and you die. If you don’t, they kill you.”⁴³ Said, a 23-year-old also from Mogadishu, recalled with horror the bombing of the Supreme Court in April 2013. “I saw so many people killed that day. I saw a man running on fire – so cruel. It shocked me,” he told us.⁴⁴ Others, like 18-year-old Fahad, spoke of the impact on his education: “I was going to school [in Mogadishu], but school closes a lot because of Al-Shabaab.”⁴⁵

Through more than two decades of civil war in Somalia, children have often had little choice but to join armed groups. At the height of the fighting in Somalia’s capital, Mogadishu, in 2010 and 2011, Al-Shabaab abducted children, including girls for forced marriage, wherever they congregated: schools, playgrounds, football fields, mosques and homes. Teachers and children told us that when Al-Shabaab fighters entered local schools, some children would resort to desperate measures, including jumping from second and third floor windows to avoid capture. In 2014, the United Nations documented 819 cases of recruitment and use of children by Al-Shabaab and other armed groups, including from schools and mosques.⁴⁶

Al-Shabaab has also targeted students, teachers, and school buildings for attack. They have turned schools into battlegrounds, firing at government forces from school buildings and using the students inside as human shields. The group imposes their interpretation of Islam on the school curriculum, banning English, the sciences, and other subjects, and

⁴² Human Rights Watch, *“The Power These Men Have Over Us”: Sexual Exploitation and Abuse by African Union Forces in Somalia*, September 8, 2014, <http://www.hrw.org/reports/2014/09/08/power-these-men-have-over-us>.

⁴³ Human Rights Watch interview with Abdishakur, Lampedusa, Italy, May 13, 2015.

⁴⁴ Human Rights Watch interview with Said, Lampedusa, Italy, May 12, 2015; “Somalia: New Al-Shabaab Attacks are War Crimes,” Human Rights Watch news release, April 16, 2013.

⁴⁵ Human Rights Watch interview with Fahad, Lampedusa, Italy, May 13, 2015.

⁴⁶ Email from the office of the Special Representative to the Secretary-General for Children and Armed Conflict, May 5, 2015.

threatening and killing teachers who resist.⁴⁷ Somalia has one of the lowest rates of school enrolment in the world; more than 80 percent of primary-aged Somali children are no longer in or have never been to school.⁴⁸

According to official Italian statistics, Somali children comprised the third largest national group of unaccompanied children who reached Italy by sea in 2014.⁴⁹ Ismael, a 15-year-old Human Rights Watch interviewed in Italy in May 2015, described why he left with a litany of problems: “There is no security, no hope, no health, no water. No peace since I was born.”⁵⁰

The Somali government has largely failed to provide basic security and protect rights in areas under its control. Displaced women, men, and children who fled to Mogadishu during the 2011 famine continue to live in dire conditions in informal camps throughout Mogadishu and have been subjected to serious abuses including rape, physical attacks, restrictions on access to humanitarian assistance, and clan-based discrimination.⁵¹ In recent months, forced evictions of displaced communities, including by security forces, have increased in central Mogadishu.⁵²

Political efforts to establish federal states fuelled inter-clan fighting and fighting between government forces and clan militia in some areas, causing civilian deaths, injuries and massive displacement. In February 2015, fighting between government forces and the Ahlu Sunna Wal Jama’a (ASWJ) militia, a Sufi Islamist group, in the central Somali town of Guri’el resulted in a number of civilian casualties and massive displacement.⁵³ Hassan, whom we interviewed by phone in Guri’el, told us an elderly relative was shot in the back of her neck

⁴⁷ Human Rights Watch, *No Place for Children: Child Recruitment, Forces Marriage, and Attacks on Schools in Somalia*, February 2012, <http://www.hrw.org/reports/2012/02/20/no-place-children>.

⁴⁸ Global Coalition to Protect Education from Attack, *Education Under Attack*, 2014, p. 178.

⁴⁹ Ministero del Lavoro e delle Politiche Sociali, “I minori non accompagnati (MSNA) in Italia. Report di monitoraggio – 31 dicembre 2014,” December 2014, [http://www.lavoro.gov.it/AreaSociale/Immigrazione/minori_stranieri/Documents/Report%20di%20monitoraggio%20dicembre%202014%20\(2\).pdf](http://www.lavoro.gov.it/AreaSociale/Immigrazione/minori_stranieri/Documents/Report%20di%20monitoraggio%20dicembre%202014%20(2).pdf) (accessed June 8, 2015).

⁵⁰ Human Rights Watch interview with Ismael, Italy, May 12, 2015.

