<u>IRREGULAR MIGRATION, EU POLICIES</u>
<u>AND THE MIGRATION-DEVELOPMENT NEXUS:</u>
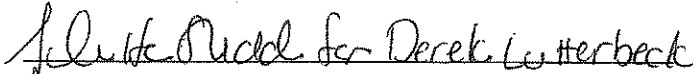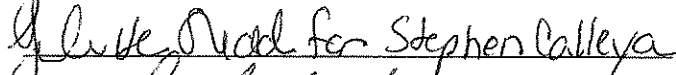<u>THE CASE OF ASSISTED VOLUNTARY RETURN IN MALTA</u>

By

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A Thesis
Submitted to the
Graduate Faculty
of
George Mason University
in Partial Fulfillment of
The Requirements for the Degree
of
Master of Science
Conflict Analysis and Resolution
Master of Arts
Conflict Resolution and Mediterranean Security
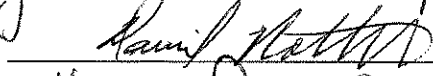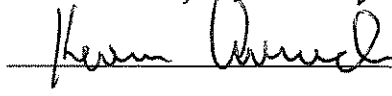
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Irregular Migration, EU Policies and the Migration-Development Nexus: The case of
Assisted Voluntary Return in Malta

A thesis submitted in partial fulfilment of the requirements for the degree of Master of
Science at George Mason University, and the degree of Master of Arts at the University
of Malta

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Fall Semester 2013
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DEDICATION

This is dedicated to my loving husband Ahmed, my three beloved children Naomi, Jasmine and Ezekiel, and all those who left Africa to improve their lives and the lives of their families and communities, hoping to return and see their loved ones and their motherland again.

ACKNOWLEDGEMENTS

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ABSTRACT

IRREGULAR MIGRATION, EU POLICIES AND THE MIGRATION-DEVELOPMENT NEXUS: THE CASE OF ASSISTED VOLUNTARY RETURN IN MALTA

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The background of this thesis is the context of irregular migration from Africa to Europe, which is especially affecting Malta because of its geographical location and its small size. The thesis focuses on the push factors of migration which are related to development, and on exploring whether the concept of Assisted Voluntary Return is an effective tool in the integrated European Union policy approach to migration and development. A policy analysis is conducted through a literature and document review, together with a research analysis on the experience and perception of Ghanaian migrants, experts and returnees on the effectiveness of Assisted Voluntary Return programmes. Interviews conducted with migration experts and service providers from key organizations in Malta are used to explore factors determining the success and sustainability of return, and the effectiveness of Assisted Voluntary Return programmes.

INTRODUCTION AND METHODOLOGY

Introduction

Irregular migration is a major subject in the Mediterranean, especially for the small

island of Malta. People in Malta are caught in conversations and arguments between the

rights of the Maltese and their geographical and resource limitations, and the rights of

those who escape conflict and poverty. 'Boat arrivals' who are looking for a job and a

way out of poverty for themselves and their families are particularly interesting for this

research. Mixing in with flows of asylum seekers, they soon encounter a selection

process that tries them and the story they present. Often hailing from places where there

is lack of development, education and employment opportunities, their plight is not

enough to grant them refuge or protection. On the other hand there is a recognition, at

least in the literature, for the rights of persons to decent work, to education, to food and

nutrition, and other important basic needs for life. The Declaration on the Right to

Development, agreed on the 4th of December 1986, also recognises development as a

human right. This Declaration brings together the two Covenants of the Universal

Declaration of Human Rights, affirming that it is the right of every individual to develop

socially, politically and economically. In 2000 the Human Development Report of the

United Nations Development Programme (UNDP) also concluded that human rights are

not some kind of 'reward' for the achievement of development, but are in fact critical to

its achievement. Both human rights and development need to co-develop to ensure freedom, dignity and the well-being of people (Grech, 2012).

The phenomenon of South-North labour migration is not new. However in the context of irregular migration one can question what the outcome is for economic migrants who are denied access to live and work in the host country. Especially because development is recognised as a human right, when people leave their country of origin because of poverty or unemployment and are refused entry, it is not clear how this right can be protected and how it applies to such persons. The UN Commission for social development in 1998 explains:

> *For too long the development debate has ignored the fact that poverty tends to be characterized not only by material insufficiency but also by denial of rights. What is needed is a rights-based approach to development. Ensuring essential political, economic and social entitlements and human dignity for all people provides the rationale for policy. These are not a luxury affordable only to the rich and powerful but an indispensable component of national development efforts*
> (UN Commission for Social development, 36th session, 1998).

The relationship between migration and development has attracted major interest among states, organisations, academics and regional actors. To start with, the migration-development relationship has long been considered an important one, attracting several conflicting arguments and discourses about the role of migration in development and vice versa. Research findings attest that migrants from developing countries send a large part of their salary as regular remittances to their families back home. These remittances are

used for sustenance and basic needs, to enable the access of educational and health services which would otherwise be inaccessible for relatives. They are also used to invest in small and medium business projects which can improve security in terms of a sustainable livelihood, where income can cover possible risks, such as in case of tragedy, natural disasters, crop failure or illness.

However the benefits of migration are much broader than those benefiting single individuals and families. Remittances stabilise states, as often the total amount of migrants' remittances to their country supersedes the amount of development aid from overseas. On a macro level therefore remittances provide a stable source of external financing that improves the creditworthiness and access to international capital for many African states. They can therefore be used to fund long term development projects and for debt management (Ratha et al., 2011). There are an estimated 215 million international migrants today, and another 740 million migrants who have moved from rural to urban areas in the same country. Some experts point out that migration has always existed as a strategy of people's response to poverty, risk and life threatening situations. According to these experts the way forward is therefore to remove barriers to human mobility, to protect migrants' rights and curb abuse and exploitation, and to "plan for" and "manage" the consequences and opportunities of migration (Sutherland, 2013).

The European Union has also recognised the benefits of South-North migration. In 2008 the European Council issued the European Pact on Immigration and Asylum (EPIA) which recognises the benefits of migration as an opportunity for human and economic exchange. The EPIA acknowledges that migration enables people "to achieve what they

aspire to", while contributing to economic growth in the European Union, especially in response to labour markets which are affected by demographic factors in European Union member states (Council of the European Union, 2008). Consequently, the freedom of movement for third country nationals (TCNs) within the European Union is very important. On the other hand migration flows need to be managed, since Europe cannot accept all those hoping to be received. Lack of coordination among the various member states may also lead to confusion, inconsistencies and to "asylum shopping" where asylum seekers move to certain countries which are more lenient and accepting of asylum application. To prevent these abuses and to manage migration effectively, the European Union hopes to harmonize standards and policies by promoting the commitments outlined in the EPIA, which will be explained int eh next chapter (Council of the European Union, 2008)

But these collective commitments do not always reflect the diverse experiences of member states in relation to the EU migration policy. The Dublin 2 policy for example, restricts the asylum application process to the first country of landing, thereby subjecting Southern Mediterranean states to particular pressures for the reception and process of many asylum applications as a result of large migration influxes. The Mediterranean region is also particularly affected by several political conflicts within fragile states in the region, such as Egypt and Libya. Therefore the Dublin 2 policy is seen as an unfair policy because it contains the pressure of migration in the Southern part of Europe, until asylum seekers have been given a refugee or subsidiary status, after which they can be relocated or resettled.

Another difficulty is in identifying those who need asylum, and those who do not and are therefore required to return to their countries of origin. The process of returning migrants to their countries of origin is a challenge in terms of logistics, finances, political and social coordination. The use of Assisted Voluntary Return packages (AVRs) is therefore preferred by actors in host countries and international organisations. Assisted Voluntary Return is a programme assisting migrants to return to their country of origin, and their reintegration processes. The European Return Fund provides co-funding that supports actions of these programmes, such as the return and reintegration of persons, specific assistance for vulnerable persons, and support for innovative tools and actions that support the sharing of best practices in the EU. The fund also co-finances activities of forced return in cases where voluntary return is no longer possible, as in the case of persons receiving a return decision who refuse to return voluntarily (European Commission, 2013).

Return is part of the European Union's policy on migration and asylum. For those whose asylum application has been rejected and who would be returned back to the country of origin, assisted voluntary return (AVR) is an option. It is however debatable whether it is always a voluntary and free option, since the decision may frequently be made in the absence of better alternative options, and in conditions of duress such as the threat of forced return. It is also questionable whether return is truly sustainable. In EU policy documents AVRs are seen as preferable to forced return, and as a way for migrants to return to their country and assist in its development. This assumption however is contested. Research indicates that many of those who returned were dependent on others

and could not contribute to development effectively. Some were seen as a burden on family, relatives and friends. Others were thinking of re-migrating.

Return sustainability depends on many factors, and includes those push factors which initially motivated the individual to migrate, and which the returnee has to face on returning back to the country of origin. These push factors seem to be strongly related to poverty and unemployment, and to development factors which are affected by European Union policies, especially those concerning trade and development. Hidden factors are related to the underdevelopment of developing countries, and to push factors of migration, affecting those in sub Saharan Africa who migrate to Libya and cross irregularly to Malta by sea. If such push factors remain, it is not clear how the EU expects to solve the problem of irregular migration from sub Saharan Africa to Europe, which especially affects the Southern Mediterranean region in particular.

Because AVRs are seen to promote development in developing countries, and to be an acceptable tool of migration control, funds are allocated for the promotion of AVR packages in EU member states. Yet there is little research in exploring their effectiveness. First, assisted voluntary return falls short of the higher aspirations of most African irregular migrants to have access to an immigration status that allows them to work and integrate in the host country, while assisting their families through significant remittances made possible through income generation in host countries. Secondly, there is the need for a detailed comparison between the number of forced returns, the number of those who take up AVRs, and the number of those leaving African countries of origin in an irregular manner. Such a comparison is necessary for understanding the successes and failures of

AVRs, in relation to the diverse push factors that cause insecurity and instability arising

from complex situations that include several push factors such as conflict and poverty.

These push factors can decrease, increase, disappear and re-emerge over time

accordingly. Third, the study of AVRs in the migration-development context must

consider development policy and the strategy employed by the European Union to assist

African development. The impact and effectiveness of the Overseas Development

Assistance of the European Union as a strategy to promote development in Africa must

be evaluated in relation to other policies of the European Union which greatly

disadvantage developing African nations. In making these comparisons theories of justice

can then be applied to social and regional institutions such as the European Union, in

order to establish the effectiveness of its policies and programmes.

Research question

The research question arising from the literature is:

Are Assisted Voluntary Returns an effective tool for the European Union's policy on

migration and development?

The sub questions to the research question are:

a) What is the EU policy on migration and development? How do AVRs feature in

these policies?

b) How are AVRs promoted and administered in Malta? What is the outcome of

AVRs in Malta?

c) How are AVRs perceived by migrants, prospective migrants and returnees? What

is the perspective of experts in sending countries and in Malta?

d) Is AVR an effective tool for the EU policy on migration and development? Is it an

effective tool for the sustainable return of returnees?

e) Should and can AVRs be improved in terms of sustainability? How can they be

improved?

Research Design

This research asks whether AVRs are effective from the perspective of social

justice, and therefore relates AVRs not only to the expectations of the EU in relation to

its policy objectives, but also to the aspirations and perceptions of the beneficiaries of

AVRs. As evident in the literature reviewed, human rights and basic needs are not always

guaranteed either by institutions or through legal rights. The outcome of such failure is

deviant behaviour which often requires addressing by institutions, as in the case of

irregular migration and rejected asylum seekers who find that they have no right to stay

in the country of destination. In order to explore AVRs within this framework, therefore,

one needs to understand the institutional dimension (of the EU), as well as the dimension

of those who are exhibiting this deviant behaviour (irregular migrants). Exploring the

question from two dimensions can not only serves to establish how and whether AVRs

are or can be effective, but also highlights other issues related to the broader dimension of the question, namely migration and development.

The focus of this research is therefore two-fold; it seeks to establish whether AVRs are effective:

a) in terms of the EU policy on migration and development

b) in terms of the sustainability of the return of migrants

To analyse the effectiveness of AVRs from an EU policy viewpoint one must takes into account the reasons why the European Union is promoting AVRs, the framework within which the European Union makes AVRs a priority, the policy objectives of the European Union in relation to AVRs, and the funding distribution for this priority. Question (a) also aims to explore comparisons between the EU policy objectives for AVRs, the outcome of AVRs in relation to these objectives, and other policies of the European Union that may be affecting this outcome. Finally the question also considers other factors which are beyond the control of the European Union and which also have an impact on the effectiveness of AVRs, for instance the way AVRs are implemented at country level.

Question (b) looks at the effectiveness of AVRs from the viewpoint of the sustainability of return migration. Ensuring sustainability is critical if the for the effectiveness of AVR programmes, because it not only prevents re-migration but allows individuals to "flourish" in their community (in accordance with Pogge's concept of human flourishing as explored in the literature review), to develop their capabilities for choosing a life they

have reason to value (in accordance with Sen's concept of freedom and development as explored in the literature review) and also to contribute to the development of their community and nation (in accordance with the EU concept of return and development). The process of evaluation of the effectiveness of AVRs therefore has to consider whether AVRs can contribute to sustainable return as defined in these concepts.

Instruments and Data Collection Methods

 a) In exploring the question of effectiveness in relation to EU policy on migration and development, the following instruments were used:

1. EU policy documents on migration, development and return (online)

2. Other policy documents that relate to the broader framework of EU policy on migration, development and return (online)

3. Data on AVR programmes (funding and statistics reports online)

4. Interviews with experts in organisations working with migrants in Malta and in Ghana (published document and interviews conducted in Malta)

The data was obtained from online sources, from documents provided by the International Organisation of Migration in Malta, and from reports provided by the SOS Malta, an NGO which implemented an AVR project in Malta in 2002. A document presenting a qualitative research study on sustainable return conducted in Ghana among returnees, prospective migrants and experts from various fields, which was published in

2013, was also included in the analysis. The findings of this research, particularly those arising from interviews with experts in Ghana, were used to explore the question of effectiveness in relation to (a) above. To compliment these findings interviews were also conducted in Malta with:

1. the Commissioner of UNHCR (United Nations High Commissioner of Refugees);

2. the Director General of EU Funds and Programmes in the Ministry of European Affairs and Implementation of the Electoral manifesto;

3. the Director of IOM (International Organisation for Migration) in Malta;

4. a Project Coordinator working with migrants in Malta through the NGO KOPIN;

5. the Chief ExecutiveOofficer of the NGO, SOS Malta, which conducted an AVR programme in Malta in 2002; and

6. the Director of the Foundation for Shelter and Support to Migrants which coordinates accommodation and services in an open centre for migrant men.

The interviews conducted were semi-structured and the interview questions were designed to explore the opinions and experiences of the interviewees and their organisations about the effectiveness of AVRs in relation to the EU policy on migration and development as described above. A second component of the interviews comprised questions regarding the sustainability of return and the organisations' experiences regarding this sustainability, the findings of which were used to answer the second part of the question on effectiveness relating to sustainable return.

b) In exploring the question of effectiveness in relation to the sustainability of return, the following documents were analysed:

1. A qualitative research by the Foundation of Shelter and Support to Migrants (FSM) conducted in Ghana and Malta in 2013, focusing on the perception of migrants on migration, return and AVRs, the perception and experience of returnees and prospective migrants in Ghana, and the experiences of NGOs and the Ghana Immigration Services working with returnees and prospective migrants (Bugre, 2013).

2. Interviews conducted with actors in Malta from government sectors, NGOs and other sectors as described above, focusing on the effectiveness of AVRs in relation to the sustainability of return.

3. Data on return sustainability from AVR reports.

4. An article by Van Houte & Davids (2008) which is the analysis of two studies:

   a) a pilot study conducted in 2006 among 131 voluntary and involuntary returning migrants from Western Europe, and relocated migrants from Angola, Guinea, Bosnia-Herzegovina and Somalia; and

   b) a standardised monitoring study from 2007-2008 on assistance to 178 involuntary returning rejected asylum seekers and ex-refugees in six different countries, three of them in Africa (Van Houte & Davids, 2008).

The qualitative research published by FSM was conducted in 2013 in various regions of Ghana. Details as to how it was conducted are included in the chapter on the analysis of the research. The study analysis by Van Houte and Davids (2008) further informs the research on factors of determination for sustainability of return.

Importance and Limitations

This research was conducted amid tensions in Malta, centering around the arrival of irregular migrants from Libya in the summer season, and a new government which had publicly stated a more rigid response to irregular migration before the elections earlier in the year. These tensions sparked many discussions about the return of migrants to their countries of origin, the relocation of persons with refugee and subsidiary protection to other EU member states, and the possibilities of integration for those remaining in Malta. These tensions also led to the threat of demonstrations and protests by some Maltese nationals, and also to the increase of racial attacks on black people. Although Malta has a number of irregular migrants from Europe and other continents these attacks were only targeted at black people. The government has publicly discouraged these protests, and is discussing many strategies for the management of migration. One of these strategies is return and assisted voluntary return. This study will therefore be presented to relevant authorities, including the Ministry of Justice and Home Affairs, the Director General of EU Funds and Programmes in the Ministry of European Affairs and Implementation of the Electoral Manifesto, IOM, and a number of NGOs in Malta, including SOS Malta and

the Foundation for Shelter and Support to Migrants (FSM). It will also be presented to the Nehemiah Gateway Foundation, an international aid organisation, which has an interest in development in Africa and is looking for ways to assist the sustainable return of African migrants from Europe.

The limitations of this research are related especially to the fact that migration and development are very broad subject areas which are highly contested especially in light of the fact that the world is made up of states that have laws and regulations, interests and specific populations. The subject of migration and development cannot be restricted by this worldview because people often cross these boundaries in their attempt to pursue their goals and aspirations. It is therefore extremely difficult to focus on the narrow and the broad implications of AVRs in relation to migration and development. Further limitations of this research are:

1. Inability to conduct interviews with a government officer (a request was sent to a former officer in charge of AVRs but no reply was received).
2. There were no interviews conducted with beneficiaries of AVRs themselves since these could not be found in Malta.
3. The intentions of the present government on AVRs were not explored.

The strengths of the research are:

1. I am the same person who conducted the research "Home Sweet Home: a study on Ghanaians and sustainable return" for the Foundation for the Shelter and Support of Migrants, and therefore this research has continuity potential.

2. Participation of experts and NGOs has been positive and the study generated interest in the subject.

3. The research will inform certain national actors of opportunities and possibilities for improving AVRs.

Analysis

The analysis of the research will be done through:

a) content analysis of EU policy documents and other related documents;

b) content analysis of the reports and the above mentioned research study; and

c) thematic coding for interviews conducted with actors in Malta

A final discussion will relate the findings to the concepts and the research study in the literature review, and conclude with recommendations on AVRs.

Ethical considerations

All the sources used in this research have already been published and are available to the public. For interviews conducted in Malta consent was obtained verbally, and the

interviews were audio-recorded with the permission of the interviewees. Issues regarding

the anonymity and confidentiality in this case do not apply, since the interviewees are

representing their organisations. The research refers to the interviewees by their roles

since the focus of the research is on the experiences of and the opinions within the

organizations and not of the interviewees themselves.

