

Institution: SOAS University of London		
Unit of Assessment: 18 – Law		
Title of case study: Migration from the Horn of Africa: influencing policy and advocacy practice		
Period when the underpinning research was undertaken: 2015–2017		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Dr Lutz Oette	Reader in International Law, Director of the SOAS Centre for Human Rights Law	2008–present
Period when the claimed impact occurred: 2017–31 December 2020		
Is this case study continued from a case study submitted in 2014? N		
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>Dr Oette's research on the human rights dimension of the 2014 EU Horn of Africa Migration Initiative (Khartoum Process) shaped policy and advocacy practice of key NGOs such as the International Refugee Rights Initiative and Waging Peace, and influenced policy debates and positions of parliamentary bodies in the UK and the EU, and of UN human rights bodies. The research generated awareness of problems in the Khartoum Process, particularly with civil society organisations, the Sudanese diaspora and the wider public. It contributed to a significant shift in policy approaches at the UK and EU level, resulting in a stronger emphasis on protection, human rights, participation and transparency.</p>		
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>In 2014, a growing number of persons from the Horn of Africa (HoA) sought asylum in Europe, particularly Eritreans fleeing forced conscription and repression (a threefold year-on-year rise to 37,000 in 2014). Many Eritreans used Sudan, which itself produced a large number of asylum seekers, as a transit country. In response, the European Union (EU) and its member states formed a partnership with the African Union (AU) and several African states to curb trafficking and smuggling in the HoA to manage migration, i.e. to reduce the number of persons travelling onwards from the region.</p> <p>Between 2015 and 2017, Dr Lutz Oette, Reader in International Law at SOAS (2008–present) and Director of the SOAS Centre for Human Rights Law, carried out research jointly with Dr Mohamed Abdelsalam Babiker, University of Khartoum. The research examined EU policy on migration in the HoA from a human rights, refugee law and rule of law perspective, and resulted in a peer-reviewed article [3.1], with Oette leading on policy analysis and the international law dimensions of the Khartoum Process (KP). In turn, this initiative led to a joint research project with Dr Lucy Hovil, International Refugee Rights Initiative, funded by the Netherlands Organisation for Scientific Research (NWO) (April–November 2017, GBP60,624). It combined empirical research, i.e. interviews with 67 Eritrean refugees and migrants, with policy and human rights analysis provided by Oette.</p> <p>The research focused on challenging EU responses to increased mixed migration (refugees and other migrants). The EU entered into migration management partnerships with countries of origin and transit which, in the HoA, took the form of the Khartoum Process in 2014. Oette and colleagues examined this initiative, which was aimed at tackling irregular migration, and interrogated its underlying policy rationale of containment in which States receive support for retaining refugees. The poor record of partner States, particularly Sudan, and the managerial and instrumentalist approach pursued through the process raised concerns that the Khartoum Process</p>		

was having an adverse impact on human rights and the rights of refugees. Oette's key research findings include:

1. The Khartoum Process' (KP) partnership model is incompatible with a human rights-based approach [3.1]

Oette's research identified a series of shortcomings in the KP, crucially in the partnership model. These shortcomings included a lack of transparency, democratic decision-making, participation of civil society in Sudan and the region, and of broader public awareness of the nature and impact of migration management projects. Thus the KP's partnership model is asymmetrical, being dictated by European policy interest in reducing migrant traffic in return for funding and political benefits for African counterparts; it insufficiently addresses legal migration routes, lacks adequate monitoring and accountability, contradicts EU policy objectives, and undermines the coherence of its external engagement. On the EU side, it evinces a politically driven, managerial project-based mindset incompatible with the core components of a human rights-based approach. The research found that KP's model has failed to adhere to human rights standards that are the guiding principles of the initiative and EU external engagement. Concurrently, on the state side, a detailed examination of relevant Sudanese law and practice identified systemic shortcomings, which demonstrated that countries such as Sudan are not reliable partners in managing migration because of inherent structural weaknesses. This criticism has been vindicated by subsequent developments in which the very Sudanese Rapid Support Forces, in charge of border controls, were reportedly responsible for atrocities committed against peaceful Sudanese protesters in June 2019. Oette and Babiker concluded that adopting a human rights-based approach founded on engagement with local and regional actors is critical to ensure both legitimacy and rights-compatibility of any migration initiatives in the region.