⁵¹ “Somalia: Protect Displaced People at Risk,” Human Rights Watch news release, March 26, 2013, <http://www.hrw.org/news/2013/03/26/somalia-protect-displaced-people-risk>.

⁵² “Somalia: Forced Evictions of Displaced People,” Human Rights Watch news release, April 20, 2015, <http://www.hrw.org/news/2015/04/20/somalia-forced-evictions-displaced-people>.

⁵³ “Overlooking the Cost to Somalia’s Civilians,” Human Rights Watch Dispatch, February 19, 2015, <http://www.hrw.org/news/2015/02/19/dispatches-overlooking-cost-somalia-s-civilians>.

as she tried to escape when fighters took shelter in her home. “The government forces and ASWJ militia fight in the town without any consideration for civilians,” Hassan said. “We have no shelter and no hope that the warring parties will respect our humanity.”⁵⁴

Violence in Libya

Many migrants and asylum seekers have been embarking on the journey across the Mediterranean from Libya, which has been in a state of political turmoil since 2011 when an uprising and armed conflict led to the overthrow government of Muammar Gaddafi. The outbreak of new hostilities between two major alliances in Libya in mid-2014 has unleashed a wave of lawlessness and violence.⁵⁵

Two rival governments have emerged and are vying for legitimacy – an internationally recognized government based in Tobruk and Al-Bayda in the east, and a self-declared authority based in Tripoli, in the west. The collapse of a central government authority, and with it the domestic judicial authorities, has eliminated any semblance of law and order in many parts of the country. Unchecked violence stemming from the hostilities has killed hundreds of people, including civilians, displaced around 430,000 people from their homes according to UNHCR, damaged medical facilities, and destroyed vital civilian infrastructure, including Tripoli’s main airport.

The beheading of 21 men, 20 of whom were Egyptian Copts and one was an African national working in Libya, in February 2015, and 28 Christian Ethiopians in April 2015—all claimed by extremist groups that pledged allegiance to ISIS—were horrifying illustrations of the risks to which some migrants are exposed.

The situation has contributed to a rise in migrant boats departing Libya for the EU. Migrants and asylum seekers in Libya face specific threats, both on the streets and in deplorable and abusive detention centers. As recently as May 2015, migrants and asylum seekers interviewed by Human Rights Watch consistently spoke of living in fear during

⁵⁴ Ibid. Human Rights Watch phone interview with Hassan, February 15, 2015.

⁵⁵ For more Human Rights Watch work on Libya, see <http://www.hrw.org/middle-eastn-africa/libya>.

their time in Libya. They said they feared or had experienced being robbed, beaten, and extorted by employers, common criminals, security forces and militias.⁵⁶

Increasing lawlessness and generalized violence have convinced many who originally traveled to Libya for work to attempt the sea crossing to the EU.

Livinus, a 20-year-old from Nigeria interviewed by Human Rights Watch in May 2015 in Lampedusa, Italy, told us “You see them [smugglers] pump up the [inflatable] boat, put one hundred people on it, and you know it’s risky. I wouldn’t have taken that risk except for the problems in Libya.”⁵⁷ He and others stressed that they would have remained in Libya were it not for fears for their lives. Johnny, a 19-year-old Nigerian, said, “I would have stayed in Libya but every day its gets worse. They treat us like animals. A friend of mine was shot by a ten-year-old. They are killing people there, so I decided to try for rescue by Italy.”⁵⁸ Two Nigerian men showed Human Rights Watch scars from gunshot wounds they said they sustained in Libya when unknown men, without uniforms, shot them in the street. A doctor working in the Lampedusa reception center confirmed that he sees such gunshot wounds, with victims explaining they were shot in Libya.⁵⁹

Nero, a 28-year-old Nigerian man we interviewed in Lampedusa in May 2015, said, “If you walk on your legs, they attack you. If you take a taxi, they drive you to the desert and rob you. This happened to me four times.”⁶⁰ Nero spent four months in prison in Zawiya after police stopped him at a checkpoint. He said he was repeatedly beaten with a hose. “They beat some people to death. Two of my roommates, a Nigerian and a Somali man, they died from the beatings,” he told us.⁶¹

Human Rights Watch has documented torture—including whippings, beatings, and electric shocks—as well as overcrowding, dire sanitation conditions, and lack of access to medical

⁵⁶ Human Rights Watch, *Pushed Back, Pushed Around: Italy’s Forced Return of Boat Migrants and Asylum Seekers, Libya’s Mistreatment of Migrants and Asylum Seekers*, September 2009, <http://www.hrw.org/reports/2009/09/21/pushed-back-pushed-around>; Human Rights Watch, *Libya - Stemming the Flow: Abuses against Migrants, Asylum Seekers and Refugees*, September 2006, <http://www.hrw.org/reports/2006/09/12/stemming-flow-o>.