LITERATURE REVIEW

The literature review focuses on highlighting issues relevant to the research

question, and starts in the first part with theories of justice related to development, since

developmental factors are assumed to be strong push factors and are the causes of

irregular migration from Africa to Europe. These push factors are addressed in the

context of human rights and social justice, as the literature review focuses on the

interaction between global and social institutions, national and international forces, and

elements of human needs, capabilities and values as perceived by human beings.

   In the second part the focus is on migration as a response to development inequality.

Historical perspectives and approaches to migration suggest the various challenges that

emerge in understanding, accepting and addressing migration. The literature explores

how and why the migration-development relationship became important in migration

theory and policy. Although return strategies are becoming more popular in European

Union member states as positive strategies in the framework of migration and

development, the literature explores through research evidence why return strategies can

fail and how return sustainability can determine decisions of re-migration.

The concept of human flourishing and Universal Justice

In order to understand the behaviours, perspectives and decisions of human beings, households, communities and institutions one needs to explore the meaning of justice and how justice is perceived by human beings in relation to their environment, their aspirations and potentials. In the context of migration in particular, one needs to understand how those making migration decisions view their lives, how they aspire to improve it and how they respond to the policies and demands of social institutions. Pogge starts with the concept of 'human flourishing' as the most comprehensive assessment of the quality of human lives. There are diverse substantive conceptions of human flourishing, which refer to a variety of components, with different weightings and relationships between these components. The question is which of them actually determine the quality of life of individuals (Pogge, 2002).

At the outset Pogge differentiates between the personal value and the ethical value of life. While some features contribute to both values, such as friendship, love and knowledge, others contribute to one value and detract from the other. For example a situation where a person may suffer pain from arthritis, the pain may detract from the personal value but not from the ethical value of life. The personal value relates to the individual's experiences and successes, where the two can easily be detached because persons may not know their successes and failures, and even if they did, their inner lives may be dulled by successes and enriched by failures. Ethical value relates to good

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character (admirable qualities) and ethical achievement (ethical significance of the person's conduct). The two ideas in ethical value can also be detached, because the way in which good character is manifested in society depends on social standing, talents, circumstances and luck. Another critique is that ethical achievements may be the result of base motives.

There are also other perspectives of human flourishing. One can approach the question of human flourishing from within (in relation to one's own life) or from without (in relation to the lives of others); or take a prospective approach (with practical intent and in search of normative guidance for shaping the life of oneself and the lives of others) or a retrospective one (in order to evaluate). Biases and preferences exist. For example, when one reflects on one's own life prospectively one usually considers the ethical value, but when one reflects on one's child prospectively it is usually the personal value that takes precedence. This means that human flourishing is perceived differently according to the approach and perspective taken.

What approach is taken becomes significant when it comes to considering that the autonomy of the human being demands respect. Pogge explains that "to respect the autonomy of another means, however, to accept her measure of human flourishing" (Pogge, p. 30). If institutions respect their ethical responsibility they need to consider the concept of human flourishing in relation to persons, communities, regions and states affected by their decisions. This puts the idea of human flourishing at the centre of political discourse on social institutions and policies.

Theories of justice and social institutions

Theories of justice have included important works in transcendental institutionalism, led by Hobbes and later pursued by Jean Jacques Rousseau, Immanuel Kant and John Locke. These works focused on the transcendental identification of the ideal institutions, and on what is the nature of justice is, rather than drawing a comparison between what is just and what is less just. Immanuel Kant and John Rawls however also developed the arrangement-focused approach to justice where arrangements refer to the right behaviour by all including institutions. In contrast other theorists, such as Adam Smith, Karl Marx, Jeremy Bentham and John Stuart Mill, expanded on the realisation-focused comparison. Rather than searching for a perfectly just society, the latter theorists were interested in removing manifest injustice from the world. The transcendental institutionalists were attempting to find out what perfectly just institutions look alike, while others were attempting to understand how justice could be advanced. In selecting the latter direction, one can focus on the actual realisations of the societies involved rather than on rules and institutions (Sen, 2009). Sen argues that the search of a transcendental institution is redundant because there may be no agreement on the "nature of a just society" (Sen, p.9). Even if such a situation could be identified, it may not be available, and therefore there needs to be a consideration of available alternatives.

An important difference lies between the arrangement-focused approach to justice and realisation-focused comparison. The arrangement-focused approach gives importance

to organisational arrangements that would indicate that justice is being done. Theories of justice should not only consider the composition and function of 'right' institutions and their rules, but also consider people's situations and whether they are able to live the lives they can live. Sen explains that people need to lead lives they have reason to value, which necessitates the expanding of freedoms to become fuller social persons. Many people in the world suffer many forms of 'unfreedom', such as the freedom to survive, because they do not have access to healthcare and clean water. Gender inequalities and other inequalities between groups render some more disadvantaged than others (Sen, 2009).

Burton explains this inequality in terms of human needs, which are not always reflected in social values. Burton explains that social values primarily reflect the needs of institutions to legitimise the roles and authority of particular groups. Since society uses coercion to subordinate individuals to conform to its social values, without recognising, addressing and satisfying universal human needs, the potential for deviance is ever-present, and a real danger to the harmony of society. Although cultural values, involving a process of internalisation, may at times act as tools for pursuing individual needs, there are other values that cannot be internalised and that address other basic individual needs, such as the need to be recognised. The satisfaction of these needs is essential both for the function of the individual, and the survival of society. Past societies failed to develop effectively because a process by which members of society were supposed to evolve and inherit values that maximise their satisfaction was thwarted by competition and power dynamics that elevated groups of people over others, creating elites. These elites ensured

that the current cultural values would reflect their interests and ensure their power, and this led to the growth of deviance behaviour, the erosion of coercive authority and the growing expression of universal human needs, such as freedom of expression (Burton, 1979).

Pogge's idea of justice is interesting because it explores the possibility of a 'criterion of justice' for the morally appropriate and equitable treatment of persons and groups. The criterion acts as a framework for moral assessment of institutions in relation to their interactions within a social system, and the way they include or exclude individuals and groups from access to these interactions and to material resources. Assessing the extent to which social institutions are treating groups or individuals in a morally appropriate manner therefore requires the formulation and justification of a criterion of justice. The criterion considers both persons living under the institutions evaluated, but also those non-participants who however may be greatly impacted by those institutions. This context is important when considering global factors, especially those related to the push factors of migration. US political and economic institutions for example may impact, through trade policies or foreign investment, persons who are neither US citizens nor residents of the US. Therefore institutions have a moral responsibility not to exclude non-participants, although this does not stop them from acknowledging the special status of participants. Foreign and supranational institutions affect the formation and development of national structures in weaker states which are heavily dependant on the international order and the national institutions of powerful states.

The general tendency in Western nations is to judge national institutions on the quality of people's lives. However the dependency of developing nations on developed ones means that people's lives are affected by institutions that are outside national remits, which may be structured in agreement with one type of concept of justice. Pogge therefore proposes a single, universal criterion of justice that is acceptable to all societies and peoples to bring agreement on the basis for moral judgments of the global order and social institutions (Pogge, p. 31-34).

Autonomy, diversity and agreement: Pogge's criterion of justice

For a universal acceptance of a criterion of justice, there needs to be respect for the autonomy of persons and societies which will bring some constraint but also allow some diversity. Autonomy here refers to "having one's own way of life" rather than "choosing one's own way of life", where the institutional order need not be endorsed by those not living under it, but by those who are. This point is very important because such a criterion of justice does not limit autonomy to the constraints of supracultural discourse, reflection or choice in matters of human flourishing. Therefore it is not a Western imposition.

In determining a criterion of justice, the paternalism of social institutions needs to be addressed. Since the values and aspirations of persons themselves differ, it is a complex task to make a choice between different types of social institutions. On one hand it is a challenge to measure the extent to which social institutions meet the person's values and

aspirations, if these vary between persons and also in an intra-personal context. It is also a fact that social institutions themselves shape the environment and options of people living under them, and also their very aspirations and values. Although this paternalism is inevitable, it can be reduced through what Pogge terms the four "desiderata":

a) A universal criterion of justice working with a thin conception of human flourishing, where social institutions can secure the means to human flourishing (through agreement not on the components of human flourishing but the means to it such as clothing, food, shelter and education) , and where there is respect for the autonomy of diverse cultures and societies.

b) The universal criterion should be modest, defining justice not as a high ideal in an open-ended scale, but a solid threshold compatible with international institutions required to treat persons affected by them in a minimally decent and equitable manner.

c) The requirements of the universal criterion are not exhaustive, and therefore there is room for societies to be more ambitious in placing more demanding criteria of justice on their institutions, and also to judge global institutions by these criteria.

d) These more ambitious criteria must not undermine however the universality of the criterion or to outweigh it in situations of conflict or competition.

The criterion functions as a "core" around which there is plurality of specific conceptions of human flourishing, and also a core of criteria containing important elements. This makes for a universal core for criteria of justice that is both "morally plausible" and "universally acceptable" (Pogge, p.34-37).

Basic goods, human rights and social institutions

According to Pogge, a modest criterion for basic goods should limit basic goods to those which are really essential "for developing or realising a conception of a worthwhile life". Demand should therefore be limited to a minimum which is however adequate, and the focus is on the 'access' to basic goods that people need rather than the provision of goods themselves (Pogge, 2002).

Pogge explains the relationship between social institutions and basic good shortfalls. Social institutions not only have a causal role, but also an implicit attitude to the shortfall in question. Therefore the question is not only whether a social institution is responsible for an avoidable basic good shortfall (a core injustice) but also how morally significant is this deficit is (how great a core of injustice it indicates). Another dimension of basic goods shortfall refers to distribution, where most theories accept what economists call "the anonymity condition". This condition requires that "permutations of persons over social positions should make no difference to judgements of justice". Therefore these injustices related to basic goods deficits are the same for all persons, regardless of who

they are. This concept relates to Rawl's "veil of ignorance" where persons are regarded from an original position which disregards the institutional mechanisms that condition their quality of life. Pogge criticises this view based on the fact that many times certain groups suffer particular hardships and discrimination, and that theories of justice that disregard these particularities cannot be effective in dealing with the complexities of contemporary social systems (Pogge, p.37- 44). One example of this argument refers to regulations on the use of subsidies. Governments of wealthy nations usually use subsidies in order to render competitive those exports which are too costly. Subsidies can also be given to local manufacturers to drive their product costs down to competitive prices and therefore protect the country's production from cheaper imports. Decisions on subsidies however often do not consider the position of developing countries (Borg & Regan, 2012).

Since social institutions have a role in causing core injustices, by avoiding responsibility or by overlooking vulnerability, Pogge argues that human rights should be conceived primarily as claims on coercive social institutions, and secondarily as claims against those which uphold those institutions. This "institutional" approach addresses the legal framework for constraining institutions and ensuring human rights. However Pogge challenges this approach based on the argument that access to basic goods should be ensured even when legal rights do not ensure this, and based on the argument that legal rights do not always ensure access to basic goods. Therefore "one's human right to adequate nutrition, say, should count as fulfilled when one has secure access to adequate nutrition, even when such access is not legally guaranteed". Also there are cases where

"though legal right are effectively enforced, poor and uneducated persons are nonetheless incapable of insisting on their rights, because they do not know what their legal rights are or lack the knowledge or minimal economic independence necessary to pursue the enforcement of their rights through the proper legal channels" (Pogge, p.45). Although legal rights are often an effective means for realising human rights, they need not have the same content as the human right they help realise. The best way for realising a human right to a minimally adequate nutrition may be through legal mechanisms on land ownership, start up loans, education and training, and can also involve non-legal means such as the culture of solidarity in the community.

According to Pogge, it is a historically and geographically universal fact that human beings have a deep need for an ethical worldview in relation to which they can judge whether their life and the lives of others they care about is good, not only for themselves but also in an ethical sense. Therefore a modest criterion of basic justice should demand of institutions that the people affected by them can develop and realise this worldview. While elementary basic goods are important for the ethical and personal value of human life, it is known that today many human beings lack secure access to minimally adequate share of these goods, meaning that the realisation of human rights has only partially been achieved. Therefore the question refers to the responsibility for this underachievement, particularly of social institutions and of those designing and upholding such institutions. Citizens of wealthy countries often deny this dimension and attribute underachievement of human rights to the local domestic factors in the country where they occur. Pogge terms this "explanatory nationalism" which diverts attention

from the fact that we may be morally and causally involved in this phenomenon. Therefore global institutional factors play a critical role in the reproduction of human suffering, and so their reform would greatly promote the achievement of human rights. Pogge refers to an interplay between national and global factors as the underfulfillment of human rights, and therefore the responsibility lies with both global and national institutional schemes which need reform. Those involved should discontinue, or compensate for their own benefits by working to reform such institutions or to protect their victims (Pogge, p.49).

One example concerns the issue of capital flight and the collaboration between individuals and institutions which makes this possible, reinforcing cycles of poverty. In 2011 Global Financial Integrity calculated that in 2008 developing countries lost an estimated $1.26 trillion in illegal financial flows. Through capital flight private capital is taken out of developing countries and placed in secretive banks in Switzerland, Luxembourg and the UK. The capital is usually derived from corruption, embezzlement, tax avoidance schemes and criminal activity. Transparency International, an anti-corruption NGO, stated that it is 'immoral' for western governments to allow such funds to circulate freely in their countries while Africa was sinking under the weight of debt and poverty (Borg & Regan, 2012).

Explanatory nationalism and the "do no harm" principle

Pogge draws a comparison between the national and the international arena. On a national level citizens usually strive for fair and open competition in a level playing field. In public life for example it is regarded as highly dangerous for officials to be partial and to endanger the access of some individuals or groups to the objects of their human rights (Pogge, p.124). If this concept is internationally accepted, and those who slant the national playing field in their favour are internationally despised, why are those who slant the international playing field in their favour and that of their compatriots applauded?

These slanting forces certainly operate in the global markets today, which are restricted by some interest groups to the disadvantage of others, and also result in market inefficiency. Adam Smith referred to these constraints as "precapitalist", where interest groups guaranteed insulation of their profits from the threats of market competition. This monopoly was criticised by Adam Smith, who argued against vested interests and the need for considering the public interest. Public interest can win if there is open public discussion. According to Sen, the discipline of economics has progressed to concentrate less on the value of freedom and more on the value of utilities, wealth and incomes. However human beings place great value on their freedom. If the same efficiency can be attained by two types of systems, the first a market mechanism and the second a centralised system ruled by a dictator, it is still natural for human beings to prefer the first system because of the importance of freedom. Substantive freedom, according to Sen, refers to the capability of individuals to choose a life they have reason to value. These

freedoms rely on political and social arrangements which can greatly impact the
achievements of the market through fair distribution (Sen, 1999).

Sen's argument applies to the global context of market restrictions by certain
dominant interest groups, with resulting restriction of freedom for other groups to
compete. In 2001, the Secretary General of the UN, in a report from the High Panel on
Financing for Development, estimated that the Third World was losing $130 billion every
year as a result of trade barriers. These barriers could be taxation-based measures such as
import tariffs, or hidden costs to trade such as overly stringent health and safety
regulations. International trade regulations are skewed in favour of rich and powerful
nations, because they force open trade in areas where rich nations are competitive
(technology and services) and close other areas where rich nations are not so competitive
(agriculture and textiles). Reciprocal tariff reductions still disadvantage small scale
operations in the developing world which are rendered uncompetitive as they face the use
of subsidies, hidden trade barriers and large scale corporations with huge financial
advantages. The European Union especially favors tariff escalation, where tariffs are
raised in relation to the level of processing of a product. Therefore unrefined
commodities such as raw vegetables and fruits are allowed in the EU markets tax-free,
but processed variants such as fruit juice and canned fruits are taxed. Escalating tariffs
discourage developing countries from refining their export commodities, and therefore
restrict many poor people in developing nations to exporting low value commodities
which are extremely price volatile. (Borg & Regan, 2012).

In explaining how policies lead to poverty and underdevelopment in disadvantaged nations, Pogge refers to the principle of 'do no harm'. He asks if it is morally worse to beat up a compatriot than a foreigner, or to defraud a poor family in one's own country than an equally poor family abroad. In such cases the concept of priority for compatriots is morally weak. Moral thinking is committed to a hierarchy of moral reasons in the following forms:

a) Negative duties not to wrong (duly harm) others.

b) Positive duties to protect one's next of kin from wrongdoing.

c) Positive duties to protect one's compatriots from wrongdoing.

d) Positive duties to protect unrelated foreigners from wrongdoing.

(Pogge, p.132).

Therefore a priority is allowed for compatriots, where it is morally more important to stop injustices committed against our compatriots than to stop those committed against foreigners by third parties; in the same manner it is more important to attend to the needs of our compatriots than to give assistance to foreigners. However when the undue harm suffered is our own doing, foreigners and compatriots are at par. Therefore the injustices we commit have the same weight, whether they are affecting foreigners or compatriots. The slanting of a global order in favour of some groups which then harms others is as morally unacceptable as if those "others" were our own.

Pogge introduces Kant's argument where "persons are entitled to equal freedom and should therefore constraint their freedom so that the freedom of each is consistent

with the equal freedom of all" (Pogge, p. 135). Therefore the person who acts beyond this limit is violating a negative duty not to unduly harm others, when his success constrains the success of others. John Locke also assumed that in a pre-institutional state of nature persons have equal moral claims to natural resources, in respect of the freedom to take possession of unowned land, water, minerals, animals, fruits, etc. The Lockean proviso that every person's unilateral appropriation in a state of nature must leave "enough, and as good" for others was not because this was a positive duty, but as an enforceable negative duty owed towards others. If persons can take more than others, they can harm others by taking more from their share. By Locke's reasoning the appropriate state of nature would lack most conveniences and technologies but have adequate food, shelter, clothing and clean water. Many people today lack the access to these basic necessities, as they are forced to comply with economic institutions and observe rights that others have gained over the world's wealth. Pogge writes that by Locke's account these people are being harmed because the harm is avoidable, foreseeable and cannot be justified by anything they have done. Pogge argues that although many people in wealthy nations reject the unjust institutions for example in Brazil, where the elite are unduly harming the poor by imposing unjust institutions, they fail to accept the same responsibility of the global economic system. Pogge terms this as "explanatory nationalism".

Many citizens of developed countries however are not aware of the harm being done to developing nations by their own nations. A report of the Secretary General of the UN to the General Assembly in 2010 noted that developing countries as a group were providing net financial resources to developed countries, which amounted to $513 billion

in 2009. This is the opposite of the dominant worldview about the generosity of rich countries towards developing countries, mediated through the lens of charity and benevolence. The 5:50:500 equation relates to the fact that, based on OECD and IMF figures, for the last ten years non-governmental agencies have contributed $5 billion worth of aid to developing countries. For governments this amount is $50 billion, while developing countries lose $500 billion yearly due to the operation of an unjust international economic system. These costs are incurred through:

a) Interest payments on Third World Debt of some $375 billion, amounting to $34 billion minimum

b) Unjust trade barriers cost the developing countries $130 billion minimum

c) Corruption and capital flight cost developing countries $40 billion minimum

d) Brain drain costs for developing countries amount to $100 billion minimum

(Borg & Regan, 2012)

Debt repayment continues to cripple the poor of the world. In 2009 Africa's external debt was $300 billion, and African countries were spending 16% of the continent's export earning on servicing this debt. The diversion of these finances slows down economic development and growth (Borg & Regan, 2012).