2. The EU migration policy in the HoA is based on flawed assumptions [3.2]

The research found that EU policy is not empirically grounded and therefore failed to achieve its aim of effectively tackling human trafficking and smuggling. The policy is state-centric, and guided by containment considerations. Its focus on addressing irregular migration by means of regional development, awareness campaigns, and co-operation with national law enforcement agencies in countries with poor human rights records was found not to have had the intended impact of effectively combating human trafficking and smuggling in Sudan in a human rights compliant manner. It is therefore ill-suited to reach the policy objectives pursued. Based on these findings, the research set out the parameters of an alternative approach that addresses underlying root causes. Oette and Hovil's research called on actors to devise and implement a policy that is people-centred, rights-based, contextual, i.e. understanding mixed migration as a complex reality and focusing on how best to address its root causes, and based on mutuality and shared responsibility.

These findings and recommendations were published in a major report in 2017 [3.2], together with two policy papers on EU and AU/IGAD (African Union/Intergovernmental Authority on Development) policies [3.3. and 3.4 respectively], and have been influential in changing debates and policies.

3. References to the research (indicative maximum of six references)

3.1. Oette, L. and Babiker, M.A. (2017). 'Migration Control a la Khartoum: EU Engagement and Human Rights Protection in the Horn of Africa'. *Refugee Survey Quarterly*, 36(4), pp. 64–89. <https://doi.org/10.1093/rsq/hdx013>

The research was published following a rigorous peer review process by a reputed journal in the field (OUP).

3.2. Oette, L. and Hovil, L. (2017). 'Tackling the Root Causes of Human Trafficking and Smuggling from Eritrea: The Need for an Empirically Grounded EU Policy on Mixed Migration in the Horn of Africa' (report). IRRI, SIHA and SOAS. <https://eprints.soas.ac.uk/26362/>

The research project, including the report as its main substantive output, was based on peer-reviewed funding, by the reputed Netherlands Organisation for Scientific Research (NWO).

3.3. Oette, L. (2017). 'A coherent European Union policy of mixed migration in the Horn of Africa: Participatory, contextual and rights-based'. Policy paper prepared by IRRI, SIHA and SOAS Centre for Human Rights Law. <https://www.soas.ac.uk/human-rights-law/reports-research-projects-and-submissions/file125175.pdf>

3.4. Oette, L. (2017). 'Strategies to tackle the root causes of human trafficking in the Horn of Africa: Complementing anti-trafficking laws with freedom of movement'. Policy paper prepared by IRRI, SIHA and SOAS Centre for Human Rights Law. <https://www.soas.ac.uk/human-rights-law/reports-research-projects-and-submissions/file125176.pdf>

The briefing papers [3.3 and 3.4] complement the main report published as part of the NWO grant. These papers have been used as a reference by NGOs and other organisations in relevant submissions to human rights committees and accountability bodies.

4. Details of the impact (indicative maximum 750 words)

Oette's research changed the policy and practice of NGOs and influenced the policy of the EU and its member States on addressing mixed migration in the Horn of Africa (HoA), as well as the approaches taken by various EU and UN actors on how to respond to mixed migration from Eritrea; informed the position adopted by the UK All-Party Parliamentary Group on Sudan and South Sudan (APPG); and influenced public debate on the EU policy on migration.