⁵⁷ Human Rights Watch interview with Livinus, Lampedusa, Italy, May 13, 2015.

⁵⁸ Human Rights Watch interview with Johnny (pseudonym), Lampedusa, Italy, May 12, 2015.

⁵⁹ Human Rights Watch interview with Rosario Strano, Lampedusa, Italy, May 14, 2015.

⁶⁰ Human Rights Watch interview with Nero, Lampedusa, Italy, May 13, 2015.

⁶¹ Ibid.

care in migrant detention centers in Libya.⁶² Detainees interviewed in 2014 told us guards beat them with iron rods, sticks, and rifle butts, and whipped them with cables, hose pipes, and rubber whips made of car tires and plastic tubes, sometimes over prolonged periods of time on the soles of their feet. They also said the guards had burned them with cigarettes, kicked and punched them on their torsos and heads, and used electric shocks on them. In one center five detainees said guards suspended them upside down from a tree and then whipped them.⁶³

⁶² “Libya: Whipped, Beaten, and Hung from Trees,” Human Rights Watch news release, June 22, 2014, <http://www.hrw.org/news/2014/06/22/libya-whipped-beaten-and-hung-trees>.

⁶³ Ibid.

Children at Risk

Every year thousands of unaccompanied children make the journey across the Mediterranean without parents or other caregivers. In 2014, over 10,500 children traveled alone to Italy by sea. In Greece, over 1,100 unaccompanied children were registered in 2014. They are typically boys between 14 and 17, but some are as young as 10. Many spend months making the journey overland before boarding boats for a perilous ride across the Mediterranean.⁶⁴

Children are especially vulnerable. It is unknown how many children were among those who lost their lives trying to reach the EU between 2000 and 2014. According to Save the Children, children accounted for as many as 100 of the estimated 800 people who died in a shipwreck off the coast of Libya on April 19, 2015—the worst recorded incident.⁶⁵ In September 2014, approximately 100 children were among the 500 migrants who drowned in a shipwreck off the coast of Malta, according to witnesses.⁶⁶ When boats carrying migrants and asylum seekers capsize, children may be the most likely to drown.

⁶⁴ For more Human Rights Watch work on children's rights, see <http://www.hrw.org/topic/childrens-rights>.

⁶⁵ Stephanie Kirchgaessner and Alessandra Bonomolo, "Migrant Shipwreck Toll May Include Up to 100 Children," The Guardian, April 21, 2015, <http://www.theguardian.com/world/2015/apr/21/migrant-shipwreck-toll-may-include-up-to-100-children-mediterranean> (accessed June 8, 2015).

⁶⁶ IOM, *Fatal Journeys*, p 5.

European Union Response

The European Union's response to flows of migrants and asylum seekers, at a time of severe humanitarian crises around the world, has contributed to the crisis in the Mediterranean. The EU has until recently focused on preventing departures and limiting arrivals, while within the EU the unequal sharing of responsibility for arriving migrants and asylum seekers and gaps in protection among member states prevents a common, humane, and rights-based approach.

The deaths of over 1,000 people in a single week in April 2015 gave new urgency to the debate about reforming and improving EU migration and asylum policy. On May 13, 2015 the European Commission, the EU's executive body, presented a "European Agenda on Migration" with proposals for a common migration policy.⁶⁷ On May 27 the Commission issued detailed proposals on several aspects of the Agenda.⁶⁸ The agenda includes some positive steps that if implemented fully—and more generously—could help save lives, ensure safer access to international protection in the EU, and correct distortions in the system that affect the rights of asylum seekers. Member states and the European Parliament should endorse those proposals.

However, the majority of the Commission's Agenda involves reinforcing measures to limit arrivals to the EU. The proposals include enhanced immigration cooperation with sending and transit countries, regional development, and the creation of a pilot "multi-purpose center" in Niger to provide information, local protection, and resettlement opportunities. All of these measures appear aimed at preventing departures, denying people access to protection, or justifying forced returns to abuse. The Agenda asserts that the EU's imperfect returns policy serves as an incentive for irregular migration and proposes measures to ensure implementation by member states of EU regulations on returns and strengthen the role of Frontex in returning undocumented migrants or rejected asylum seekers. EU member states have the right to return those who have no claim to remain, but

⁶⁷ "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions", COM(2015) 240 final, May 13, 2015, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf (accessed June 8, 2015).