Economic freedom, corruption and appropriation of wealth

According to Sen, development is the expanding of real freedoms that people enjoy. These freedoms can be expanded through growth of GNP and individual incomes, but there are also other important determinants such as social and economic arrangements, civil and political rights. The removal of barriers is therefore critical for 'economic freedom', according to Sen, and consequently to addressing sources of poverty, tyranny, and barriers to economic opportunity. Many people are excluded from these basic freedoms, where economic poverty reduces people's freedom to satisfy hunger, to obtain medical treatment, shelter or access to sanitary facilities. The freedom of economic exchange and transaction is therefore part of the basic freedom people value, where the freedom to participate in labour markets is a critical factor in determining freedom from exclusion and bondage. Many however remain excluded from a market-oriented society and are denied access to product markets, especially small cultivators and producers who cannot compete under traditional arrangements (Sen, 1999).

Perhaps exclusion and discrimination can best be explained through the framework of violence. Johan Galtung explains these behaviours by highlighting the relationship between direct, structural and cultural violence in the violence triangle. He explains how cultural violence works in changing "the moral colour of an act" from wrong to right or acceptable. In this way direct or structural violence are legitimised and made acceptable in society. Galtung outlines four classes of basic needs:

a) survival needs (negation leads to death);

b) well being needs (negation leads to morbidity);

c) identity, meaning needs (negation leads to alienation); and

d) freedom needs (negation leads to repression).

(Galtung, p.292).

Galtung explains that violence affects consciousness formation and mobilisation, which are important for an effective struggle against exploitation. The effect comes through penetration (implant of the topdog inside the underdog), segmentation (giving the underdog only a partial view), marginalisation (keeping underdogs outside) and fragmentation (keeping underdogs apart). Criminal activity usually results from an attempt of the underdog to redistribute wealth, to get even, or to become a topdog. This is because direct and structural violence creates a needs deficit. Needs deprivation is serious and can lead to reactions of direct violence. Galtung explains how the capture and enslavement of Africans who were forced across the Atlantic was a massive form of direct violence that seeped down and sedimented as structural violence, producing and reproducing massive cultural violence with racist ideas everywhere. Although the direct violence of slavery is forgotten, practices of discrimination (structural violence) and prejudice (cultural violence) remain (Galtung, 1990).

The exclusion of developing countries from certain markets is therefore a type of structural violence. One example of exclusion in relation to barriers to markets is the EU 'Rules of Origin' restriction which is a type of hidden tariff barrier. These rules are used to determine where a product originates from, however some of the implications are farcical. One example is pineapple juice production in Ghana, where according to the

Rules of Origin the juice could not be considered Ghanaian even though the pineapples were from Ghana and the juicing, bottling and exporting was done by Ghanaian companies. Because the sugar came from somewhere else, the juice was denied duty free entry into the EU. Often these restrictions are hidden under health and safety regulations; in the EU these regulations adopt the 'precautionary principle' meaning that precaution should be taken even if there is no scientific proof of a causal relationship between the product and the risk (Borg & Regan, 2012).

In the case of sub-Saharan Africa the traditional arrangements Sen refers to include the effects of colonization, and the resulting oppression, enslavement and genocide. One needs to consider the effect of this history on the radical inequality that has developed to this day, in understanding how this inequality results from starting positions that were allocated by historical processes which violated moral principles and legal rules. The crimes committed during colonialism established this radical inequality and maintained it through institutions that reinforced the gap. One can analyse the impact of such institutions on developing countries. In the 1980s the World Bank and IMF adopted the Washington Consensus for economic growth through stabilization, privatization and liberalization. The developing countries were expected to adopt strategies where government intervention was to be kept minimal, the free market allowed to operate, and structural adjustment programmes implemented. These changes allowed affluent states to protect their own economies while ordering the developing states to abandon their protection measures. The EU today spends approximately 45% of its annual budget on agricultural subsidies, where the CAP (Common Agricultural

Policy) costs the EU $665 billion every year. The CAP subsidies support farmers for example with $2.60 a day for each cow. This is more than what 2 billion people across the developing world live on (Borg & Regan, 2012).

In considering the role of explanatory nationalism in economic deprivation citizens of developed countries usually regard corruption within developing countries as a primary cause of poverty. Such corruption is a reality, however even here Western nations are not innocent of the 'do no harm' principle. Contrary to what people in affluent countries assume regarding how imports are obtained through a fair exchange of market prices, the reality is that citizens of developing countries are dispossessed from their natural resources. This happens when citizens of wealthy nations and the holders of political and economic power in resource rich developing countries together enforce a global property scheme to claim the world's natural resources and distribute such resources among themselves. Pogge mentions the example of General Abache of Nigeria, who put the right winner of the 1993 election in jail and executed many other politicians. The decision of Western nations to buy oil from this General inflicted undue harm on the people of Nigeria, first by excluding them from their resource, and secondly by funding the General's arms expenditure which kept the people of Nigeria subjected to his tyranny. Resource-rich developing countries have a greater risk of having their officials corrupted than others; resources become an obstacle to growth and they foster coups, oppression and corruption (Pogge, p.142).

Western nations also benefit from the situation of developed nations in other ways. Many governments of poor countries face shortages of capital for investing in

education and providing safe drinking water, electricity and other provisions. Debt left by previous dictators and military rulers forces governments to take certain decisions rather than be shut out of international financial markets. The temptation is for governments to provide tax incentives for foreign investment in the construction of sweatshops and sex tourism resorts. Demanding minimal decent working conditions is difficult because foreign firms can shift their location to a different state. The real situation for appropriation of wealth in the world is one where there is vast inequality, where wealthy people use vast amounts of the world's resources unilaterally, without compensating the global poor for their disproportionate consumption. Even when there is payment, this goes to other affluent elite in the poor countries. Pogge argues that this is impossible today where billions are born in a world where all accessible resources are owned by others. The educational and employment restrictions the poor face make it extremely hard for them to improve their condition or to secure any proportion of the world's share of natural resources. Moreover the poor take a bigger share of the burdens resulting from environmental pollution and degradation (Pogge, p.199-204).

The relationship of Development to Migration

The next section will elaborate on theoretical approaches to migration and development, and ends with a study of return using a bottom up approach and taking the experience and perspective of returnees.

Migration and development theories

The debate on migration and development progressed from developmental optimism in the 1950s and 60s to neo-Marxist pessimism in the 1970s and 80s. This was as a result of paradigm shifts in social and developmental theory, reflecting divisions between state-centrist and neo-liberal views. Optimistic views arise from the neo-classical and the developmentalist theory. Neo-classical migration theory determines that balanced growth and the re-allocation of labour from rural to urban areas, is a prerequisite of economic growth and therefore contributes to the development process. The movement of labour creates labour scarcity in the migrant sending country, and therefore a higher marginal productivity of labour and increased wage levels. Therefore wage differences level between sending and receiving countries and migration greatly reduces. Developmental theories in the same time period regarded migrants as agents of change, in sending remittances and returning with capital, new ideas and knowledge.

From the late 1960s there was a shift towards historical-structuralist views, which regarded migration as increasing disparities in development between sending and receiving countries. These views regard migration as an escape from suffering caused by global capitalist expansion, and therefore unable to resolve the structural causes of development inequality. "Brain drain" results from the migration of skilled and productive workers and further increases the development gap. National and regional economies are therefore deprived of human and material capital resources, exploited for the benefit of industrialised countries (in international migration) and urban-based elite groups in developing countries (rural-urban migration). Dependence on remittances is also created, maintaining underdevelopment and subsequent migration. Agricultural sectors in rural areas are particularly affected by the out migration of strong young men. It is questionable whether the benefits of remittances alleviate the poverty of those most in need, and whether expenditures of remittances are productive. First of all, increased consumption and purchases leads to inflation and increase the inequality between migrants or returnees, and those who have stayed behind. Secondly, most products are purchased from abroad and imported, thereby crowding out local production. Thirdly, most investments by migrants are made in urban areas, thereby increasing the rural-urban disparity. Exposure of migrants to certain consumer patterns and different behaviors is also seen to have the potential to disrupt sociocultural integrity by undermining kinship and care systems in the sending country. The image of success that migrants usually bring with them in their countries also leads to a 'culture of migration', where young

people aspire to work abroad and are unwilling to work and develop their talents locally (De Haas, 2010).

In contrast to the optimistic and pessimistic views of migration and development, there are others which consider the elements of structure and agency. Agency refers to the limited but real capability of individuals to overcome constraints and re-shape structure. This perspective is important in understanding how migrants use their skills, knowledge and capabilities to achieve their goals, while being supported by community networks and family support. In the 1980s and 1990s the New Economics of Labor Migration (NELM) theory considered the family as the unit of analysis with the assumption that households and families act to maximise income and minimise risks. Therefore migration is seen as a household response to income risk, and migrant remittances as income insurance for households. Multiple strategies are adopted and links between migrants and their households in the countries of origin can engage in a broader social and economic context that contributes to development. Because of these links and strategies migrants do not need to return to their country in order to contribute to development.

The Transnational Perspective also highlights the transnational identities of migrants and their families, who are able to foster multiple loyalties, to travel from one country to another and to interact with people and work and do business simultaneously

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in distant places. Transnational lifestyles have challenged the assimilationist models and the modernist political construct of the nation-state and citizenship. Distinct definitions of terms such as 'temporary', 'permanent' and 'return migration' are difficult to sustain in an environment where migrants circulate and have simultaneous commitments to multiple societies. From this perspective integration in receiving countries and commitment to countries of origin are not substitutes, but complimentary to one another. Contrary to the assumption that in time migrants abroad loosen their ties with their countries of origin, it was found that migrants maintain strong transnational ties for sustained periods of time, which ties can also become trans-generational. These ties are maintained through remittances, ideas, telecommunications, visits and pendular migration patterns (De Haas, 2010).

Remittances and return in the migration-development nexus

Most studies conclude that remittances reduce poverty, although to a limited extent. Studies show that households receiving remittances have a higher tendency to invest and that these so called 'non productive' investments can have positive multiplier effects, as in the generation of employment and therefore poverty reduction for non migrants. The definition of 'productive investment' is often a subject of argument, and so is the definition of development. Amartya Sen defines development as "the process of expanding the substantive freedoms that people enjoy" (De Haas, 2010). Therefore expenditures on health, recreation, education, medicine, housing and other projects

should be seen as contributing to development because they enhance the well being and capability of human beings.

Remittances have also had a statistical impact on the conclusions of institutions. The World Bank estimated officially recorded remittances to developing countries in 2010 to be $334 billion. These flows would be as much as 50% higher if they included remittances sent through informal channels. Estimated remittances are therefore more than double the official aid received by developing countries (UNDP, 2011). According to Delgado Wise and Marquez Covarrubias, international organisations led by the World Bank and Inter-American Development Bank have been pursuing an international political agenda in the areas of migration and development. They point out that although the World Bank has become more cautious about the relationship between remittances and migration, the impact of SAPs (structural adjustment programmes) as a key element of neoliberal policy of the World Bank and IMF (International Monetary Fund) is the root cause of South-North migration and remittance flows. Instead of contributing to development, SAPs reinforced the dynamics of underdevelopment. These factors are often left out of the migration-development agenda, whereas macro-processes of development need to be taken in consideration. The proposition of Delgado Wise and Covarrubias is that processes of underdevelopment/development should be seen as a source of international migration, and therefore the need to consider structural and institutional reform and socio economic improvement in real terms (Delgado Wise & Marquez Covarrubias, 2009).

De Haas concludes that although remittances positively impact the welfare of families and households in the sending countries, general development requires structural political, social and institutional reform which can only be achieved through state intervention. Migrants and remittances cannot be blamed for lack of development, or expected to trigger development in unattractive investment environments. On the contrary, positive economic development and increased trust in governments increases the likelihood of migrants investing, circulating and returning to their countries of origin (De Haas, 2010).

Van Houte and Davids provide a critique on the convenient application of the concept of migration and development to involuntary return (Van Houte & Davids, 2008). In this critique governments of receiving countries can justify the return of migrants using positive concepts such as assisted voluntary return and by highlighting the contribution of returning migrants to the development of their communities and regions. Governments need to take into consideration the importance of return sustainability, the concept of 'embeddedness' and the different factors that influence embeddedness.

The authors emphasise that restrictive asylum policies in Europe and the emphasis on the return of rejected asylum seekers, refugees and irregular migrants have turned the attention of governments and international organisations towards return migration. Return is therefore seen as a positive factor for the sending country, the contribution of positive development by returnees. This concept has acted as a motivation for governments to control migration, and therefore to include these concepts into policies. The policy of returning migrants in Europe is applied on a large scale, but there is very little evidence

and research on the situation of returnees. NGOs are also divided about the subject, where some are cautious and reluctant about these policies while others use them to attempt to support migrants to return safely and independently to their country of origin (Van Houte & Davids, 2008).

A critical question on the relationship between return, sustainability and development addresses the assumption that refugees are returning "home", when the reasons for which they left was that they did not feel at "home". Migrants often change in terms of identity when they live outside their home countries, while conditions and social relations have also changed back in their countries of origin. These factors have a strong influence on the success or failure of return migration. Instead of contributing to development, those returning to very poor communities and families may be bringing extra pressure on the weak economy and fragile social system. This can create conflict and act as a push factor for re-migration. Particularly vulnerable are those who are returned involuntarily. The meaning of "voluntary or involuntary return" here is important. When migrants who are obliged to return to their country of origin do so without being forcefully expelled, this is referred to as "voluntary return" by governments and NGOs. Critics argue and question this term, because return cannot be voluntary if there is no legal alternative and when there is the threat of sanctions. Voluntary return can only be called so when the person deciding whether or not to return or not has alternative options and decides to return based on a free informed choice. Therefore those who do not have this choice cannot be termed voluntary returnees (Van Houte & Davids, p. 1423).

As to the contribution of returnees to development, research shows that local populations and families are many times resistant to the changes that the returnee wants to make on return. According to De Haas, the discrepancy between restrictive immigration policies and discourse on return alienates returnees and reduces their motivation to return, invest and participate in public debate. Therefore contribution to development for returnees depends greatly on the sustainability of their return. Black et al. point to three elements of sustainability:

a) the subjective perspective of the returnee;

b) the objective conditions of the returnee; and

c) the aggregate conditions in the home country.

Using the concept of embeddedness, Van Houte and Davids explain the importance of returnee agency and self determination in the construction of returnees' livelihoods on return. Also important are the influence of other factors beyond their control, such as age, gender and social class. Two important elements that stand out as having great influence on re-migration and development are 'assistance', and the 'migration cycle'.

Van Houte and Davids base their article on a pilot study conducted in 2006 among 131 voluntary and involuntary returning migrants from Western Europe, and relocated migrants from Angola, Guinea, Bosnia-Herzegovina and Somalia, and on a standardised monitoring study from 2007-2008 on assistance to 178 involuntary returning rejected asylum seekers and ex-refugees in six different countries, three of them in Africa (Van Houte & Davids, p.1412-1414).

Embeddedness; Economics, social networks and the psychosocial dimension

The concept of embeddedness was developed by Granovetter in 1985, to measure trust as part and parcel of social networks that are crucial for successful company transactions. The concept of mixed embeddedness was then used by others in relation to migrant entrepreneurship. In remigration research the concept of embeddedness refers to three multidimensional factors: the individual's finding of his or her own position in society, the feeling of a sense of belonging and the individual's participation in that society. Three particular issues featured in the research analysis of Van Houte and Davids:

1. Economics of return

Although most returnees were able to meet their daily needs, their situation was unstable. Home ownership was very low because some returnees had sold their houses in order to pay for their journey. Living with relatives was seen as an extra burden, creating crowding and family tensions, and renting was expensive. 50 % of returnees depended completely on other sources of income rather than their own income-generating capacities, namely from allowances, remittances, loans, public relief or humanitarian assistance. This dependency placed returnees in a position of great vulnerability. The other 50% who were generating income through salary, wage labour or revenue from

trade were not in a sustainable income position. Out of those in stable employment 30%

had insufficient income to support themselves and their dependants.

Embededdness first refers to the economic impact of return, the extent to which

one can have a sustainable livelihood and own or have access to resources and assets,

while having the capability to maintain and expand on those assets. The environment to

which migrants return is usually fragile, where out migration is often the only solution for

security and stability. Sustainable livelihood also refers to the ability of being resistant to

shock and to maintaining livelihood capabilities into the next generation. The latter can

be ensured by institutional access to education and healthcare, which in the research were

found to be more determined by the situation of the country of return than by the situation

of the returnee. Access to basic healthcare in many countries was free, but hospital

treatment and medicines had to be paid for privately. 39% of returnees reported not

having access to healthcare services as a result of insufficient finances, and had to borrow

money or depend on other non-medical options when they were sick.

2. Psychosocial embeddedness

Belonging and attachment of returnees in their community depended on their

access to freedom in constructing an identity which was accepted by the society they

lived in. Most returnees in the research claimed they did not have a problem in expressing

their identity, but 70% claimed they had adopted some norms and values of the host

country which influenced the way they perceived their own societies. The perception of returnees by the societies to which they return depended very much on their success or failure as to their ability to bring back money and assets. Those who were perceived to have failed faced discrimination, exclusion and stigma, were not allowed to express any different attitudes or behaviours. Some also tried to hide their returnee status in order to seek acceptance in their community. those who were successful gained status and their new behaviour was better tolerated.

Psychosocial embeddedness was difficult especially for those whose experiences of trauma in countries of origin undergoing conflict had long-term traumatising effects. Restrictive and patronising living conditions resulted in passivity, dependency and loss of self-esteem for returnees. These psychosocial instabilities combined with other family pressures and reduced the ability of returnees to cope with the hardships of return. The returnee was therefore vulnerable to mental health difficulties and psychological problems.

3. Social embeddedness

Social networks add to social capital, in providing migrants with the feeling of being accepted which is crucial for the success of return. Social networks assist returnees in establishing cross border social and economic networks that are important for the returnees to mobilize their resources. In the more advantaged families, returnees had

more access to social contacts which provided access to shelter, assets, networks and income. In disadvantaged families, however, returnees were seen as a burden.

Returnees often depended on a smaller social network, mainly involving members of the nuclear family, which rendered them more vulnerable to isolation. 76% of respondents said they would leave their country if they had opportunity to do so, and only 35% wanted to become embedded in their country again. Therefore many respondents did not have the means to re-migrate but were unwilling to accept the fact that they had to stay in their country of origin. This lack of embeddedness created an unstable situation with lack of future prospects for returnees in their home country.
(Van Houte & Davids, p.1414-1419).

The migration cycle and assistance

There are other factors affecting return. The migration cycle refers to the circumstances under which one arrives at the host country, and the expectations of migrants of their stay in the host country. When migrants leave their country of origin with the expectation to return they invest in transnational networks and find it easier to accept return. The experience in the host country is therefore an important determinant. Social networks, independent living circumstances and employment opportunities lead to an active life and prevent the degradation of self esteem and survival skills which is significant for the embeddedness of returnees. The conditions under which return takes

place are also important, so that decisions of return are restricted by factors related to migrants' immigration status.