Shaping policy and advocacy practice of key and influential NGOs

The International Refugee Rights Initiative (IRRI), a major civil society organisation working on refugees in the HoA, confirmed in 2018 that 'Oette's ground-breaking, high quality research was instrumental in prompting and shaping [its] research and advocacy agenda, and in turn influenced the approach of other civil society actors and policy makers' – such as civil society actors working in the region, including as research partners – and EU and IGAD [5.9 and 5.5] The research 'emphasised to IRRI . . . the need for more empirically-based evidence on both the underpinnings and impact of the [Khartoum Process]' [5.9], which resulted in the joint IRRI, SOAS and SIHA research project [3.2–3.4]. Oette's research also influenced the advocacy and engagement of UK-based civil society organisations. Waging Peace (WP), which co-ordinates advocacy efforts on Sudan in the UK, emphasised that the research 'helped inform [our] understanding . . . and supported the work of our organisation, and also that of the UK-Sudan advocacy group we coordinate' [5.10]. The engagement with IRRI and WP resulted in 2 joint submissions on migration from and to Sudan to the UN Human Rights Committee in January and September 2018 [5.7b and c]. Oette's research was also drawn on substantively in a research and advocacy report on Darfur migration published in September 2018 by the Humanitarian Policy Group, the Research & Evidence Facility and Overseas Development Institute, which analysed in-depth the nature, and relative challenges of migration of Darfuris from Sudan to Europe, with a specific focus on Italy, France, Belgium and the UK. The report [5.8 p v, 33, 53, 82, 84] resulted in several meetings with policy-makers, as well as humanitarian and migration NGOs working on Darfur, and a request for a follow-up study, which was pending as of December 2020.

Acting on policy positions and debate in the UK and at intergovernmental level

Oette discussed his research findings in multiple fora from late 2016 onwards via briefings, face-to-face testimonies in private hearings, video link, and through submissions. Subsequent developments have addressed Oette's findings of the danger inherent in pursuing a partnership model with an authoritarian regime known for its poor record of respect for human rights standards.

Oette's written and oral testimony [5.7a] significantly informed the APPG's position on the Khartoum Process, expressing concern at the UK Government's steadfast support. The APPG referred expressly to Oette's testimony when discussing the risk of refoulement (the expulsion of persons who risk persecution if returned to their country of origin) [5.2 p33], and further reflected it in its recommendations, requesting 'HMG [to] ensure that strong monitoring mechanisms are in place to guarantee compliance with . . . human rights law, particularly to guard against the refoulement of refugees' [5.2 p33]. Oette and his co-researchers engaged with a range of policy makers from late 2016 to late 2018, sharing and discussing research findings with embassies;

representatives of the EU, AU, IGAD, United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) in Geneva, Sudan, Nairobi and Kampala, and representatives of the Office of the High Commissioner for Human Rights (OHCHR) in Brussels [5.5 p6–13]; EU and UK representatives in London [5.4. and 5.11]; as well as members of the European Parliament [5.3] and the UN Human Rights Committee [5.7b and c]. These policy makers acknowledged the importance of Oette’s analysis and empirical findings of the research, participated in public policy debates, and agreed to act on the recommendation that the process should become more participatory by considering to convene a joint meeting with civil society organisations based in the diaspora at Chatham House [5.4]. According to the European Parliament’s Subcommittee on Human Rights, ‘the issues raised by Mr Oette in his intervention were included in the Members’ discussion with their Sudanese counterparts’ in a mission to Sudan in December 2017 [5.3]. The UN Human Rights Committee took up several issues raised in the submission, particularly on forced returns and collective expulsions, and, in its concluding observation, requested Sudan to change relevant law and/or practice [5.7d p9, para 54].

Waging Peace confirmed that ‘[r]egularly raising [the human rights dimension of migration] during meetings with [UK officials] and other decision-makers has, in tandem with other advocacy activities, resulted in a marked shift in the UK’s position on the Khartoum Process, with a greater emphasis on a more transparent, participatory and human rights compatible approach to migration management’ [5.10]. There was evidence of a marked change in focus in EU policy on the Khartoum Process, with a stronger emphasis on protection, the relevance of human rights concerns, participating of civil society in project implementation, and transparency – particularly as set out in its factsheet on EU action [5.4, 5.6]. The factsheet was also referred to by the EU representative during the Chatham House meeting [5.4] as evidence in support for a change in its approach. The lack of sustainability of the partnership approach initially pursued became even more apparent after December 2018. Sudanese forces, particularly the Rapid Support Forces responsible for border controls, repeatedly committed serious violations against peaceful protesters. This led to condemnations by the EU and the UK, and the suspension of cooperation in the Khartoum Process.