⁶⁸ "European Commission makes progress on Agenda on Migration", Press release, May 27, 2015, http://europa.eu/rapid/press-release_IP-15-5039_en.htm (accessed June 8, 2015).

procedures for apprehension, detention, and return should ensure humane treatment, access to effective remedies, and respect for the non-refoulement obligation.

Stepped Up Search and Rescue

The Agenda clarifies the pledge made by EU leaders in late April 2015 to ensure search and rescue efforts in the Mediterranean at the level of Italy's Mare Nostrum operation, which operated in international waters to rescue vessels in distress close to the Libyan shore from which most migrant boats embark from North Africa, and is credited with rescuing over 80,000 lives. The EU replaced Mare Nostrum in November 2014 with Operation Triton, under the aegis of the EU's external borders agency Frontex, with one-third of the budget, far fewer assets, and a limited geographic scope. The Frontex mandate is explicitly border enforcement; participating vessels respond to boats in distress but do not proactively search for them. Triton's new operational plan extends its geographic scope southwards to operate in the same zone as Mare Nostrum did. Several member states, including Germany, France, and the UK, have also deployed navy ships and aircraft in the central Mediterranean to assist search and rescue operations. These welcome efforts should be sustained in the long-term to help minimize deaths at sea.

Limited Safe and Legal Channels

The availability of more safe and legal channels into the EU—ways in which migrants, asylum seekers, and refugees can reach EU territory without having to risk their lives or resort to criminal networks—could help provide alternatives to dangerous migration avenues. For asylum seekers and refugees, these mechanisms can include refugee resettlement, family reunification with relatives already in the EU, and access to humanitarian visas from their country of origin or a third country that would enable regular travel to the EU for the purposes of applying for asylum.

The UN High Commissioner for Human Rights, the UN Special Rapporteur on the human rights of migrants, UNHCR, the Council of Europe's Commissioner for Human Rights, the European Parliament in a number of resolutions, and the European Commission itself are among the authoritative EU and international bodies that have called on EU member states to increase options for legal entry. The EU Fundamental Rights Agency, arguing that strengthening legal channels for refugees "would contribute to reducing the number of

migrant lives lost at sea and the abuses perpetrated by the smuggling networks” and “reduction...of the risk of persons becoming victims of human trafficking,” has cited long-term advantages of orderly admissions, including reducing the need for psychosocial care due to trauma experienced during migration, enabling authorities to better plan and implement integration measures, and channeling refugees with needed skills into the labor market.⁶⁹

In its Agenda, the Commission has proposed an EU-wide refugee resettlement scheme to offer 20,000 places over the next two years distributed throughout all 28 member states. How many a single country would be asked to accommodate would be based on criteria such as total population, total GDP, unemployment rate, and numbers of asylum applications and already resettled refugees from 2010-2014.

Given the number and extent of protracted refugee crises around the world, the EU should agree collectively to increase this low pledge significantly. UNHCR estimates that in 2015, globally, 960,000 people are in need of resettlement, including 278,756 in Africa.⁷⁰

UNHCR has asked the international community to resettle at least 130,000 Syrian refugees out of nearly 4 million currently hosted in the Middle East, but so far the EU has not responded sufficiently to UNHCR’s modest calls for resettlement, particularly for refugees from Syria. As of mid-May 2015, 19 EU countries had pledged to resettle or offer other forms of admission, such as humanitarian visas, to roughly 45,000 persons fleeing Syria but only a handful of countries have made most of these pledges.⁷¹ EU countries have the capacity to meet UNHCR’s resettlement request, but so far have lacked the political will.

UNHCR resettlement programs are based on a number of criteria, including identifying those whom the agency considers to be especially vulnerable individuals, such as survivors of torture and sexual violence, persons with disabilities, and women and girls at risk.

⁶⁹ European Union Agency for Fundamental Rights, “Legal entry channels to the EU for persons in need of international protection: a toolbox,” February 2015, http://fra.europa.eu/sites/default/files/fra-focus_02-2015_legal-entry-to-the-eu.pdf (accessed June 8, 2015).

⁷⁰ UNHCR, Projected Global Resettlement Needs 2015, June 2014, <http://www.unhcr.org/543408c4fda.html>.

⁷¹ UNHCR, Resettlement and Other Forms of Admission for Syrian Refugees, May 13, 2015, <http://www.unhcr.org/52b2febafc5.pdf> (accessed June 8, 2015).