Assistance is another determining factor, where pre-return preparation assistance from family and friends contributes to all dimensions of embeddedness. This contrasts with the lack of confidence of returnees in the NGOs that offer the same assistance. In the research these NGOs were perceived as deceptive, raising expectations pre-return which did not materialise on return. The monitoring study revealed that government organisations were more interested in encouraging migrants to return and therefore gave a more positive picture of available assistance.

Post return assistance is critical for the success of return based on pre return preparation and information assistance. In the study 67% had access to tangible forms of assistance after return, such as finances, housing and medication. Other types of assistance were less common, especially counselling and information assistance. Monetary assistance needed monitoring in order to ensure that the money was spent on those projects for which it was given, while assistance for investing in a project significantly increased chances for embeddedness because of the presence of a conscious process aimed at income generation. Some initiatives recognised that not all returnees are entrepreneurial and therefore provided assistance for finding employment through subsidised programmes of employment for a span of six months. It was questionable however whether the participants could keep their job after the subsidy ran out. Practical information for returnees was also found lacking in the countries of return. Return assistance post return mainly involved two types of programmes: host government

programmes implemented by the International Organization for Migration (IOM) and programmes provided by local organizations funded by Western NGOs. Government funded institutions such as IOM had access to substantial funding, however local NGOs provided a more personalised and flexible approach. The latter had limitations of budget and scale and were often not specialised in issues of return migration. The informal and flexible manner of provision was also a weakness because boundaries were not as clear in relation to what the returnees could expect and what the NGOs could provide (Van Houte & Davids, p. 1420-1425).

A bottom up perspective to return migration

Van Houtes and Davids recommend a bottom-up perspective to return migration in order to include the meaning migrants themselves give to their migration experience as part of their building up a sense of belonging to their society of return. In both studies the findings show that it was extremely difficult for forced returnees to become re-embedded in their country of origin. Returnees were often worse off than they were pre-migration in terms of income and housing, whereby returnees could not be expected to contribute to development. The return experience rather led to further deprivation for the individual, the community and the country, and therefore to underdevelopment.

Van Houte and Davids explain that there is an inconsistency in Western European migration policies. On the one hand assisted voluntary return programmes are supported with the intention and the financial commitment necessary to making return migration contribute towards development. On the other hand this intention is undermined by restrictive migration policies and by the limitation of the rights of migrants in the host countries. Such limiting conditions cause migrants to become passive and dependant on social welfare, with a loss of survival skills and self esteem. They are therefore constructed as "citizens in between states", persons with no chance for contributing or earning a position in the host society, and therefore superfluous (Van Houte & Davids, p.1426). Since citizenship is a prerequisite for the enjoyment of human rights (Arendt, 1951), the boundaries created between those who enjoy citizenship rights and those who are excluded from them in themselves create a definition of the migrant. Today the migrant is the "underprivileged legal subject in Europe… constantly shaped, changed, eventually altered; rights are conferred to, rights are taken away from migrants, according to the interests of supranational and national entities" (Konsta & Lazaridis, 2010). These conditions create "plasticity", whereby regulating laws and policies are usually applied in a discriminating manner, leading to differentiation between migrants, and to transformation of the self. Plasticity implies that this transformation cannot be reversed, and that new subjectivities replace old ones. However the use of power creates resistance (Foucauld, 1978). Therefore "plasticity in citizenship", described by the blurring of boundaries that are constantly changing, leads to "plastic subjectivities" (a transformation

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of migrants' subjectivities), which can resist and find ways to escape the rigid social structures (Konsta & Lazaridis, p.368).

After return, assistance programmes cannot undo the harm done through many years of such conditions of living. The expectation on human beings who have been seen and treated as 'superfluous' to suddenly transform into actors that can rebuild societies is a paradox. If Western nations are sincere in their intentions to make return migration work for development, they must give migrants more rights to live an independent life in the host country, especially the right to work even during the asylum procedure. This will contribute to their ability to earn income and save, which greatly enhances prospects for return. In addition, restrictive immigration policies cause people to try and stay in host countries as much as possible, as they see this as their only chance to improve their life. Van Houte and Davids recommend that giving space for migrants to come and go could release the pressure and change the attitude of migrants. The implication is to loosen restrictive migration policies for temporary labour migration. Finally the authors also recommend that NGOs need to be careful in the way they make claims about sustainability, so as not to create false expectations from potential returnees and governments. The danger is that governments may use these claims to further legitimise their return policies. (Van Houte & Davids, p.1425-1427).

The literature review finds that AVRs are operating in the context of a broader migration and development policy scenario, where many global and social inequalities have existed and persisted throughout history. The lack of dialogue and agreement on

universal criteria of justice can be a driving force for more powerful institutions such as the European Union to dictate, articulate, and decide on measures and policies effecting developing nations. In this way the human rights of those affected by development inequalities become articulated by powerful institutions in a legal framework, but they by-pass the realities, experiences, desires and aspirations of such people, communities and nations. While return strategies such as AVRs are seen to be positive by powerful institutions, the literature finds research evidence that contradicts these assumptions, and finds strong evidence that the reality is different for those "others" for whom the strategies are designed. The research will therefore continue to explore EU policy on migration, return and development, and contrast this policy framework to the perceptions of migrants, returnees and experts in the migration field. Comparing these two sources can further highlight consistencies or inconsistencies, in relation to the concepts explored in the literature review, and in relation to the research question on the effectiveness of AVRs .

EU POLICY ON MIGRATION, DEVELOPMENT AND RETURN

This chapter focuses more closely on how the challenges of irregular migration are addressed by the policy responses of the European Union. It is particularly interesting to explore the consistency of the European Union in its policy documents on issues of migration and development, and to analyse how this response addresses the international obligations set by international law and the priorities of the European Union of freedom, security and prosperity.

Irregular migration and Refugee Law

In the context of irregular migration from Africa to Europe, asylum application is considered to be a major legal route for entering EU member states and attempting to obtain legal residence. Therefore, one of the most important factors that can determine the future of an asylum seeker is the way by which refugee law is applied to cases presented by refugee lawyers representing asylum seekers. The 1951 Convention on the Status of Refugees is taken as the key legal document in defining who is a refugee, their rights and the legal obligation of states. According to Article 1 of this Convention, "persons qualify as refugees when they leave owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership to a particular social

group or political opinion… who is unable or unwilling to return to it." (UN General Assembly, 1951).

Because this convention provides major obligations on states for the provision of rights and benefits, through the enforcement and monitoring by international bodies such as UNHCR, those who are granted refugee status have higher security, in terms of legal rights and benefits, than those who do not. This differentiation is important, in highlighting first of all how decisions are made in selecting those who deserve to be granted refugee status, and secondly as to how the European Union interprets this differentiation in terms of provision for mechanisms of selection. These mechanisms of selection will be discussed later in the chapter.

Return policies and strategies are controlled by refugee law, especially the principle of non-refoulement (Article 33) which states that " no contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality or membership." (UN General Assembly, 1951). The legislation in refugee law therefore establishes that the status of persons is determined by the reasons for which they left, and makes a clear distinction between reasons of "persecution" and other reasons, which may be economic or environmental in nature. This differentiation can be seen in the penalties received by those EU member states who have had cases of non-refoulement brought before the European Court of Human Rights (ECHR). For example, non- refoulement was the basis upon which rested the decision of the Hirsi case in 2009. During this time, because of peaks in arrivals, it became common practice to expel or deport persons

outside the limits and procedures established by legislation for this purpose. In 2009 three boats were detected and after refusal by Malta to intervene (since it was in its Search And Rescue area), Italian boats intervened and returned 200 people to Libya, without undertaking any legal procedures and in disregard for the degrading treatment they would be subjected to in Libya. 11 Eritreans and 13 Somalis presented their case before the ECHR (European Court of Human Rights) and won the case on the principle of non-refoulement (Nascimbene, 2012).

Border control is also regulated by asylum laws that guarantee protection to those who seek international protection. Bilateral agreements between two states, such as those between Italy and Libya, and those between Spain and Morocco, are usually used to extend border control, or they may be readmission agreements that act as push back policies. Sometimes these agreements can allow the police of one nation state to monitor airports in another nation state (outside the territory of jurisdiction). These agreements have been criticised because of the threat of authorities acting indiscriminately, especially when there are no entities representing the rights of asylum seekers. EU law and EU policies guarantee the right to asylum, and therefore must ensure that persons at borders seeking to leave the country because of persecution would not be stopped by police (Meccanico, 2012).

Border Control and Freedom of Movement

The Stockhom Programme is the response of the European Council to fulfill its

obligation to develop an area of freedom, security and justice "for peoples of the States

brought together by the Union" (European Council, C115/4). It follows on from the

previous Tampere Programme and Hague Programme, which were seen to be successful

in a number of ways, and strategic in removing internal border control in the Schengen

area, while managing the external borders of the Union. The free movement of people

had been an important objective for European integration since the 1950s. During the

1980s five member states- Belgium, France, Germany, Luxembourg and the Netherlands

had met in Schengen, Luxembourg to sign agreements on the free movement of persons

within the "Schengen area". When the convention came into force in 1995, the area had a

single external border, and internal border checks were removed. Visa and asylum

policies were also common to all the member states. The increasing focus on reaching a

balance between freedom and security led to the development of measures to coordinate

the work of the police and that of the judicial authorities in addressing "organised crime

networks". In 1999 the signing of the Treaty of Amsterdam allowed this cooperative

framework to be implemented among the member states of the European Union. The task

of coordinating border management also necessitated the establishment of FRONTEX (

the European Agency for the Management of operational Cooperation at the External

Borders of the member States of the European union) (Frontex, 2012).

In the context of African migration to Europe, the faces two challenges. First of all, it

is faced with the challenge of defining security. In some of the EU policy documents

security is defined in terms of trafficking networks, and therefore the need for border

control is portrayed as 'beneficial' for irregular migrants who may be victims of trafficking. In other documents security is defined in terms of the inability of Europe to cope with large numbers of irregular migrants. In this case migration control and migration management is described as a necessary tool for the stability of EU member states and for their proper functioning. However, because of international obligations, and perhaps because of higher moral obligations, definitions of security also need to consider the rights of those who are outside the protection and security of the EU. The second challenge of the European Union is therefore how it should interact with asylum seekers, and how to set up politically correct mechanisms in addressing both the priorities of the European Union to establish its own security and freedom, and to fulfill its international obligation in relation to the human rights of asylum seekers and irregular migrants.

The strategy of the European Union was to set up systems, agencies and institutions for migration management, institutionalizing the various issues arising from irregular migration. It established the Common European Asylum System, Europol, Eurojust, Frontex and the European Union Agency for Fundamental Rights (European Council, 2010). The European Asylum Support Office (EASO) was also established on the 19th May, 2010 and officially inaugurated in Malta on the 7th September 2012 (EASO, n.d.). Therefore the Stockholm Programme addresses the integrated management of external borders through the agencies of Frontex and EASO. The emphasis is on maintaining a high level of security and border control, which however does not limit "access of protection systems by those persons entitled to benefit from them, and especially people and groups that are in vulnerable situations" (European Council, C115/26). The role of

EASO is seen as important in identifying those persons and vulnerable groups in need of protection, while Frontex is a key agency in migration management, required to increase its capacity and its involvement in border control operations within land borders to the East and sea borders in the South. The possibility of long term operations for Frontex is seen in discussions to set up a "European system of border guards" (European Council, C115/26). EASO's yearly budget in 2012 was EUR12 million, while that of FRONTEX was EUR10 million. The large annual budgets of these agencies indicate the strong commitment of the European Union to its key interests, first in guaranteeing the freedom, security and prosperity of its citizens, and secondly in establishing itself as a key international player in respecting the rights of refugees. In both these strategies the European Union is selective, differentiating between EU citizens and non-citizens, and between those to whom it is obliged under international law, and those to whom it is not.

The attempt to resolve the challenges of irregular migration through policies, plans, agencies and systems, and the lack of effort to involve and engage countries of origin and transition, exposes a weakness of the European Union in being able to gather support and co-operation from developing nations. This weakness relates to the politics of exclusion and inclusion, determining which member states could be part of the European Union and which migrants are therefore more acceptable than others. This differentiation sets the pace for discriminatory practices because policies are used to select those who merit certain rights, while the rights of others are usually neglected. AVRs are then seen as a solution for those who have failed the asylum process and could be forcefully returned to their country of origin.

The Common European Asylum System and the Return Directive

On the 12th June 2013 the European Parliament voted in favour of the Common
European Asylum Policy, a development which the European Parliament and the EU
member states had aspired to since 1999. (European Commission 2013, MEMO/13/534).
The new system has directives and regulations for ensuring the harmonisation and
standardisation of asylum systems in all EU member states. Under the CEAS, if asylum is
not granted at the first instance of asylum application, the refusal may be appealed in
court. If the first instance decision is confirmed the person may be returned to their
country of origin or transit country (European Commission, 2013, MEMO/13/532). As
pointed out earlier, asylum decisions are extremely important for determining the future
of asylum seekers. It is however widely recognised that there are many push factors of
migration, besides those factors pertaining to persecution as defined by refugee law, and
connected to economic, environmental, social or developmental causes. Because factors
of persecution are so important in asylum law, those affected by other legitimate push
factors for migration seek to use the same means (asylum) for seeking protection from
these causes. Protection from persecution is therefore used by asylum seekers to seek
protection from other causes of migration, such as crop failure, lack of access to
healthcare and social deprivation. Mixed flows of irregular migrants arriving by boat

together may be taken to represent all the push factors of migration, while systems of selection create the need for them make certain types of appeals and present certain types of cases.

In June 2008 the European Parliament adopted a directive on the return of irregular migrants, with the purpose of establishing common EU legislation for procedures of return. A European Parliament press release reported that this step encourages voluntary return of irregular migrants and establishes a minimum standard of treatment while in the country. Amendments by certain groups seeking to make legislation more favourable to individuals who are the subject of an expulsion order were rejected, as well as a proposal to reject the directive. The legislation adopted provided for a two step approach concerning the decision to deport an individual as follows:

a) the deportation decision is immediately followed by a voluntary departure period limited to between 7 to 30 days; and

b) if the deportee does not leave a removal order is issued and the person may be placed in custody by the removal order issued by a judicial authority if it is suspected that the individual might abscond. The maximum period of custody is 6 months but this may be extended to 12 months in certain cases. An amendment to reduce this to 3 months was rejected.

A re-entry ban applies for 5 years maximum if the person is deported after the voluntary return period is expired, or longer if the individual presents a serious threat to public safety. However member states can however retain the right to waive, cancel or suspend such bans. (European Parliament, 2008).

The Return Directive found some support from certain groups while others were disappointed with the directive. EU Justice, Freedom and Security Commissioner Jacques Barrot supported the compromise reached in Parliament on the Return Directive because it gave priority to voluntary return and protected the rights of children and families. The rapporteur on the directive in the European Parliament, German MEP Manfred Weber, stated that the directive provided for a good balance between a rigid policy of repatriation and the provision of humanitarian standards in respect of migrants residing illegally in EU member states. However Amnesty International, the European Council on Refugees and Exiles (ECRE) and UNHCR criticised the directive because it seeks to harmonise harsh practices and policies that increase the risk of prolonged detention and fail to guarantee the safety and dignity of returning migrants (Euroactiv.com, 2012).

The UNHCR points out the lack of procedural safeguards for persons in need of protection in the directive. Article 2(2)(a) of the Directive allows member states to exclude persons apprehended for "irregular crossing of an external border" and who have not obtained authorisation to stay from the scope of the directive, although there are some limited guarantees. This may imply that the protections under the Return Directive would only apply to third-country nationals who entered the EU legally. The UNHCR argues that visa regulations and entry restrictions subject many persons in need of protection to enter the EU in an irregular manner (UNHCR, 2008). ECRE (the European Council on Refugees and Exiles) also points out that the EU is seeking readmission agreements with several third countries in order to facilitate the return of persons who have crossed borders of EU member states in an irregular manner, or have overstayed.

These agreements are often used to return persons just after they have crossed the border irregularly without an assessment of their protection needs (ECRE, n.d.).

Further, Article 11(3) of the Return Directive undermines the possibility for individuals to appeal against a return decision since member states are not required to provide a translation of information of the main elements of removal and entry ban decisions. The wording of Article 12(4) does not oblige member states to provide legal aid, and therefore persons in need of protection are at risk of removal. UNHCR also finds that the safeguards set forth under the Return Directive are not effective. Those persons excluded from the scope of the directive still need to have a minimum level of safeguards. In the directive these safeguards only relate to the use of coercive measures, detention conditions, the postponement of removal, emergency health care and to the unspecific reference of the needs of vulnerable persons. No specific safeguards are set out to address the needs of vulnerable persons in removal situations, and the safeguards for unaccompanied minors are insufficient as required by the Convention on the Rights of the Child, where member states are required to do more than to simply take "due account" of the best interest of the child under Article 5 of the Return Directive. (UNHCR, p.1).

UNHCR finds that the Return Directive does not address effectively the absence of administrative detention standards of foreigners, which is regulated differently from criminal detention in member states, effectively. The possibility of extending the detention period to 18 months concerns cases where there is lack of co-operation or in cases of delays related to the obtaining of documentation means that these. These reasons

however can cover a wide range of cases. "Lack of co-operation" can be problematic as a ground for extending the detention period, especially if the individual is not clearly informed about the implications of failure to co-operate. The inability of obtaining documentation can be the responsibility of the country, for which however the directive sanctions the individual by extending the detention period (UNHCR, p. 2). ECRE points out that third country nationals who are not detained are given as little as 7 days to leave the country (ECRE, 2008). ECRE and Amnesty International point out that the Return Directive fails to uphold human rights, because of the excessive detention period and the lack of real opportunities for voluntary return before removal by force (ECRE & Amnesty International, 2008). These issues are all critical since Assistance Voluntary Return programmes are usually promoted in detention, and therefore such conditions may increase the duress under which migrants may take impulsive or unreasonable action.

The European Pact on Immigration and Asylum

In 2008 the European Council issued the European Pact on Immigration and Asylum (EPIA) which recognises the benefits of migration as an opportunity for human and economic exchange. The EPIA acknowledges that migration enables people "to achieve what they aspire to", while contributing to economic growth in the European Union, especially in response to labour markets which are affected by demographic factors in European Union member states. Consequently, the freedom of movement for third

country nationals (TCNs) within the European Union is very important. However, these processes are not without challenges. Migration flows need to be managed, since Europe cannot accept all those hoping to be received (European Council, 2008).

The EPIA outlines the five basic commitments of the European Union for the effective management of migration:

a)   to organise legal immigration addressing priorities, needs and reception capacities as well as integration;

b)   to control illegal immigration by ensuring that those residing illegally are returned to their countries of origin or of transit;

c)   to make border controls more effective;

d)   to construct a Europe of asylum and to; and

e)   to create partnership with countries of origin and transit countries in order to address the gap between migration and development.