Informing policy change on trafficking in Sudan

Work in Sudan on reviewing and updating Sudan’s 2014 anti-trafficking legislation has been significantly delayed as a result of COVID-19 [5.11]. In October 2020, work restarted and, following political changes in Sudan resulting in an environment conducive to new approaches to combatting trafficking in the country, the Subcommittee of the National Committee to Counter Trafficking invited Oette to provide expert advice and assist in the review of Sudan’s 2014 Combatting Human Trafficking Act, in recognition of his work on the Khartoum Process [5.11].

Influencing public understanding and the terms of the debate

Oette provided newspaper interviews with Deutsche Welle (twice) [5.1], Forbes, Le Monde (background briefing), and interviews with Radio Erena (Eritrea) and CNBC Africa. This dissemination of the research elicited strong interest among civil society groups, and made the Sudanese diaspora (who invited Oette to several meetings and talks) eager to gain a better understanding of the Khartoum Process. Oette engaged with the main organisation on the study of the Sudan and South Sudan in the UK (SSSUK) in an event attended by 60 persons in September 2016 and an Open Themes meeting in 2017 (30 attendees). He also engaged with 20 lawyers, journalists and members of NGOs working with Sudanese refugees in the UK at a SOAS meeting in July 2017. These dialogues increased the capacity and quality of engagement by Sudanese groups during the Chatham House meeting in November 2017 [5.11]. The meeting was well attended (around 50 persons) by Sudanese and Eritrean Embassy representatives, policy makers working on migration in the Horn of Africa – such as the Head of Unit, EU Directorate-General for International Cooperation and Development – and civil society representatives. The EU representative present expressed his interest in engaging with Sudanese civil society as a result of the event [5.4].

5. Sources to corroborate the impact (indicative maximum of 10 references)

- 5.1. Is the EU putting African migrants at risk? Deutsche Welle, 10 November 2017
<https://www.dw.com/en/is-the-eu-putting-african-migrants-at-risk/a-41319588>
- 5.2. An Enquiry Report on the Future of UK-Sudan Relations', APPG for Sudan and South Sudan, February 2017.
- 5.3. Email from the Secretariat of the European Parliament's Subcommittee on Human Rights, September 2018.
- 5.4. Chatham House event: **a)** Migration in the Horn of Africa: European Union Policy - Chatham House event, <https://www.chathamhouse.org/event/migration-horn-africa-european-union-policy> and; **b)** Dame Rosalind Marsden Testimony, Chatham House.
- 5.5. IRRRI Report to NWO including reference to two policy submissions made–2017: Ensuring that policy responds to the realities of trafficking and smuggling of mixed migrants from Eritrea and Ethiopia.– pages 6–13.
- 5.6. Factsheet EU Action on Migration in Horn of Africa, October 2017.
- 5.7. Submissions to the UK APPG and UN Human Rights Committee
 - a.** Written evidence submitted by the Centre for Human Rights Law to the UK APPG
 - b.** Submission to United Nations Human Rights Committee January 2018
 - c.** Submission to United Nations Human Rights Committee September 2018
 - d.** United Nations Human Rights Committee concluding observations - see page 9, para 54 in particular
- 5.8. Darfuri Migration from Sudan to Europe: From Displacement to Despair, joint study by REF and HPG, August 2018. Oette's research is referenced on pages v, 33, 53, 82, 84
- 5.9. Letter from International Refugee Rights Initiative Oct 2013.
- 5.10. Letter from Waging Peace 25 Sept 2018.
- 5.11. Letter from Research Partner.