New asylum applications in the 28 EU member states rose to 626,000 in 2014, a 22 percent increase over the previous year.⁷² While this might sound like a lot, it is a mere 0.13 percent of the EU's 500 million population. Neighbors to countries in crisis share the greatest responsibility for hosting refugees. Lebanon now has over one million Syrian refugees — one-fourth of the small country's population.⁷³ Sudan and Ethiopia each host over 105,000 Eritrean refugees, primarily in refugee camps.⁷⁴ Nearly one million Somali refugees live in Kenya, Ethiopia, and Yemen.⁷⁵ Together, Pakistan and Iran host over 2.4 million Afghan refugees

The Agenda encourages member states to provide other options for safe and legal routes, such as more humanitarian visas, without making any concrete or binding proposals. There is no language on easing restrictions on family reunification, a measure that could help people in need of protection outside the EU reunite with their family members already present in the EU. Our interviews indicate that reuniting with separated family members—including unaccompanied children seeking relatives—is a major pull factor to particular EU countries, in addition to the push factors documented in this report.

EU-wide rules on family reunification, which establish more favorable benefits provisions for refugees than for persons granted subsidiary protection and migrants, are based on a narrow concept of the family unit (primarily limited to spouse and minor children).⁷⁶

UNHCR has identified this limited family definition—which can exclude underage siblings, common law (or customary) spouses, and extended family relatives who have de facto become part of the family unit—as among the obstacles refugees face to family reunification in the EU.⁷⁷ While EU countries may adopt more lenient policies, few do. In late 2013, Sweden began granting family reunification to extended family members of

⁷² Eurostat, Asylum Statistics 2014, http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics (accessed June 8, 2015).

⁷³ UNCHR, *Syria Regional Refugee Response*, May 7, 2015, <http://data.unhcr.org/syrianrefugees/regional.php>.

⁷⁴ UNHCR, "Sharp increase in numbers of Eritrean refugees and asylum-seekers in Europe, Ethiopia and Sudan," news release, November 14, 2014, <http://www.unhcr.org/5465fea1381.html>.

⁷⁵ Refugees International, *Somalia Overview*, <http://refugeesinternational.org/where-we-work/africa/somalia> (accessed June 8, 2015).

⁷⁶ Subsidiary protection is a permission to stay in the country given a person who does not qualify as a refugee but who would face a real risk of serious harm if returned to his or her country of origin.

⁷⁷ UNHCR, *Refugee Family Reunification: UNHCR's Response to the European Commission Green Paper on the Right to Family Reunification of Third Country Nationals Living in the European Union (Directive 2003/86/EC)*, February 2012, <http://www.refworld.org/docid/4f55e1cf2.html> (accessed June 8, 2015).

Syrian refugees in Sweden when there is a “special relationship of dependence,” as permitted by EU law.⁷⁸ Other obstacles identified by UNHCR include insufficient information about the procedure, the limited time frame for applying for family reunification, and difficulties documenting family links and dependency.⁷⁹

The European Commission has encouraged member states to apply their discretion to increase, rather than limit, access to family reunification. For example, the Commission has called on states to afford the same possibilities to those benefitting from subsidiary protection as to recognized refugees, and to use their discretion “in the most humanitarian way” to allow family reunification for extended family members “if they are dependent on the refugee” (including by taking into account legal, financial, emotional or material support).⁸⁰

Unequitable Distribution among EU Countries

The inequitable distribution of asylum seekers among EU member states contributes to the difficult debate around migration and asylum. Six countries (Germany, Sweden, Italy, France, Hungary, and the UK) received over 75 percent of all asylum applications in 2014. But per capita, Sweden and Hungary had by far the most.⁸¹ There are many reasons for the imbalance, including rational choices by asylum seekers to head for countries where they believe prospects are better for receiving some kind of protection and proper integration measures. Despite a common EU asylum system on paper, there is in practice wide disparity in procedures, reception conditions, and support for recognized refugees. EU policy known as the Dublin Regulation imposes the general rule that asylum seekers must apply for asylum in the first country of entry into the EU. This places an unfair share of the responsibility on countries at the EU’s external borders, like Italy, Greece, Hungary, and Bulgaria and may create an incentive for those countries to make their systems as unattractive as possible, encouraging onward movement.

⁷⁸ European Council on Refugees and Exiles and the European Legal Network on Asylum, *Information Note on Syrian Asylum Seekers and Refugees in Europe*, November 2013, <http://www.ecre.org/component/downloads/downloads/824.html> (accessed June 8, 2015).

⁷⁹ Ibid.