The plan set out in the EPIA is built on previous concepts of security and freedom, and there is little reference to the factors that challenge this plan. Some objectives may conflict. Border control cannot simply be made effective without ensuring there is access to asylum processes. The objective to ensure the return of those residing illegally can conflict with the objective of the EU to partnership with countries of origin and transit. In this document, the EU member states are encouraged to strive for cooperation with countries of origin and transit countries, under the Global Approach to Migration, for the control of illegal migration. The EPIA explains that member states should promote police

and judicial cooperation to combat human trafficking and to inform communities particularly vulnerable to particular migration decisions that are life- threatening. They should also provide incentives for the preferable option of assisted voluntary return, and ensure that even those illegally residing in the country would not be exploited, by applying dissuasive policies and penalties (Council of the European Union, p.7,8). In these contexts therefore asylum seekers who are not granted asylum protection are seen to be vulnerable, requiring the protection and intervention of EU member states. They are also vulnerable to making migration decisions, however the document does not elaborate on these particular vulnerabilities. The focus is to "inform" such communities, an option which seems to imply that persons may resort to irregular migration because of lack of information. The smugglers and traffickers are seen as the ones benefiting and encouraging such decisions, and this may well be the reality. However primary causes and push factors are largely ignored. Further, in the same document, irregular migrants are persons in breach of immigration laws who should be stopped or returned. In order to do this border controls need to be more effective by making use of available resources for the control of external borders, especially of the border control agency Frontex. The issuing of biometric visas since 2012, as a result of the Visa Information System (VIS), was seen to improve cooperation between the consulates of member states and facilitate border control. (Council of the European Union, p. 9, 10). These measures however do not reflect the disagreements and conflicts between EU member states in issues related to the reallocation of migrants, especially because such decisions are taken at national level. The prescriptive elements may not always translate into practice, leaving certain states

such as Malta, Italy and Greece vulnerable to migration pressures, while releasing others from responsibility. Because of national interests and competitive forces among EU member states, it is difficult for the European Union to turn such migration issues over as Union decisions, especially in relation to "burden sharing" (Council of the European Union, p.11,12).

In addressing the need for partnership and cooperation between EU member states and countries of origin and transit countries, the European Council refers to the Global Approach to Migration, to the Euro-African conferences in Rabat and Tripoli in 2006, and the Euro-African summit in Lisbon in 2007. These developments had placed migration on the agenda of external relations of members states and the European Union, where efforts were made for bilateral and EU-level agreements with countries of origin and transit countries to include "clauses on the opportunities for legal migration adapted to the labour market situation in the member states, the control of illegal migration, readmission, and the development of the countries of origin and of transit…" (Council of the European Union, p.13). The plan of the European Union here is to place challenging migration issues on the agenda of development issues. The reason may be that the European Union seeks to gain the cooperation of countries of origin, using certain incentives. These incentives however may not always work out, especially in the case of developing countries which are prone to conflicts and instabilities, where border control is impossible due large expansive spaces which require massive resources for border patrol. In these negotiations the voices of those vulnerable persons who risk their lives to secure the welfare of other family members from the threats of economic and social

deprivations grow dimmer and less important. Their security and safety is not guaranteed, neither by their governments, nor by international institutions. The smuggler and trafficker may therefore be the only persons who provide a way out of poverty and unemployment.

The Global Approach to Migration

The Global Approach to Migration (GAM) has been the European Union's framework for dialogue and cooperation with non-EU countries of origin, transit and destination since 2005. The three goals of the GAM are structurally related to those in the EPIA and to the Stockholm Programme:

a) the promotion of mobility and organised legal migration;

b) the control and prevention of illegal migration in a humane manner; and

c) the strengthening of the synergy between migration and development

(European Commission, 2012)

The particular initiatives of the GAM in relation to organised migration have been to provide information to potential migrants about the potential for legal migration and the rights and obligations in EU countries. Other initiatives included the matching of

labour skills and the upgrading of skills prior to departure, the recognition of foreign qualifications and the preparation for return and reintegration in the labour market. In the context of irregular migration the GAM initiatives focused on commitments to address readmission, return, smuggling and trafficking. Other intitiatives focused on capacity building for border management, and the posting of Immigration Liaison Officers in EU State embassies. GAM initiatives have addressed the relationship between diasporas, their remittances and development. Others focused on reducing the negative impact of brain drain and brain waste, and on circular migration, the transfer of pension rights and the social aspects of migration (European Commission, 2012).

Financial and technical assistance for the GAM comes from geographic and thematic external instruments pertaining to EU International Affairs policies. A specific programme was set up for promoting cooperation with non-EU countries on asylum and migration, with an average annual budget of EUR55 million. The initiatives have been several, some sub-regional, others continental or bilateral. They include the Rabat process, the EU-African Partnership on Migration, Mobility and Employment in the South, and the EU-ACP Migration Dialogue. The EU has developed the following tools under the GAM :

a) migration profiles to increase knowledge on the link between migration patterns and development for policy development;

b) migration missions to establish contact between the EU and a non-EU country in order to establish dialogue and cooperation;

c) cooperation platforms bringing together stakeholders to promote dialogue and cooperation; and

d) mobility partnerships providing a framework for cooperation based on mutual commitments.

(European Commission, 2012)

Migration missions have been conducted in several states in subSaharan Africa, including Ethiopia, Ghana, Nigeria, Senegal and Cameroon. Migration profiles provide an analysis of the migration situation in a particular country, and a basis for migration dialogue and cooperation. Data and analysis include factors of unemployment, the labour market situation, remittances and skilled labour shortagess. Platforms serve to increase cooperation on migration issues between actors within a country or region, and to gather non-EU representatives, EU states, the European Commission and international organisations. Finally Mobility Partnerships offer opportunities for dialogue and cooperation on migration issues between EU member states and non-EU states. For each Mobility Partnership, priorities are agreed in Joint Declarations signed by the EU, the EU member state and the partner country. The project initiatives are developed into actions and placed in a Mobility Partnership scoreboard. However, to this day there has not been a Mobility Partnership between an EU member state and a sub-Saharan African country. The only Southern states benefiting from this initiative have been Morocco and Cape Verde (European Commission, 2013).

The Euro-African Migration and Development process:

The Rabat Process and the Tripoli Declaration

The Rabat process is part of a developing dialogue between Europe and Africa on migration issues, and part of the African-EU partnership on migration, mobility and employment within the joint EU-African strategy as a framework of dialogue established in the 2007 Lisbon Summit. On the 10th of July 2006 the first Euro-African conference on migration and development was held in Rabat, Morocco as a response to humanitarian and migration challenges, by Ministers from various countries which were concerned by the West African migration route. The aim of the Rabat Process was to use migration dialogue for better cooperation and for creating partnership between sending, transit and destination countries in the EU and in West and Central Africa (Euro-African Migration and Development process, 2008). A ministerial meeting followed on November 2006 in Tripoli, where several Ministers from Africa and EU member states met together with EU and AU(African Union) Commissioners. The meeting resulted in a commitment of partnership between countries of origin, transit and destination for the more effective, responsible and holistic management of migration. The declaration states that there is the need for political commitment and concrete action from the EU- Africa partnership, based on common understanding of the benefits and challenges of migration. Commitments were made focusing on strategies for poverty reduction, upholding the rule of law and human rights, and supporting Africa's capacity for conflict prevention,

conflict resolution and post-conflict reconstruction. Other commitments included those addressing human resources and brain drain, the creation of centres of excellence and partnerships between EU and African institutions, and the movement of skilled African workers between countries of origin and host countries. Importance was also given to the protection of migrants' rights, the facilitation of seasonal migration, and the curbing of irregular migration, trafficking and smuggling. In these goals border control was considered important, while the protection of refugees and internally displaced persons (IDPs) was to be ensured by implementation of relevant conventions and the principle of non-refoulement. In the conference the EU committed itself to support the development efforts of countries of origin and transit, within the framework of the achievement of the MDGs (Millenium Development Goals). It also committed to increase ODA to 0.56 % of GNI by 2010, and 0.7% by 2015, and to allocate 50% of the agreed increase to Africa. A Joint Working Group was also set up, made up of representatives from the AU and EU (European Union, 2006).

The elements outlined in the Tripoli Declaration were further addressed over the years. The second Euro-African conference on migration and development held in Paris in 2008, resulting in the adoption of a Three Year Cooperation Programme for the period 2009-2011. The third Euro-African Conference on migration and development was then held in Dakar, resulting in the Dakar Strategy for the period 2012-2014 (Euro-African Migration and Development Process, 2008).

This framework for dialogue and co-operation seems to be the most effective strategy of the European Union in attempting to meet the challenges of migration management,

because of the openness and dialogue with sending and transit countries, and because it takes a holistic approach. Nevertheless new challenges and questions emerge. How are these goals going to be translated into practice and which agency or entity would monitor this progress? What level of participation is expected from other actors, especially those representing sending nations, in relation to the formulation of strategies that can affect asylum seekers and irregular migrants? It is also unclear how the EU would ensure the rights of vulnerable persons in these agreements, which usually involve special representatives and heads of states. Perhaps by including parties that can better represent vulnerable migrant groups the EU can safeguard the rights of such groups and protect its own interest to be regarded as an institution that upholds human rights. The next chapter will explore the subject of migration, development and return in a bottom up approach, taking the perspective of African migrants, experts and returnees, using a sample of Ghanaians to explore further issues connected with the "economic migrant" who usually has a high probability of failing the asylum process.

PERCEPTIONS OF GHANAIANS ON AVRS : ANALYSIS OF A RESEARCH

In order to establish the effectiveness of AVRs in terms of return sustainability, it is important to explore factors related to migration, development and return from the perspective of sending countries. Van Houte and David's (2008) research which was outlined in the literature review found inconsistencies between the positive perception of AVRs by governments and NGOs in Europe, and the experiences and perceptions of returnees. While the perception in Europe is that assisted voluntary returnees are able to live independent lives and contribute effectively to their societies' development, research indicates that they face enormous challenges related to economic and psychosocial factors affecting their embeddedness on returning to their countries of origin. This chapter outlines another study which was carried out in Malta and in Ghana. While the research analysed by Van Houte and Davids was conducted with a large number of returnees from various countries, this study involved a small number of participants and focused on a qualitative exploration of factors determining the experience and perception of Ghanaians on AVRs.

In this study focus groups were first conducted with Ghanaian migrants in Malta. Then face to face semi-structured interviews were conducted in Ghana with Ghanaian returnees most of which had been forcefully returned from Libya or from Europe. Some however had voluntarily returned to settle back in Ghana. Some had also migrated

outside Europe, however their contribution brings new and interesting information to this research.

A number of other face to face interviews were conducted with experts in Ghana; these experts worked in the field of migration and their role is described in the list below. Only one of the interviewees was not Ghanaian; the person was a Chief of Staff of the British High Commission in Ghana.

The research, entitled "Home Sweet Home: A study on Ghanaians and sustainable return", was conducted by FSM (the Foundation for Shelter and Support to Migrants) in Malta and in Ghana, in 2012, with the aim of exploring factors determining the sustainability of return. Semi-structured interviews were conducted in Ghana with the following groups:

1. thirteen returnees: one from the US, one from Australia, one from Italy, one lived and worked in Libya, Spain and Italy; one who had lived in Belgium and Israel, and eight who had returned from Libya;

2. two local organisations working with returnees: AFDOM (African Development Organization for Migration) in Tamale, and Scholars in Transit in Nkoranza;

3. a local Mamprusi community leader in the Upper East region;

4. a University Professor from the Migration Studies Department in the University of Ghana;

5. two Officers from the Immigration Services;

6. a Chief of Staff from the British High Commission; and

7. an Officer from the UNDP (United Nations Development Programme) Ghana office.

Two focus groups were also conducted in Malta with 8 Ghanaian immigrants who in their majority had arrived in Malta by boat from North Africa and stayed in Malta after their asylum application was rejected. The immigrants had worked in Malta and were later given temporary humanitarian status by the Maltese government. One of the interviewees in the focus groups had arrived from Spain (Bugre, 2013).

According to Bugre, the research identified the following areas as important in forming the perceptions of people about AVRs:

1. Push-pull factors of migration

2. Employment abroad, integration, savings and remittances

3. Return and re-integration

4. AVRs and organisational assistance

(Bugre, 2013)

The findings of this research can help to highlight factors of sustainability that impact the effectiveness of return, in relation to the research question

Push-pull factors of migration

1. <u>Unemployment and poverty</u>

The push factors that are generally considered to be the primary reasons behind migration are unemployment and poverty. The practice of subsistence farming is also associated with poverty, since it does not yield enough income to support young people in pursuing their education.

> *"What I'm saying is most of them they will be out of school because the parents don't have money to afford, because education I would say is costly…because the major work that the parents used to do at this place is agriculture and it's a piece land farming, you will not get a big land, and then you practice mixed croppin'…. a small scale of land so the little crop that you harvest is for the family so you will not get enough money so you can further your education, so what is left for you is drop out."*
> (Returnee, Student)
>
> (Bugre, 2013)

Some of the interviewees associated poverty with the incidence of large families where children often grow up with restricted access to certain resources such as access to education and healthcare, because of the number of various needs of other family members. The practice of polygamy was seen as a strong contributor to poverty among children and young people by civil society organizations, and it was also the experience of some of the migrant interviewees in Malta. Children coming from large families often feel they cannot demand family support, but need to find their own way to provide for their family and to reach their goals. This poverty carries more risk in the absence of state welfare provision. In a close community setting poverty is seen as shameful, and the inability to provide for dependents, especially parents and children, may lead to the

decision to re-migrate, even if the person has already migrated and faced the dangers and risks of a journey through the desert (Bugre, 2013). In the absence of state welfare certain groups are more vulnerable than others, particularly those in need of medical intervention and persons with disability.

A University Professor explained that during the Presidency of Kwame Nkrumah Ghana was a welfare state and that Ghana's economy was drastically affected negatively by the oil crises in the 1970s. This is when the World Bank imposed reforms on Ghana through a Structural Adjustment Programme, where user fees were introduced for education and health services, and attention was focused on export crops and mining.

> *"… they decide to help the cocoa, cocoa farms so we can earn more money, and gold mining, those kinds of things, and that is when the country just started going … in fact it caused… so that UNICEF had to come in and make a case that they should stock up, Ghana started and I think Uganda…it was so bad that, look World Bank I know you are restructuring, but you must restructure with a human face! Because it started, our the death rates were going higher, people couldn't afford to pay and so on, so the World Bank had to do a rethinking again. But by that time the harm had been done!"* (University Professor, Migration Studies University of Ghana) (Bugre, 2013)

Historical factors affecting development have had an impact on the economic and social progress of countries, and the different strategies and policies have contributed to inequalities of development. These factors have an impact on poverty, relative poverty

and migration today. They also have an impact on how development is addressed, and on the way powerful entities address development inequality.

2. A possibility to achieve and reach goals

The absence or limitation of resources does not restrict people from aspiring to change and for developing personal goals. Many times these limitations serve to inspire people, especially the youth, to search for alternative avenues where they can overcome their difficulties. Some of the interviewees in the research were found to be entrepreneurs who saw migration as a way to obtain the capital necessary for investing in an individual or family project. One parent described how his son had migrated and how he had guided his son to use his savings to build a hotel in Ghana and to employ people in the community. On return the young man was highly esteemed and respected for the contribution he made to his community. These achievements of wealth and status create strong role models for members of the young generation, and especially within vulnerable communities, can translate into strong aspirations and desires to migrate. Professionals and persons with a higher level of education usually earn much less than those who migrate, which factor may also contribute to the decisions of young people to drop out of school and migrate irregularly to other countries. In the course of the research Bugre discovers that NGOs working in promoting education find it a challenge.

"…. that's what makes our work so difficult, because you carry out the messages, ok, then one day somebody comes, and he does good things 'cause the money is there and then they ask for his background and he didn't go to school, so after all you didn't go to school and you can still do all these things! But we've seen people who are teachers and they can't buy a bicycle, is that what I want to be like? No! Look and it's true if you go round and look around the projects they are people who either migrated and came back and did those projects or they were out there and sent down remittances for projects" (Officer, Scholars in Transit)
(Bugre, 2013)

Others migrated because they wanted to study in Europe, or to acquire knowledge on cultivation and agriculture. The majority was saving or had saved money in order to buy a house or set up a business in Ghana. It was found that most people in Ghana cannot afford to pay off a bank loan and high interest rates can exclude many people from home ownership and access to capital. Young people from farming families may also not want to work on their family land and capital was necessary for them to set up a business or a workshop. They may be motivated to migrate in an irregular manner when they realise they cannot achieve their goal. The thought of farming may be a strong push factor for migration, especially when they have experienced the hard work involved and the low income and risks that farmers experience. Savings from incomes abroad are seen as a good opportunity for investing and improving the quality of life of migrants and their families back in the country of origin.

3. <u>Farming</u>

Bugre finds that farming has a strong relationship with migration. Some migrants in Malta had left Ghana because farming could no longer sustain them and their families. At times families sold a property or land so that they can send their son to Europe, in the hope of developing other projects. This created family insecurity, and high expectations were placed on the person migrating. High expectations cause anxiety and tension especially when the migrant is detained or deported, and often lead to decisions of re-migration.

The Director of Scholars in Transit explained that ninety per cent of people in his district Nkoranza were farmers, while in Ghana the population of farmers was seventy per cent. Although farming is the main source of income for many families it carries many risks and insecurities. The lack of storage and transport facility drives down prices for farmers, even though the crop yields a good harvest. At times the cost of harvesting and distribution is higher than the profits made from the sale of products. Although storage assists farmers in setting a higher price, during harvest time farmers were always under pressure to sell their product in order to pay for school bills and to cover other family expenses. Therefore during this period of time farmers needed to be supported in order to have sufficient income. At times farmers attempted to cross borders illegally to sell their products in other countries. In these conditions they were making a much larger profit even when they had incurred higher transport costs. The UNDP Officer in Ghana explained that trade systems could also have a negative impact on economic opportunities

and on the opportunity to earn a livelihood, and this can impoverish people. World Trade Organization policies and national trade policies were important for the support of local competitive production. The whole chain of factors of production was important in understanding the relationship between the high cost of local production and the import of cheaper products, and the effect these factors have on sectors such as employment and farming.

Drought also presented a risk of catastrophic proportions. Even if the government were to subsidise farmers, poor rainfall could destroy all plans for a good harvest. Agricultural planning should consider innovative methods of harvesting and storage that can yield a better profit. In addition, the farmer makes much less profit than the middle man who buys the product and sells it again.

> *"So you see the farmer who worked for about 4 months on the farm sells it for 20 GHC and then somebody goes to make 120! So the farmer is always struggling…. And even he takes all the risk. Because that kenke seller he will buy the maize only when the maize is there he has seen it, then he pays for it! But the farmer is now going to depend on the rain so he can put in all those things, so now that he comes to sell it for 20 GC it means he has had it! But that is not even a good bargain and there are some years that he doesn't get anything at all, and in farming if you lose one year it should take you about 5 years to recover! And it's too sad…"* (Director, Scholars in Transit)
> (Bugre, 2013)

These disadvantages associated with farming act as push factors of migration, where many young people support their family financially in dealing with unexpected costs in case of tragedy, illness or drought. Their contribution acts as an insurance, providing for family projects that would have otherwise been impossible, such as paying for the education of siblings or helping parents and siblings in expanding their farming activities into business ventures.

4. <u>Perceptions of wealth, gender relations and marriage</u>

Communities in Ghana highly esteem persons who travel to Europe as successful, respected and prosperous members of the community. Interviewees explained that most Ghanaians regard the qualities of integrity, experience, character, values and education as secondary to financial success. Financial success was extremely important in gender relations.

Some interviewees explained that migration can sometimes be a solution for conflicts and challenges involving decisions of marriage and relationships. If a young woman gets pregnant out of wedlock the family may not agree to her marrying the father of the child. In such a case the young man could find a way to take the journey to Europe, in which case the family can change their decision in favour of the marriage. This is because migration and employment abroad is perceived to be a very stabilising factor for

families, and therefore migration can be used as a bargaining tool for young people in decision making.

Interviewees explained that young women had a preference for young men who travelled, and so did their families. In polygamous communities some men who migrated and returned to visit were sometimes pressured to take a second or third wife, or decided to do so themselves. This practice was seen to cause a problem for men who stayed behind, who saw returnees as a threat to their relationships because they could influence women who saw them to be more financially stable and therefore more attractive in terms of gender relations and marriage. However marriages based on perceptions of wealth were not always stable. One interviewee explained that when migrants visited Ghana and returned back to Europe with their new wife they often experienced broken relationships. Many women had married because of financial stability and were not faithful in their marriage.

Separation between children and parents can affect children as they grow up, where they may experience detachment from their parent. However children of migrants are often regarded with respect, and the prospect of a more secure and prosperous future often makes it easier for children to accept the distance. On their parent's return the relationship can be strengthened, while the care of children in the context of the extended family in Africa makes it possible for the child to find both female and male role models.

5. <u>Development inequality</u>

Some issues related to development are strong push factors for migration. Two contexts were identified in the research, first the rural-urban context, and secondly the North-South context of development. In both contexts there was a higher tendency for persons from rural areas to migrate. The main push factor identified by interviewees is the lack of development that could create jobs for people who are potential migrants, especially the youth. If there were jobs young people would prefer to stay and work in Ghana.

Developed countries were seen to be disinterested in investing in industrial projects in Ghana. Some interviewees mentioned attempts of investors from EU member states to start such projects, however their efforts and promises were short lived and they were not seen again. One of the interviewees described the dependence of Ghanaians on imported goods as a continuation of colonialism.

> *"For example we here in Bawku our main occupation was farming and rearing animals, now when you go to the market we sell manufactured goods, we don't produce we only sell, so we are distributors…, so we haven't got any technology in our head, we don't know how they make matches, we don't know how they make bowls, we only buy and resell…so if they stop manufacturing in Europe we are useless, we can't do anything! ….and secondly, because we have not been taught how to produce, we have been taught how to consume.... now we drink tea, we drink milk...tea is from India, milk is from Holland, so what does it do here? So the independence*

we have got it's only on paper, in reality we still depend on Europe, white people... because if you don't manufacture blades and all these things you cannot do it! So we need the industry" (Community leader, Upper East) (Bugre, 2013)

Dependance on imported goods, unemployment, lack of education and lack of development strategies leads to the piling of waste in Ghana. There is a massive waste of electronic material in the country, and a problem of dumping of appliances, plastic bags and other waste in streets, fields and other places, causing damage to the environment and affecting the health of people in the community. Attempts to recycle are few and skilled work is not paid enough in rural districts, so that there is a rural-urban discrepancy in the payment of skilled work such as painting and plastering.

6. Conflict

Although Ghana is a peaceful country, there are several long-standing sporadic conflicts in the Northern region. In the town of Bawku in the Upper East region there are issues of conflict between the Mamprusis and the Kusasis. One community leader explains that Bawku was a town on the slave trade route, and had always been a town where trade flourished. People from Mali, Ivory Coast, Burkinafaso and other places would pass through Bawku, and some also ran away from slavery and settled down in this town. Bawku became a centre of diverse cultures and peoples, who spoke Hausa and

Moshi as a "lingua franca". The community leader explained that during colonial times "the white man" would trade guns and alcohol for people whom they promised to take to their country to work. The guns and alcohol escalated conflicts that arose between groups and after independence the divisions continued along the lines of colonial rulers and political parties.

"But when the party that won used laws that favored its people, and abolished all other small, small parties, it became a one party state. And that's how it is, so there was hardship, and so if you were here and you were supporting the other party, of course you are forced to go away to another place… and that turned everything. The man who was with you has now turned to be your boss or your enemy… ehe…that is the problem in Bawku here…" (Community leader, Bawku)
(Bugre, 2013)

The community leader explained that political parties were using the conflict to their advantage, and that division was growing even though there had been many peace negotiations and interventions. The major conflict between the Mamprusis and Kusasis was over Chieftancy and land rights. A major difference between the two tribes, according to the interviewee, had been that Mamprusis lived in a community setting and farmed on the outskirts of the town, while Kusasis built their farms around their homes. In time Kusasis started extended the farms they were living on and sometimes took over the land nearby that belonged to Mamprusis. Land cases took many years to be solved in court, depriving many families of their land and their livelihood. At the time when the

research data was being gathered in Bawku, the researcher was told that Bawku had been divided into two, and that Mamprusis and Kusasis could not cross over.

"So the best that the government can do is in the first place, is to send soldiers, to send the police, come and stay in between these two warring factions and maintain some level of ...and yet with all that they still cease our farms! The farms have been taken, the people cannot find business to do, and the government, because one faction supports the government all the employable ventures, all the places, the vacancies will go to that side and leave one side...so there's a lot of migration from one side out.....either to the Southern part of Ghana or out of the country… " (Community leader, Bawku)

(Bugre, 2013)

7. Corruption

Some of the interviewees mentioned that corruption was rife at government levels and in the private sector. Job opportunities were scarce in Ghana, and bribes were sometimes used to get these opportunities. Party politics was also a corruptive practice where politicians targeted certain groups with promises of jobs and other benefits. When asked about a recent incentive by the government to assist farmers to obtain tractors, the response of migrants in Malta and some of the interviewees in Ghana was that the government often diverted these aids to the same people:

"You know here when they come and they are giving the farmers tractors, it's only those who already have who get ok… So that's how it is…" (Returnee, Volunteer)

Employment, integration, savings and remittances

1. <u>Employment and integration</u>

Most of the interviewees in the research of FSM worked in plastering, painting and construction. A few took up jobs in welding, shoemaking, barbering, cultivation farming, and also as security men. One man worked as a shoemaker in Libya, and with the money he saved he rented a small room to start barbering. He was earning a good income from this business but he still thought of going to Europe to further his studies since this was his initial intention. Taking a boat from Libya he was rescued from drowning by a passing ship. He was first taken with other migrants to Italy and then immediately deported back to Ghana.

One returnee had made the journey to Libya and to Europe several times, using many false passports. Every time he left Ghana he would take a number of people with him and collect money from them to use for his journey. In this way he became a 'connection man'. On arriving in Libya he worked in tiling, painting and plastering. Later he made it

to Spain where he worked in supervising an irrigation farm, earning between 900 to 1000EUR a month. Another returnee had travelled to Italy through Libya in order to pursue a sports career in boxing. As he worked and trained in Italy he found an opportunity to obtain long term residency there.

Another returnee had migrated to Australia and had worked there as an estate agent there. This man got married to an Australian woman and became an Australian citizen. Therefore had access to many opportunities, especially for travelling between Australia and Ghana, maintaining his job in Australia while investing in Ghana. Most returnees who had worked in Libya were earning a good income, and young men preferred returning to Libya rather than remain in a situation of unemployment in Ghana. According to a University Professor, their department's migration research projects had found that the income was good enough to make some of the migrants think of staying in Libya rather than crossing over to Europe, and that they were able to send between 1000 to 2000 dollars every three months. Working with companies in construction, plastering and painting, migrants were found to be earning a stable income. In Malta most interviewees worked in construction, plastering and painting and earned approximately 50 Euro a day. They explained that Maltese employees earned more and had better working conditions. One of the interviewees worked in road-cleaning and earned 35 Euro a day. Some were also working with work permits and therefore enjoyed certain benefits such as vacation leave, sick leave and bonuses. However others were struggling in trying to convince their employer to apply for them to have a work permit. One of the Ghanaian migrants in Malta worked with a company making Aluminum, had a good salary, and

was well respected by his employer. He was very grateful for the hospitality and opportunities he was given in Malta, and explained that this was not easy to find, even in Ghana. Moreover he admired the families in Europe, where parents saved money for their children and lived in a nuclear family.

Some of the interviewees in Malta expressed the desire to take vocational courses, but were unable to do so because they had to pay high fees which they could not afford. Their not having humanitarian protection stopped them from having access to free education.

2.   Saving and Remittances

Remittances were used for different purposes, but mainly to support family needs, especially education and healthcare. One migrant in Malta was saving to buy a tractor or two to help his family with modern farming methods, and to rent out the tractors for extra income. This would then help him build storage and develop a better farming business. Some migrants were working in cooperation with their family abroad to open a shop and start selling products. Some had even sent products from Malta or Italy to Ghana, to sell in their shop. Often those who were married were coordinating with their wife, others coordinated project activities with their brothers or their parents. However the whole family often faced a lot of pressure from extended family members who needed financial assistance. These expectations caused family conflicts as to how remittances are

distributed. Relatives got to know that someone in the family had benefited from the remittances of their relative abroad, and approached the family in order to ask for financial support.

Access to housing and accommodation was also a major motivation for people to seek employment abroad. Many returnees had sent their remittances to family members and succeeded in building a house while working abroad. It was common practice to build a large house, and rent out a part of it. The house would then serve as accommodation as well as a monthly source of income. Others saved money for the time they would return, in order to implement themselves their own projects. The coordination between migrants abroad and their families back home in relation to savings and remittances was an important factor of success. Sometimes family members squandered the remittances they received. Sometimes this was due to pressure placed on them by other relatives. This pressure on relatives in the sending countries can cause failure of investment or migration projects because their support and relationship with the family is threatened unless they satisfy the demands of the extended family group. These pressures can also postpone the decision to return for migrants working abroad, as they increase the demand for remittances.

Return and Reintegration

The success of reintegration of migrants to the countries of origin strongly depends on their achievements in destination countries and the opportunities available, both in the host and in the sending country. While migrants face some similar experiences, they also have different backgrounds, capacities and aspirations. The way in which they return to their home country is extremely important in determining reintegration.

Forced return was primarily considered as unjust and inhumane in all the interviews. Persons who had been arrested in Libya were returned to Ghana with no money, often their own savings taken away from them. Others had been sent back during the first conflicts of the Arab spring in Libya. They had been given just enough money to cover transport expenses. This type of return causes shame and anxiety on the part of the returnee in the context of the family and community to which he is returning. It is easy for that returnee to re-migrate irregularly.

One returnee who had gone through the experience of forced return was struggling financially. He was renting a taxi to use daily for income generation, but the income was not enough to cater for family needs. Many times he had to avoid taking medication when he was sick in order to save money, and buying baby food for his child was difficult. Owning a taxi would have helped him earn a better wage. In Ghana, many young people who had been forcefully returned from Libya were looking for a way to save money and go back. Some had actually spent their savings or their family's savings to make the journey. They felt they had returned to their homes poorer than before, and that they had

failed. Bugre explains the dilemma of young people in Nkoranza, who are fully aware of the dangers and risks of the journey to Libya, but still want to travel to get a decent job.

For those who stay for a long time in the country of destination and have adapted to a different way of life it is sometimes difficult to reintegrate in the country of origin. For others who return with little it is a humiliating experience, especially if they have not learned any skill that could be useful for investment or development. Returning to Ghana without financial security was seen as a burden.

> *"Those who return with property are well received and for that matter it is much easier for them to reintegrate. Now those who do return without anything, that's where the problem is . It is for the government and for agencies to ensure that they get something otherwise it's not going to work, it's not going to work. Coz you see there's one thing about this place, when you have a relative who lives outside whether you really miss or not, the fact that they're someone living outside there the family is having more security."* (Director, scholars in Transit)
> (Bugre, 2013)

The interviewee quoted above explained that migrants abroad were assisting Ghana in providing welfare and education for many Ghanaians, and that they should therefore be assisted on return. Professionals returning to Ghana were facing major struggles in having their qualifications recognized he explained. Others needed counselling as to what type of investment they can make in Ghana since lack of guidance could easily lead to the failure of projects.

Most of the interviewees in Malta did not have a definite plan of return. They explained that going back to their community was difficult because they had experienced cultural changes, and because their community would also view them differently. They had many ideas as to how they could improve their family's situation, but they also knew they would face resistance from their family and their community. The amount of money they needed to invest in a project on return was therefore critical, because they also had to put away some money for the demands and needs of their relatives. Some of the migrants felt that their decision on return should be in agreement with their parents' opinion, even though they were married and had children. One of the migrants wanted to stay in Europe. His father had abandoned his mother while she was still pregnant with him, and the father had married other wives and had many children. The interviewee explained that he had no intention to return.

The research found also a few very successful stories. One of the interviewees who had been deported to Ghana had returned back to his studies in engineering. He sought the assistance of the Christian Counsel guesthouse, where the manager helped him to continue the programme he had left, and to pay for school fees. Saving some money from his earnings during his national service, he set up an organization for returnees, AFDOM, with the purpose of assisting returnees to reintegrate in the community. His contact with influential persons and organizations assisted him in expanding the organization and in taking various poultry and farming projects for the assistance of returnees.

Another success story comes from an interviewee who had returned to Ghana and was developing estates similar to the ones built in Australia where he had acquired

citizenship. His first idea was to build a bank, because during one of his visits people

expressed their difficulties with collecting money from a bank far away. While he built

this bank he was still working in Australia and visiting to monitor the work in Ghana.

After three years he obtained the license to open the bank, and he returned to Ghana with

his family. On return he started several projects to give access to people in Tamale, the

main Northern Metropolitan District, to buy a house. His advice to those considering

return was to consider the importance of motivation and determination, to connect with

people, ask questions and do a good research on how and where to invest money. Finally,

people needed to have a strategy to deal with the pressures of relatives and friends. They

needed to keep a low profile and divert the attention of their friends and relatives,

sometimes pretending they had been deported to avoid distributing their savings.

> *".., but when you take the strategy you come down, pretend you have*
> *nothing, study the ground, look around talk to people see what's happening..*
> *then before they realize you start something slowly, that one they wouldn't*
> *demand, they will think you did it starting from Ghana here that one they*
> *wouldn't hassle you, but as long as they know you bring something from*
> *there when they come to greet, O look I came down I don't have anything,*
> *I'm deported..."* (Returnee, Businessman)

AVRs and organisational assistance

The FSM research included questions on the AVR package, and asked whether

the assistance of financial packages amounting to 2500EUR could be of help for

returnees hoping to reintegrate in Ghana. The response varied especially among interviewees in Ghana. A University professor on Migration Studies explained that this was a good package because it was hard to find that money in Ghana, however unless there was proper research informing the returnee on a good return project, the project ran the risk of failure. In addition, projects needed time to yield profit, usually a span of 2-3 years, and persons depending completely on the returns of the project also ran the risk of failure because they had no source of income for the period of time during which their project was not yielding profit. The Director of AFDOM explained that the package was good provided the person returning had good information on the opportunities existing in Ghana. He stated that many people from neighbouring countries such as Burkinafaso and Ivory Coast were coming to Ghana to buy maize. In fact many returnees who had an amount of capital and invested in farming projects were making a handsome profit. Therefore the financial package should be presented in a comprehensive manner, including information details and counseling about these opportunities.

But not all interviewees were positive about this package. Some considered the amount to simply cover the ticket and the initial costs of settling down, and they explained that sustainable return needed a more careful long term plan. Family members have spent money to send their son on the journey to Europe, in order to achieve something for the family. They usually do not interpret return as a "financial assistance package", but rather as a loss of regular monthly income that is resourceful on a monthly basis.

One interviewee suggested reasons as to why there were conflicting views on whether 2500EUR was a good financial amount for an AVR package. For those in Ghana this can be seen as a good package relative to the income and the opportunities for saving for Ghanaians. However for those who were earning a stable income in Malta it was a small amount relative to their monthly salary, their own savings and the opportunity to continue working and saving more. The amount of time one can work and save is very significant, since during this time family needs can be met while family projects can also be completed. In addition, the AVR programme needed to include educational goals. According to this interviewee because Ghanaian migrants were driven by high expectations of success by themselves and their families, they needed to be made aware on other dimensions of success, such as family and community life which can create stability and solidarity.

An immigration officer suggested that there needed to be a programme of cooperation between countries of origin and countries of destination, in order to ensure that those returning were establishing projects that can sustain a source of income, otherwise the risk of re-migration was very high. The possibilities for investment were many, including poultry and grasscutter farming, sheep and goat rearing, laundry and car wash businesses. The cooperation between states could provide young people with the opportunity to work in the country of destination for a few years, whilst learning the skill or trade at that particular place of work. During this time a portion of the monthly salary can be put away and accumulated over the years to be given on return. The portion saved could be used to buy tools, land or to set up a workshop, while the AVR package will

then be used to buy materials. Organizations in Ghana, such as AFDOM and Scholars in Transit can then assist the reintegration process.

Other interviewees explained that the AVR financial package of 2500EUR was a good package, but sometimes people refused it because they wanted to develop a bigger business, and because they wanted to have the same "European" standard of living in Ghana. Interviewees in Malta however were not convinced about AVRs and they stated they would refuse to recommend such a package. One of the reasons was that investment needed a lot of planning and a higher expenditure. Even if the money was enough to start a business, one had to consider other family commitments. One interviewee had also heard negative reports from other Ghanaians who had returned to Ghana through a return project:

"But those returns, the one I know, I know two of them because they are others I don't know where they are, whether they are successful there, but those two I know it didn't help them, yeah, because they go back to even more, more, more poor now …, yeah, so they are in very bad condition now… because the money they got it was small and it couldn't help them."
(Ghanaian migrant, Malta)
(Bugre, 2013)

Most of the migrants in Malta explained their situation as going back home and starting from scratch. Reintegration was seen as costly and risky, in relation to accommodation, investment, family relationships and the loss of income in Malta. They described the idea as dangerous unless people had enough finances to make the transition. Returnees were often well respected by family and friends on return, but if they refused

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to assist someone financially they could face conflict. One of the migrants had gone to Ghana to visit his family, and described his experience when his money finished while he was there. He explained that nobody helped him and that he had to phone his friends in Malta to find some assistance.

The Directors of AFDOM and Scholars in Transit collaborated together and with other organizations in Ghana, according to which region returnees were coming from. They also collaborated with Ghana Immigration Services, and had very good relationship with the staff there. The Director of AFDOM had started farming and poultry projects for returnees, getting assistance from Christian organizations providing counseling and contacts, and local Chiefs who assisted the projects by providing the land. AFDOM also used these projects to empower young people and women, thereby reducing the probability of migration. The Director explained that often children suffered from poverty particularly in polygamous families, but when women were empowered economically they could assist their children to continue their education. Their economic independence also meant that they were more able to bargain in family decisions.