⁸⁰ Communication from the Commission to the European Parliament and the Council on guidance on the application of Directive 2003/86/EC on the right to family reunification, COM(2014) 210 final, April 2014, [http://www.europarl.europa.eu/meetdocs/2014_2019/documents/com/com_com\(2014\)0210_/com_com\(2014\)0210_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/com/com_com(2014)0210_/com_com(2014)0210_en.pdf) (accessed June 8, 2015).

⁸¹ France and the UK had 955 and 495 applicants per one million inhabitants, respectively, compared with 8, 415 applicants per one million inhabitants in Sweden. Countries such as Portugal, Slovakia, and Romania received fewer than 100 applicants per one million inhabitants, while Spain had only 120.

A meaningful reform of the Dublin Regulation remains stalled because of opposition from many EU governments, particularly those in the north that benefit from the status quo. Indeed, the Agenda emphasizes measures to improve the systematic identification and fingerprinting of migrants and asylum seekers, which will likely ensure that frontline states such as Italy and Greece continue to shoulder a disproportionate responsibility for those arriving by sea.

Short of overhauling the Dublin Regulation, the Agenda proposes a voluntary relocation mechanism among EU states, based on the same criteria as the refugee resettlement scheme (country population, total GDP, unemployment rate, and number of asylum applications and resettled refugees from 2010-2014). The proposal envisions relocating 40,000 Syrians and Eritreans from Italy and Greece over the next two years. A number of member states including the UK, France, Germany, Hungary, Poland, Latvia, Lithuania, Estonia, Slovakia and the Czech Republic have said they are opposed to the relocation scheme as proposed. Human Rights Watch believes that any relocation system within the EU should include reasonable attention to the specific circumstances of asylum seekers, including the presence of family members in particular member states.

Preventing Departures, Reducing Arrivals

The Agenda includes numerous proposals to “tackle migration upstream...to prevent hazardous journeys.” These range from conflict resolution and development efforts to improving protection capacity in regions of origin. All of these are laudable, long-term goals. They have, however, featured prominently in EU policies for decades with little progress made in practice. They are no substitute for access to protection in the EU for those who need it now.

The EU is a major donor and says it uses development aid as part of broader efforts to lift people out of poverty, ensure access to education and healthcare, and improve overall employment and economic prospects. But the EU and its member states have at times turned a blind eye to egregious human rights abuses by recipient governments, and development projects in themselves have caused rights violations.⁸² Using development

⁸² Human Rights Watch, *Development without Freedom: How Aid Underwrites Repression in Ethiopia*, October 20120, <http://www.hrw.org/sites/default/files/reports/ethiopia1010webwcover.pdf>; *Waiting Here for Death: Forced Displacement*

aid as part of efforts to stem the flow of migrants and asylum seekers, such as a proposed multi-million euro package to Eritrea, poses the danger that such programs will serve as a pretext to justify preventing departures as well as forced returns, ignoring the human rights abuses driving people from their homes.

The proposal to establish a “multi-purpose center” in Niger—a new idea—raises particular concerns. If run properly, such a center could provide an alternative, for some, to the dangerous journeys across Africa and the Mediterranean. Refugee resettlement programs run under UNHCR auspices have historically provided durable solutions to hundreds of thousands of refugees trapped in dead-end camps. But the EU will need to ensure that conditions and procedures are in line with EU and international law, and that such camps do not become de facto detention centers where people in need of international protection are denied access to a safe place to rebuild their lives or where people risk unsafe returns to their countries of origin.

Tackling Smuggling Networks

A central plank of the EU’s proposed response will be efforts to “systematically identify, capture and destroy vessels used by smugglers.” On May 18, 2015, the EU Council endorsed plans to establish a naval operation, EUNAVFOR Med, in the central Mediterranean to this end.

The plan foresees beginning the operation with surveillance and patrols. If EU member states then agree to proceed, the second phase will include boarding, searching, seizing, and diverting suspected smuggling boats. A third phase would involve “rendering inoperable” the suspect boats, including in Libyan territory or territorial waters under UN authorization or with the consent of Libyan authorities.

The internationally recognized government in Libya has said it opposes EU action in its territory or territorial waters. Two governments are vying for legitimacy in Libya, one internationally recognized government based in Tobruk and Al-Bayda in the east, and another self-declared authority based in Tripoli in the west, from which the vast majority of boats depart.

and “Villagization” in Ethiopia’s Gambella Region, January 2012, http://www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_o.pdf.