The Director of Scholars in Transit also explained how he and his team were able to encourage those returnees who had been returned home without any savings or property.

"..look these returnees that returned I've been able to keep them even though I didn't have anything. But I just talk to them and some of them have forgotten of, they themselves are going to commit suicide… yes, some of them become so frustrated and desperate to the point that they're prepared

to die, and it's serious yes! But sometimes you just sit them there, you sit
down and you talk to them, and then they are revived, and then they see that
it's even worth being alive...they are responsible people, these were people
who were out there and sending moneys to take care of children in schools,
family members and even adults…Now they come and there is nothing, so he
looks at the past and he says no I have no future you see, but if you
encourage them , some of them are doing very well…" (Director, Scholars
in Transit)
(Bugre, 2013)

A representative of the British high Commission described the opportunities for
return in the UK, and how he had worked with the NGO Refugee Action, to promote
various programmes of return. He explained that deportation was not the preferred
solution, but that persons staying illegally within a country had to return. In his
experience many people did return through these return programmes, because of the
value of family relationships and other advantages.

The NGOs are therefore important because irregular migrants can approach them
without facing the threat of deportation or to confidentiality. Migrants could approach
NGOs for advice even though they were not deciding to return immediately. However
there needed to be a serious effort in creating jobs in sending countries, since this would
be the best strategy for curbing irregular migration. This chapter on research analysis
underlines the need to understand and address specific causes of poverty, unemployment,
conflict and migration as this is the only way return and reintegration programmes can be
effective. Unless the broader context is addressed it seems that return and reintegration

cannot guarantee safety and security for the individual migrants, their families and

communities.

ASSISTED VOLUNTARY RETURN IN THE CONTEXT OF
MIGRATION, RETURN AND DEVELOPMENT

This chapter addresses the context of Assisted Voluntary Return programmes, focusing on reasons for and methods of return, and how these are viewed differently by different entities and organizations. Particularly important is the situation of prospective returnees, in terms of the immigration and employment barriers they face to staying in the host country. Because of these barriers the application of such persons for asylum becomes a critical tool for gaining access to residence and employment. Selection instruments such as the asylum process are seen to be as highly important, and when this process fails this is often the new context in which AVRs are presented.

Irregular Migration from Africa to Europe

The United Nations Department of Economic and Social Affairs reports that in 2010 international migrants made up 3.1% (214 million people) of the world population (6.9 billion people). The report finds that 34% of migrations occur in a South-North context, while an equal percentage (34%) occurs in a South-South context. The largest number of migrants in Europe (38.5 million) come from other European countries, while there were 7.5 million migrants from Africa to Europe. (DESA, 2011). While it is acknowledged

that the larger numbers of irregular migrants are persons who arrive legally (usually with tourist and student visas) and then overstay their visa, there has been much more media attention focused on the arrival of African migrants by boat from North Africa to the Mediterranean islands of Malta, Lampedusa and the Canary Islands. Concerns about irregular migration have resulted in a variety of responses especially in the Mediterranean region, focusing on border control and the return of persons to their countries of origin. Although migration has always existed, labour mobility is becoming increasingly complex and the risk of abuse, exploitation and human rights violations is increasing. An ILO (International Labour Organization) IOM (International Organization for Migration) and OSCE report states that there needs to be important measures to prevent or reduce irregular migration to:

a) ensure legitimacy of legal immigration policies;

b) protect migrant workers from abuse and exploitation; and

c) maintain good relations among countries of origin, destination and transit.

 (IOM, ILO, OSCE, 2006)

Dialogue and cooperation on labour migration are essential for international labour migration to be considered to be beneficial by all stakeholders. The importance of promoting legal channels of labour migration and curbing irregular migration is set forth in every dialogue and policy objective of most Western-based organisations. However in reality the EU has favoured policies for border control, surveillance and migration management while restricting channels for regular migration

as visa requirements and conditions for family reunification became increasingly difficult. Migrants working in regular situations were given incentives to return to their countries of origin and to contribute to the development in these countries with the assistance of co-development policies (IOM, ILO & OSCE, 2006). On the other hand, the need to prevent and reduce irregular migration is seen by organisations such as ILO, IOM and OSCE as critical for the management and credibility of legal migration policies. Irregular migration is often associated with lower wage levels and precarious work conditions especially in the low skilled sectors of the economy. Whole sectors may even become dependent on irregular migrant workers; whereas there are also those who argue that such sectors can remain competitive because of these advantages in labour costs. The disadvantages for irregular migrants include exploitation, abuse and reduced bargaining power that increases the dependency of irregular migrants on their employers. Such dependency predisposes irregular migrants to dangers of organised crime such as labour trafficking and smuggling. The ICRMW (International Convention on the Protection of the Rights of all Migrant Workers and members of their families) and ILO Convention No.143 contain provisions to ensure a basic protection for migrant workers who immigrated or are working illegally and their situation cannot be regularised. Although Malta complies with some of the principles of the ICRMW it has so far rejected the convention, as have Italy, Greece, Spain, Portugal, Cyprus, France and Germany (United Nations Human Rights, 2012).

Irregular labour migration is addressed in a number of integrated ways. Campaign strategies are sometimes used in a participatory approach where discussions and

interviews are used to generate responsive campaigns in communities where irregular

migration is highly probable. In these campaigns local organisations and national

agencies provide educational programmes to communities at risk in order to increase

awareness about the risks and dangers of irregular migration. In Cairo and in other

countries IOM has been involved in such campaigns. Another way of controlling

irregular migration has been through having a reasonable visa policy that has minimum

bureaucratic obstacles and enables migrants to enter the country and take up employment.

The European network of NGOs for the advancement of social justice, Solidar, states that

EU documents and legislation focus on tough border control measures in dealing with

irregular migration, failing to address the underlying cause, which is the lack of legal

channels available for entry by the citizens of developing states although the demand for

both skilled and unskilled migrant workers in EU member states is expanding. While

there need to be efforts by EU member states to secure labour rights for everyone,

including non-EU migrant workers, states need to also recognise that irregular migration

is demand driven because European employers actively seek to recruit irregular migrants

often under exploitative employment conditions. Solidar criticises the use of EC, national

and local subsidies under the CAP (Common Agricultural Policies) for farm owners who

are reported and confirmed to be in breach of labour rights of migrant farmworkers.

(Solidar, 2007).

An examination of policy trends in the EU, Germany and the UK finds that the

emphasis is on importing human capital and restricting access to less qualified workers.

Therefore policies targeting labour shortages favour temporary and specific schemes.

Castles argues that this approach is "short sighted" since labour shortages in low skilled employment sectors are already a permanent feature of the European economy. The Policy Plan of the European Commission also fails to address the need for legal channels of migration for these shortages in low skilled occupations. Therefore the modern day migration policy of the EU, as in the USA and Japan, involves "the systematic use of undocumented migrants workers, who are the denied many of the rights laid down in the human rights instruments and labor conventions endorsed by these same countries" (Castles, 2006). Castles explains that the increase of naval patrols between Europe and Africa increases the death rate and the profit for smugglers, but does not solve the problem. The approach of the EU policy on labour migration is seen by Castles and others as the import of labour, not people. Therefore exploitation of migrant workers and the lack of security of residence status and basic rights for residents undermines the rule of law and the welfare state in the EU and predisposes host societies to discriminatory practices and behaviours, and lead to social exclusion and conflict. If migrant workers are required, then they should be given the right to settle permanently, bring their families over and be able to change jobs. Instead of imposing migration restrictions on sending countries, EU member states should collaborate with the governments of sending countries to find economic solutions that are mutually beneficial. According to Castles, migration can benefit development if EU member states:

a) Reduce the profitability of migrant labour by taking on powerful employer groups.

b) Introduce an effective system for labour market regulation.

c) A change in public discourse that explains the need for migrant labour to societies

which were made sceptical by anti-immigration messages.

(Castles, 2006).

Asylum applications and decisions in the EU

EASO (the European Asylum Support Office) reports that there were 335, 365 total

applicants for international protection in the EU in 2012. The overall protection rate at

first instance was 28%, with the highest recognition rates noted for citizens of Syria,

Eritrea, Mali and Somalia. EASO identified that a large proportion of the applications in

2012 were linked to security situations, but that also 'mixed flows' of irregular migrants,

from conflict and non-conflict zones, were arriving in Europe many times through transit

countries, such as Libya, Tunisia and Morocco in the case of migrants from sub-Saharan

Africa (EASO, 2013).

Asylum decisions are dependant on the type of status granted by each member state

of the European Union. The forms of international protection regulated by EU Law can

be the Geneva Convention Status (GC) or the Subsidiary Protection Status (SP). The

Humanitarian Protection (HP) is based on national law. The rate of recognition of

applications (positive decision rate) is also an important factor when considering asylum

applications. The highest number of decisions in 2012 were recorded n France (59, 830)

and Germany (58, 765), followed by Slovenia (31, 570), Belgium (24, 640), UK (21,

890), Austria (15, 905) and Italy(13, 650). However, when compared to the positive decision rates, the highest rate afforded was by Malta (90%), which had an overwhelming rate of applications for international protection by citizens of Somalia, Eritrea and Syria. These recognition rates can vary because of differences in practice when assessing asylum applications, or because of policies of individual member states. But they can also vary because citizens of different ethnicity or religion from the same source country apply for international protection in different member states (EASO, p. 22). Protection regimes are chosen by the relevant authorities of EU member states on the basis of the individual application, the situation in the applicant's country of origin and the specific profile of the applicant. For the EU-27 Member States the positive decisions made using the Geneva Convention (GC) regime in 2012 was 14% of the total decision made at first instance. The SP rate was 11% while the use of HP regimes decreased while HP rate was 2%. The percentages for GC and SP increased from the year 2011, except for those for national Humanitarian Protection. The total number of positive decisions (GC, SP and HP) amounted to 28% of all applications, while the rate for rejected decisions was 72%.

A great challenge is the heterogeneity among member states in the criteria used for determining the use of humanitarian protection, especially because of the different approaches in reporting such decisions to Eurostat since in some EU member states these decisions are not part of the Asylum Procedure framework (EASO, p. 25). The highest percentage of positive protection decisions in Malta for example, which was almost 100%, was made under the Subsidiary Protection regime. In the UK on the other hand almost 100% of positive protection decisions were made under the Geneva Convention

regime. Misuses of the asylum system and fraud are also seen as major threats, and safeguards are put in place. It is in the interest of EU Member States to speed up the application procedure in order to avoid lengthy procedures where the applicant can abuse other procedures in order to obtain a legal residence (ex. On medical grounds). One of the ways to speed up the asylum process is to use the safe country concepts of the Asylum Procedures Directive, where member states may choose to maintain a national list of safe countries. Such lists are used by several EU member states including Denmark, France, Germany, the UK and Malta. The list went through several changes in France, where Albania, Kosovo were removed following a Court decision, and Mali was removed from the list by the Management Board of OFPRA (Office Francais de Protection des Refugies et Apatrides). These lists however threaten the rights of persons coming from countries which are considered 'safe', and yet face specific instances of persecution as defined in refugee law. They also act as incentives to asylum seekers to change their story according to the expectations of the asylum process and the type of selection implemented.

Forced or voluntary return and EU funding

There are different definitions for different types of "return" related to immigration and asylum systems. ECRE (the European Council on Refugees and Exiles) defines return in three different wayss:

a) Voluntary return/repatriation: "the return of persons with a legal basis for remaining in the host state who have made an informed choice and have freely consented to repatriate."

b) Mandatory return: "persons who no longer have a legal basis for remaining in the territory of the host state and who are therefore required by law to leave the country. It also applies to individuals who have consented to leave, or have been induced to leave by means of incentives or threats of sanctions."

c) Forced return: "The return of those who have not given their consent and therefore may be subject to sanctions or the use of force in order to effect their removal." (ECRE, n.d.).

In comparison, IOM defines return that is not undertaken by the individual voluntarily as "involuntary, or non-voluntary or forced return". Voluntary return is defined as "based on an informed decision freely taken by the individual" while assisted voluntary return as "includes organizational and financial assistance for the return and where possible, reintegration measures offered to the individual." Further, IOM distinguishes between voluntary return without compulsion, and voluntary return under compulsion and involuntary return. Voluntary return without compulsion occurs spontaneously, without the intervention of government or agencies such as IOM, but this return can also be part of a return and reintegration programme. Meanwhile voluntary return under compulsion and involuntary return usually involve such intervention, and especially in involuntary return the authorities decide on forcing and many times

escorting the migrant home (IOM, 2004). Therefore the general term "voluntary return" can be used for different categories of people.

Both forced and voluntary return programmes are funded by the European Return Fund, allocating EUR 676 million for the period 2008-2013. This amount compares with the amount allocated in the European Refugee Fund (receiving refugees and for asylum procedure) which is EUR 628 million for the same period, and with the European Fund for the Integration of Third country nationals which is EUR 825 million (for the period 2007-2013). On the other hand the External Borders Fund (for the management of efficient control of borders) for the period 2007-2013 amounts to EUR 1, 820 million (European Commission, 2008). Comparatively the funds allocated under the European Development Fund for the period of 2008-2013 are EUR 22,682 million. 97% of these funds are allocated for the African, Caribbean and Pacific regions. The EU commits a further 0.7% of the EU Gross National Income (GNI) for development purposes, and was the largest donor in 2012, providing more than half of the Official development Assistance (ODA). These amounts indicate that the EU spends much more on border control than on return and integration of migrants. On the other hand its development fund allocation is extremely high, and merits attention as to how it is administered and controlled (European Commission, 2013).

AVR programmes and IOM

In the EU return policies are not covered by the asylum acquis. Rejected applicants of international protection fall under the provisions of aliens law and not asylum law. Although return measures are not set to target asylum applicants, one can see the tendency to promote voluntary return also among asylum applicants and to focus on an integrated approach. Voluntary repatriation is preferred to forced return and many member states seek to develop AVR programmes in the European Union. EASO reports that in 2012 AVR programmes were expanded in various ways in EU member states. In Austria the Austrian Ministry of Interior Affairs implemented AVR projects to specific countries of origin through IOM, using co-funding available through the European Return Fund. In Finland the DAVRiF project was established in 2010 as a cooperation project between IOM Helsinki and the Finnish Immigration Service for the institutionalisation of practices related to AVR programmes and the prevention of interruption of voluntary return activities.

Under Community Actions 2012 a two year project was set up to establish a European network for voluntary return including the 27 EU member states, Norway, Switzerland and other major countries of origin and transit. The Voluntary Return European Network (VREN) is financed by the European Commission Return Fund Community Actions 2010 and facilitated by IOM, comprising of government ministries, civil society organisations, NGOs and individuals working in the field of (assisted) voluntary return and reintegration. The aim of VREN is to respond to the needs of the European commission in the Return Fund Work Programme 2010 for an improved cooperation among member states and between national stakeholders in the field of

voluntary return. It seeks to be an effective platform for exchanging information, ensuring visibility and coordinating activities between different partners. It also aspires to be a reference source for updated information and to strengthen awareness and compliance with the standards set forth by the European Return Directive (2008/115).

The International Organization for Migration (IOM) has promoted the link between migration and development through its Assisted Voluntary Return and Reintegration programmes, and has been the primary agency working on such programmes in EU member states as well as other States. Its Migrant Assistance Division (MAD) which is part of the Department of Migration Management has a portfolio of 426 projects around the world, valued approximately at $195 million in 2012. Of these projects there were 239 Assisted Voluntary Return and Reintegration projects which assisted a total of 41,609 beneficiaries (an increase from 2011 which had 31,134 beneficiaries). A further 47,220 received assistance through Post Arrival and Reintegration (PARA) projects. These projects are aimed at "responding to the immediate and longer term needs of returning migrants while increasingly including research and monitoring on the impact of such assistance to migrants and their respective local communities" (IOM, 2012). The main donors for the large AVRR activities were host-country governments and the European Commission, while the main donors for broader assistance to vulnerable migrants were the US, Norway, Denmark, Japan and Switzerland . The categories of beneficiaries for AVRR assistance were as follows:

a) Main migrant population (37,609)

b) Migrants from administrative detention (1,869)

c) Victims of trafficking (1,293)

d) Migrants with serious medical conditions (644)

e) Unaccompanied migrant children (194)

The IOM further reports that 11% of the number of AVRR beneficiaries in 2012 were children. The top six countries for AVRR projects were: Germany (7,755), Greece (7,258), Belgium (4,694), Netherlands (2,864), Austria (2,601) and Switzerland (2,289). The top 6 countries of origin for AVRR projects were Pakistan (4,324), Serbia (3,917), Russian federation (2,607), Ethiopia (2,505), Iraq (2,472) and Afghanistan (2,019) (IOM, 2012). The benefits of AVRR programmes, according to IOM, are for both governments and migrants. Governments benefit because return is more cost effective and because international cooperation is strengthened because such programmes are more acceptable to both countries of origin and destination. Migrants also benefit because these programmes take into account migrants' decisions and allow for return preparation. Human rights are also respected, the negative implications of forced return are reduced and reintegration measures taken into account through financial, counselling and logistic support. IOM's definition for AVRR is :

> *The provision of logistical and financial support by IOM to migrants who are unable or unwilling to remain in the host country and who volunteer to return to their countries of origin or another third country. Reintegration is the re-inclusion or re-incorporation of a person into a group or process e.g. of a migrant into the society in his country of origin* (IOM, 2011).

Furthermore, IOM provides post-arrival reintegration assistance (PARA) which is "short term humanitarian assistance or mid-term reintegration support provided to migrants returned under the auspices of the host country's government after they have been formally re-admitted in their country of origin." (IOM, 2011). The AVRR programmes constitute:

a) Pre-departure assistance

b) Return/transit assistance

c) Post-return reception support

d) Re-integration support and

e) Monitoring

Pre-departure assistance includes information dissemination and profiling targeted through diasporas, NGOs, migrant associations, mobile counselling teams, newsletters and specific websites. It also includes document and travelling preparation, and up to date and objective information about the country of origin. Pre-departure counselling is provided for the management of the returnee's expectations and because an informed decision is considered to contribute to sustainable return.

Return assistance includes travel arrangements, ticketing and embarkation arrangements, payment of installation grant where applicable, transit assistance, medical or non-medical escort and temporary accommodation if necessary. Reception assistance consists of counselling, information assistance, identification of special needs and preparation for the re-integration phase. The transportation to the family or the

community is included together with accommodation and health assistance if necessary.

Reintegration assistance then includes cash grants, temporary accommodation arrangements and small business development grants. Community assistance (building projects such as schools or hospitals), job training and in-kind assistance are also given as part of re-integration assistance. The assistance here is tailored to individual needs, but also considers local policies and local development factors. Finally monitoring assistance is given to measure progress in the re-integration phase. Monitoring also allows for identification of needs, trends and chenges among the beneficiary population, the recording of best practices and challenges encountered in project implementation (IOM, 2013).