Regardless of the area of operation, EU vessels participating in the planned naval operation are subject to the jurisdiction of the ECHR, which requires designing, planning, and implementing all operations with full respect for rights, including the rights to life, liberty, and security, an effective remedy, and the prohibition of torture. The prohibition on torture includes a ban on sending anyone to a country where they risk torture or cruel, inhuman, or degrading treatment or threats to their lives or freedoms – the nonrefoulement principle.

Many, if not most, migrants and asylum seekers entering the EU irregularly willingly pay smugglers to facilitate their travel, though smugglers often deceive them about the context or conditions under which they will be transported, including by putting them in overcrowded and unseaworthy vessels with insufficient food, water, and fuel. There are also trafficking victims among those arriving by sea and by land, who are deceived or forced to travel and who are held for ransom or otherwise abused and exploited.

Migrants and asylum seekers interviewed in Italy in May 2015 told Human Rights Watch about abuses they suffered along the migration routes from the Horn of Africa and within Libya. These included being held hostage for months in the Sahara desert in grueling, violent conditions until relatives send money; beatings with wooden and iron pipes, rubber hoses, and whips; shooting deaths for attempted escapes; forced labor; and de facto detention in unsanitary, overcrowded “safe houses” in Libya pending departure.

The EU should assess carefully the short- and long-term human rights implications of any operation, including the risk that it will push both smugglers and migrants to take even more risks and increase the dangers of boat migration in the Mediterranean. The EU should also assess the risk of trapping migrants and asylum seekers in Libya, where they are often subjected to violence and abuse and have no possibility to lodge asylum claims.

Migrants intercepted by EU vessels in the Mediterranean, including by vessels participating in EUNAVFOR Med, should be taken to safe ports in the EU, where those asking for protection or indicating a fear of return should undergo asylum screening. Under no circumstances should the EU transfer boat migrants to the Libyan coast guard or land them in Libya, where they may face serious harm.

International and EU Law

International and EU law—including human rights instruments, the 1951 Refugee Convention, the EU Charter of Fundamental Rights, and the laws of the sea— set out the legal obligations that the EU and its member states are required to uphold when developing and adopting migration and asylum policy generally. EU respect for its international law obligations and human rights norms should inform and shape its current and future deliberations on such policies as well its approach to boat migration in the Mediterranean specifically

The right to life and protection against *refoulement*—the return to persecution, torture or ill-treatment—are cornerstone rights of international human rights architecture. Enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the right to leave any country, including one’s own, is key to ensuring the right to seek asylum. International maritime law has developed over the centuries to ensure humanitarian assistance to those in distress and protect the right to life. Both the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) oblige all shipmasters to provide assistance swiftly to persons in distress, and states to ensure effective communication and coordination of rescue operations in their search and rescue areas, as well as disembarkation of persons rescued at sea at a safe place.

The ECHR, binding on all EU countries, guarantees, in addition to the right to life and protection from *refoulement*, the rights to liberty and security, the right to an effective remedy, and the right to privacy and family life. The jurisprudence of the European Court of Human Rights (ECtHR) has made it clear that all of these rights apply within territorial jurisdiction of an EU country, including territorial waters and aboard vessels traveling under the flag of an EU country, and when an individual is under effective control or custody of an EU country.

In *Hirsi Jamaa and Others v. Italy* (February 2012), the ECtHR held that the actions of the Italian navy in intercepting asylum seekers and migrants at sea and sending them back to Libya, constituted a prohibited collective expulsion, and a violation of the prohibition on *refoulement* because the migrants and asylum seekers were at risk of ill-treatment in Libya

and of repatriation to countries where they could face ill treatment or persecution. The Court also held that the Italian authorities had denied the migrants and asylum seekers their right of access to an effective remedy because they had not been able to lodge their complaints with a competent authority and to obtain a thorough and rigorous assessment of their asylum requests.

The EU Charter of Fundamental Rights, which is binding on all EU institutions and on EU countries when applying EU law, enshrines the “right to asylum,” emphasizes the non-refoulement obligation, and prohibits collective expulsions. The EU has an extensive body of laws setting out minimum standards with respect to asylum procedures, reception conditions, and the treatment of irregular migrants upon arrival, during detention, and with respect to their return to their countries of origin.

What Should the EU Do?

EU leaders are faced now with decisions about the path the region will take for years to come with respect to migrants, asylum seekers, and refugee resettlement. There are no easy solutions to the problem: there are myriad reasons women, men, and children undertake arduous, dangerous journeys towards the EU. The political and economic situation in EU countries, the rise of anti-immigrant sentiment, fears about loss of cultural identity and demographic change, and concerns about security risks mitigate against a rational and responsible debate. But it is clear that EU migration and asylum policies should be based on respect for human rights and human dignity, and the values upon which the EU was founded.

We call on EU leaders to:

- Ensure sustained, coordinated search and rescue operations in the Mediterranean at the level of the Mare Nostrum operation.
- Create additional safe and legal means for people to seek asylum or find a safe haven in the EU. These measures should include:
 - Generous resettlement offers for refugees identified by the UNHCR through established and proven programs. UNHCR has asked the international community to resettle at least 130,000 Syrian refugees; the EU has the capacity to respond to this modest request. Resettlement places should be offered to refugees from other protracted refugee situations, including those affecting Eritreans, Afghans, and Somalis.
 - Ease existing restrictions of family reunification to enable persons already residing lawfully in the EU to bring family members to the EU through regular, safe channels.
 - Increase the number of humanitarian visas to enable persons to travel by lawful means to the EU, either for a temporary period or for the purposes of applying for asylum.
- Ensure access to full and fair asylum procedures, in which full consideration will also be given to any claim made of fear of treatment contrary to article 3 of the European Convention on Human Rights as well as other claims based on the subsidiary protection standard, such as threats arising from indiscriminate

violence in situations of armed conflict, for every person in the effective control of agents of any EU member state, including those interdicted or rescued at sea.

- Ensure that the EUNAVFOR Med anti-smuggling operation fully complies with binding obligations under the European Convention on Human Rights to protect the rights to life, liberty and security, an effective remedy, and protection against refoulement.
 - Operations should ensure that the lives and safety of migrants and asylum seekers are not put at risk.
 - Migrants intercepted in the course of these operations should be taken to safe ports in the EU; under no circumstances should the EU transfer them to the Libyan coast guard or disembark them in Libya.
 - The EU should also assess the risk of trapping migrants and asylum seekers in Libya, where they are often subjected to violence and abuse and have no possibility of lodging asylum claims.
- Design, implement, and monitor the EU's immigration cooperation with third countries to ensure this cooperation does not effectively trap people in abusive situations, prevent them from accessing fair asylum procedures, or lead to refoulement to places where they would be at risk of being subjected to persecution or to inhuman or degrading treatment.
- Use their influence and resources more effectively and concertedly to address the major drivers of migration, including systematic human rights violations, poverty, inequitable development, weak governance, and violent conflict and lawlessness.
- Ensure that asylum-seeking, refugee, and migrant children are first and foremost treated as children. All such children should have access to asylum processes. Assessments of their asylum claims should be based on the best interests of the child and result in prompt formal determination procedures regarding their status. Procedures should be child-friendly, multi-disciplinary, and culturally-sensitive.
- Ensure that returns of irregular migrants and rejected asylum seekers take place only following a procedure that guarantees the right to an effective remedy and in full respect of the non-refoulement obligation,
- Adopt fingerprinting policies and practices in full respect for individuals' human rights; any use of force in the process of fingerprinting should be strictly limited to situations in which it is necessary and proportionate.

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Tens of thousands of migrants and asylum seekers are crossing the Mediterranean—the deadliest migration route in the world—to reach the European Union. Over 60 percent of those taking the journey come from Syria, Somalia, and Afghanistan, countries torn apart by war and generalized violence, or from Eritrea, which is ruled by a highly repressive government. People from other countries appear to want to improve their economic opportunities or to live in more open and safe societies, but among them may be individuals who are also fleeing persecution.

The EU rightly has stepped up search and rescue operations in the Mediterranean to address the immediate humanitarian imperative to save lives at sea. Yet the EU's response focuses largely on trying to prevent or discourage people attempting to make the dangerous crossing, rather than acknowledging the human rights violations driving dangerous migration.

The report presents Human Rights Watch's concerns about the human rights situation in Syria, Somalia, Afghanistan and Eritrea, drawing on over 150 interviews in May 2015 in Italy and Greece with recently-arrived migrants and asylum seekers from these four countries.

Human Rights Watch calls on EU leaders to sustain search and rescue, and to endorse measures to increase safe and legal channels into the EU. A more equitable distribution of asylum seekers among EU countries is needed. The EU should ensure measures to combat irregular migration are grounded in respect for human rights and dignity, including the right to leave one's own country, the right to seek asylum, and protection against returning people to countries where their lives or freedoms may be at risk.

(above) Greek army Sgt. Antonis Deligiorgis, standing at left, rescues migrant Wegasi Nebiat from Eritrea, front left, from the Aegean sea, on the island of Rhodes, Greece.

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(front cover) A rubber dinghy with 104 people on board waiting to be rescued drifts some 25 miles off the Libyan coast.

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