Meanwhile some grassroot activists and organisations are suspicious of IOM and its mandate to "manage migration". The 'noborder network' argues that IOM is unlike UNHCR as it is not based on humanitarian principles but on economic considerations: "Their basic policy is not concerned with the well being of people but the well being of economies...their ideology is based on racist principles of homogenous ethnic states and xenophobic concepts of 'home'" (the noborder network, n.d.). According to this network the enforcement of borders is a strategy to conform to a neoliberal structure of migration management. IOM has various Field Offices (over 100) in several areas and regions, which monitor regional policies. These offices act as a "warning system" on migration movements, networks and NGOs which they report to the EU and the US with recommended action. New migration movements are then addressed accordingly with new border regimes and technologies. IOM assists these processes by making migration

policy recommendations that are hostile, technology recommendations, and by training police officers and border troops. The noborder network regards national governments as the 'customers' of IOM. 'Voluntary return' is not really voluntary, but involves either detention and deportation, or consent from migrants to leave without resistance. IOM is part of the strategy that aims to break this resistance, as it has tried to do several times with Roma people who resisted this type of control (noborder network, n.d.).

Others have questions on the real intentions of AVR programmes. Particularly suspicious are the re-entry bans associated with AVR programmes in certain EU member states. This practice bans immigrants who leave voluntarily under Assisted Voluntary Return schemes from returning to the UK under Paragraph 320 of the Immigration Rules. In London in May 2012 over 2,000 individuals and students who were residing there irregularly were returned home under the UK Border Agency's 'Operation Mayapple' tackling visa abuse. 58 of these chose to leave under the AVR scheme run by Refugee Action, however they might have been unaware that by using this scheme they were banned from returning to the UK for up to 2 years. Under this scheme fingerprints are also taken and a signature is required to allow these fingerprints to be shared on an EU database shared with all EU member states. Subsequent return to the UK and an attempt to use the scheme again would make the beneficiary liable to a 6 months prison sentence (Immigration Matters, 2012).

Other critiques of AVR programmes are sceptic on methods used to monitor and evaluate the success and sustainability of return. Migrant's agency on return may be restricted, countries of return may be unstable, and migrants can face discriminaton

because of their status as returnees. The extension of AVR programmes to transit countries with support from European governments reveals the intention of EU countries to use AVRs to curb South-North migration flows. In 2008 a study consisting of 48 interviews with Sri Lankans returning from the UK under the VARRP (Voluntary Assisted Return and Reintegration Programme) after failing their asylum claims revealed that four returnees had experienced human rights abuses by Sri Lankan authorities on return. All Tamil returnees reported racial harassment at the hands of Sri Lankan law enforcement and other government officials. Out of a total of 44 who had opened businesses, only 4 reported a profit over subsistence levels and 20 businesses had closed completely. 45 returnees hoped to migrate again. The need for monitoring and evaluation of returnees under AVR programmes is important for understanding the risks and challenges faced by returnees. Partnerships with civil society groups, returnees and migrant groups is also vital for providing additional protection for returnees, and the option for re-migration is important for increasing uptake on AVR schemes (Sward, 2009).

This chapter has explored further the context of AVRs, defining further different policies and situations effecting those who usually apply to benefit from AVRs. Different actors were seen to view AVRs differently, according to their organizational mandate or purpose. The next chapter will focus specifically on Malta, and on how AVRs are implemented and perceived by organizations working locally in the field of migration.

THE CASE OF MALTA

This chapter focuses on AVR programmes in Malta, and explores differences and similiarities between the two types of programmes implemented, RESTART and DAR. The chapter continues to explore the subject of AVRs using the interviews that were conducted for this research.

AVR Programme RESTART

AVRR (RESTART) projects undertaken by IOM in collaboration with the Ministry of Home Affairs (MHA) in Malta between 2009 and 2013 were as follows:

a) RESTART I in 2009: 25 returnees

b) RESTART II in 2010-2011: 65 returnees

c) RESTART III in 2012-2013: 73 returnees

RESTART III was co-financed by the European Return Fund, the MHA and IOM providing a plane ticket, travel documents, monitoring and medical escort if needed, and EUR2600 as a reintegration grant. The 73 returnees returned to their countries of origin in Mali (1), Somaliland (5), Nigeria (42), Niger (1), Pakistan (3), Guinea Conakry (1), Ghana (7), Ethiopia (3), Chad (1) and Morocco (7). The reintegration grants were used to buy taxis (49); for the process (5); to set up a spare parts shop (2); a printing workshop

(1) and sewing workshop (1); a cosmetics shop (1); a hairdressing salon (2); a grocery shop (3); a clothes shop (6); a tailor's shop (1); a business of for animal breeding (1) farming (2) and fishing (1); shop selling (2); for plastering works (1); and for furniture (1). Those eligible for AVRRs were:

1. individuals who had not yet received a final negative decision in relation to their request for international protection;

2. individuals enjoying a form of international protection; or

3. individuals who no longer fulfil the conditions for entry or stay in a country.

Reintegration grants were received from IOM Mission offices in the countries of origin or through other arrangements by IOM, although a small amount was received on departure for travelling purposes (IOM, 2013). The expected results of RESTART III were:

a) production of 400 booklets on return experiences and 300 booklets on how to set up a business, together with 200 leaflets, 200 flyers, 350 posters and 3 notice boards for an information campaign;

b) 300 counselling sessions;

c) AVRR provisions for 80 migrants;

d) 60 monitoring reports of reintegration packages; and

e) a final event organised and recommendations presented to the MHA

The cost of RESTART III was EUR 451,965.80, out of which EUR338, 974.35 were allocated from the European Return Fund, whilst the IOM co-financed EUR10,000

and the MHA co-financed EUR 102,991.45. The total funds allocated under the European Return Fund in 2011 were EUR781,804.51. In comparison EUR100,308.63 of the ERF funds were allocated for the Immigration Section of the Police Force to conduct activities of forced return for an expected target group of 50 third country nationals residing illegally in Malta. The total cost of the action was planned to amount to EUR133, 744.84. Another EUR262,686.75 of ERF funds were allocated to the strengthening of Malta's long term return management capacities under Maremca II. These funds were allocated to the MHA and ICMPD and were expected to include 5 missions to countries of origin, 2 one-day workshops with Maltese stakeholders, follow up visits to Ghana and Nigeria and 3 one day meetings with European agencies and EUMS (European Union Military Staff).

AVR Programme DAR

Another AVR programme implemented by the Ministry of Foreign Affairs in Malta together with SOS Malta, ICMPD and Med Europe, was the DAR project implemented in the period 2007-2009. The total eligible cost of the project was EUR 768, 112.80, of which EUR 537, 678 were given as an EU grant. This project was implemented in three phases:

a) the inception phase, a preparatory phase for drawing up of a workplan for the next phase, and to establish management structures

b) the programme development phase, to develop the detailed components of the return and reintegration package, and to identify the first group of beneficiaries willing to return

c) the implementation phase, to conduct return related activities in two phases; a seminar was also held in 2008 on the best practices in AVR, bringing several stakeholders from Africa, Malta and other European member states.

(Ministry of Justice and Home Affairs, 2009)

The DAR project was more successful than expected. It envisaged the return of 50 individuals, but in fact reached a total of 71. A further 71 registrations were submitted by interested individuals to SOS Malta after the project period had closed. From the interviews conducted in this research it was also confirmed that individuals are still asking whether SOSMalta has plans for conducting further AVR programmes. The success of this programme was mainly due to the investment in extensive preparation for the return activities themselves, and in the changes that were made during the inception and the programme development phases. In the preparation phase a total of 157 interviews were conducted with prospective returnees. Three focus groups were also conducted with respective Eritrean, Sudanese and West African communities; the latter was conducted in detention. The discussions considered the following topics:

a) readiness to return;

b) reasons for return;

c) required information for return purposes;

d) expected situation post-return; and

e) assistance in return.

Working visits were also conducted to migration authorities in European States. The findings of these visits and the interview and focus groups results indicated that there needed to be an increase in financial means to assist individual return and reintegration. The project budget was therefore revised, after a cross cutting exercise to reduce staff costs for travel and subsistence allowance and to shift savings towards the returnees' incentive package. The changes were approved by the Commission and therefore implemented in the project. In one of the research interviews with an officer from SOS Malta it was established that the financial package for each beneficiary was in the range of EUR 5000, although there were slight variations in the package since the package was tailor made according to the plans, capabilities, prospects and opportunities of each individual (Ministry of Justice and Home Affairs, 2009).

A second advantage of the DAR project was therefore that the package allowed for comprehensive return and reintegration measures. The active involvement of the participant was a priority, and assistance was targeted at creating a real incentive for participation in the AVR programme. The concrete package comprised of:

a) substantive financial support for the returnee

b) development of an individual return and reintegration plan

c) return counseling and pre-departure training

d) on-site assistance after arrival in the home country

The financial package included travel expenses, cash allowance distributed in installments, and the purchasing of equipment or other set up assistance post return. The distribution of cash installments is a different strategy from the strategy of RESTART. The officer from SOS Malta explained that it is necessary in such projects that there is a trust relationship built with the project beneficiaries, and that this trust should allow for the beneficiaries to spend the money according to the plan they had drawn before they left Malta. Another weakness of the DAR project is that there is less emphasis on the monitoring of project success in terms of sustainability of the return projects which the project had supported. The SOS Malta officer explained that the organization had maintained contact with the returnees through phone calls and other means, and was monitoring their progress in this way. The reason for this strategy was once more the cost that monitoring and evaluation incurs on project fund allocation, which seriously impacts the success of the project in terms of reducing the financial package available for individual return and reintegration.

The DAR project report further explains that there were difficulties when the services of IOM in Sudan were engaged for the on-site payment of reintegration assistance on return of the beneficiaries. Delays and rigidity on the service caused SOS Malta to change its strategy because the credibility of the programme was reduced among participating and prospective returnees. Some of the prospective returnees were therefore

handed the reintegration assistance before departure (Ministry of Justice and Home Affairs, 2009).

These two programmes, implemented by different organizations which used different strategies, reveal particular differences especially in the approach towards the beneficiaries and in the methods used for ensuring success of the project. In the interviews conducted for this research most representatives of organizations were skeptical about the implementation of AVRs by IOM, and acknowledged the need for organizations to conduct such programmes since they are more independent and flexible in their approach. The success of the DAR project was also acknowledged, while an officer from the Funds and Programming Division admitted he had not had the experience of the DAR project since he had only started working in this division since 2011.

Research findings: AVRs in Malta and sustainable return

Six semi-structured face to face interviews were conducted in Malta with officials from six different actors working in fields related to migration and development, as described in the research methodology. The aim of the questions was to explore the effectiveness of AVRs in terms of the relationship between AVRs and migration, sustainable development and return, in the context of Malta. Therefore these links were explored in the interview in the context of the experience of each interviewee in their role and capacity within the organisation or entity which they represented. Finally

recommendations were gathered from the interviewees. The interviewees were officials from:

1. UNHCR (United Nations High Commissioner for Refugees) Malta.

2. An officer from SOS Malta (NGO in the field of development and migration).

3. Two officers from IOM Malta (International Organization for Migration).

4. An officer from FSM Malta (Foundation for Shelter and Support to Migrants).

5. An officer from the Ministry of European Affairs and Implementation of the Electoral manifesto (the Funds and Programming Division in charge of administration of European Return Fund).

6. An officer from KOPIN (NGO in the field of international development cooperation, human rights and migration).

The interview questions can be found in Appendix 1.

The interview findings were analysed using content analyses, and the following information was gathered from the research:

The option of AVRs and the experience of organisations and departments

AVRs were seen as an 'option' by all the interviewees. The way AVR programmes are promoted, implemented and administered can also vary, depending on the following factors:

a) The mandate of a particular organisation, agency or department:

The way organisations perceive, facilitate or implement AVRs depends on their mandate. While IOM perceives AVRs as one of its major activities, for UNHCR the topic is part of a "new policy discussion". IOM regards its AVR programmes to be highly beneficial for returnees' integration in their home communities on a micro-economic level, however on a broader level sustainable return can be limited by other restrictions. IOM officers explain that one of the strategic advantages of IOM is its organizational experience in implementing AVRs for more than 40 years, and in developing expertise and methods of programme implementation. Enjoying the presence of 450 offices around the world IOM benefits greatly from the sharing of information and networking on a daily basis among its various offices, which is useful for providing beneficiaries with accurate data on the country of return. This increases the probability of a successful return project.

UNHCR on the other hand has a strong mandate to protect those who are in need of humanitarian protection, which mandate was established by a convention which was signed by nations, and therefore obligatory. While there are other strong reasons, such as poverty and deprivation, that compel people to move and migrate, the mandate of

UNHCR is to ensure the rights of those who have fled because of persecution or conflict. However there are new internal policy discussion within UNHCR as the result of the experience of UNHCR in detention centres, in Malta and Lampedusa. In these centres there are many migrants waiting for months, who would probably have their asylum application rejected. Some maintain that UNHCR should stick to its mandate established by the 1951 convention and focus completely on ensuring the rights of refugees and those with subsidiary protection; but there are others who believe that even this group will encounter challenges unless UNHCR broadens its interests and starts attending to issues concerning all irregular migrants. The priority of UNHCR is to maintain its strong mandate and its power to call on states to honour their obligations under the refugee convention. Because of the perception of persons in Malta towards irregular migrants, the distinction between those who have humanitarian protection and those who do is blurred, and therefore it is hard for people to understand that persons with international protection are in Malta because they have the right to be there. UNHCR officers working in detention see the value of AVRs as an option for people who spend a long time in detention and may face the possibility of forced return. However AVRs may also be a good option for those with international protection on condition that their decision is voluntary, and that they understand their rights as persons with international protection and the situation back in the country of return.

Other organisations take a more flexible stance. For example SOS Malta, working in several areas including development, takes a more holistic approach and looks at the broader framework of the individuals seeking asylum. This perspective is perhaps

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possible since such NGOs are usually not restricted by rigid organizational demands, and can take a more bottom up approach towards beneficiaries and projects. Their projects in developing countries can also bring them closer to the people in the countries of origin, their needs and their experiences.

b) *Perceptions on the strategic importance of AVRs and its funding*

The Funds and Programming Division in Malta was set up in 2011 and is in charge of fund administration including the administration of the European Return Fund. It is mainly interested in the success and sustainability of projects and in the establishing of best practices, consulting with NGOs and agencies interested in applying for funds for implementing various projects under the ERF (European Return Fund). The interviewee from this office explained that the new Programme (2014-2020) will be spread over 7 years and therefore allows for long term planning of projects with longer sustainability of the project itself. The office is responsible for budget allocation, project call and selection and agreements, and therefore has the power to make high level decisions on projects such as AVR projects. The experience of the interviewee from this office is that more funds are probably used for activities of AVRs than for activities of forced return, because forced return presents many challenges such as the obtaining of documentation of persons. The Officer was positive about the two AVR programmes implemented by IOM in the last two years. In his view, activities of forced return are important for the

success of AVRS since they motivate those who have little prospect of not being returned to their country of origin to take up AVRs. A KOPIN officer however explained that AVRs may also serve to justify activities of forced return, because the decision of migrants not to take up these programmes may be taken as a legitimate reason for states to return people to their countries of origin. In general interviewees all agreed that AVRs are a good option if they are taken up by migrants through an independent, individual choice assisted by entities who take a humane approach.

The FSM officer explained that AVRs are "a necessary tool" for development. it is the right of every state to forcefully return a person who had entered illegally, even for reasons of poverty. However it is important to recognize that irregular migration is persistent, and therefore to consider those push factors that motivate persons to migrate. Most people are leaving Africa to migrate to Europe because of poverty and deprivation, and not because of war. These persons simply want to get a job, but they end up working illegally outside the protection of a social security system. As these persons grow older they will therefore become a burden in terms of welfare provision. SOS Malta also expressed this concern, emphasizing the fact that AVRs need to be implemented with a "human" approach rather than a "business" approach, while being made part of a strategic plan that takes into consideration the situation of the individual migrant. SOS Malta implemented the DAR project (AVR programme 2007-2009) with this type of approach and delivered a highly cost effective project where the beneficiary was given a priority, and where a lot of attention was given to save money from administrative spending and give a higher financial package to the beneficiary. In this way the AVR

package was a high determining factor in AVR take up by the target population. While aiming to return 50 persons, the rate of application was so high that the DAR project reached 150 beneficiaries who returned and started projects in their country of origin.

These contributions indicate distinctions in the different perspectives emerging between organizations which face different organizational restrictions. This distinction continues to emerge in the broader context of EU policy and development where some organizations feel this is not their remit, while others are also involved in this work and consistently see the implications of certain push and pull factors of migration for institutions such as the EU in its attempt to address its need for security and its goals for upholding human rights and freedoms.

Success and sustainability of return

In the interviews NGOs were against forced return, however some also acknowledged it is the right of every country to return persons residing illegally to their countries of origin. All the interviewees agreed that AVRs are a good option and they indicate the EU's recognition that migrants have gone through dangerous journeys to reach Europe simply because they need to find a way out of poverty and deprivation for themselves and their families. Therefore if they can return to their country with a plan and an assistance package to start a project that can render an income to sustain their family, this would be a better option.

The SOS Malta officer explained that the lack of proper development, especially in areas such as employment, health, education and access to clean water, is the main cause for African migration to Europe. Therefore one has to ask the question as to why poverty and hunger persist in Africa and why "the billions pumped into Africa are hardly anywhere to be seen." Because NGOs like SOS Malta also work in the countries of origin of some of the migrant groups in Malta, they have a better understanding of the level of poverty that these people are experiencing in their home countries, and why people are fleeing from a situation where they "suffer for years and years in a country which is going to give them no future at the end."

The IOM Malta officers explained that there is a development gap between the North and the South, and that the AVRs do contribute in reducing this gap, but only at a microbusiness level. On the other hand the EU also supports Community Assistance Projects (CAPs) by devoting a certain amount of finances and collaborating with governments and NGOs to promote development within regions with a high number of returnees. These projects are being implemented for example in Ghana where communities with a high number of returnees are identified and community needs assessed with the help of community leaders. IOM is a partner of the EU in these projects aimed at development, involving activities such as the building of a school or the digging of a well, activities that link return to development. IOM Malta explains that irregular migrants are often young people with the courage to pursue their dreams and to find opportunities for improving their lives and the situation of their families. Therefore when AVRs are successful the person's sense of dignity and respect is enhanced, and this

can be a great contribution to development in their country of origin. IOM takes a procedural approach to AVRs, where the procedural steps are the same for every individual, including the financial allocation for each beneficiary and the precautions taken to ensure that beneficiaries understand their responsibilities and act according to their commitments with IOM. For example procedures requiring photos and signatures made it easy for offices to trace persons who were applying for AVRs for a second time with IOM. Returnees were also informed clearly about entry bans and about their obligations as AVR beneficiaries.

Family pressures can be a determining factor of success or failure of return projects and AVRs. Migrants are however returning with a different mentality. In polygamous societies for example, male returnees usually refuse to marry more than one wife because of their exposure to monogamous cultures in other countries. According to IOM, this means that they will not be incurring further extra spending outside their return project, and they are even contributing to development in their community, because they are changing certain behaviours that often increase poverty and deprivation in the family. This however depends on the success of their return project, since failure may lead to discrimination and isolation. Sustainability of the return project therefore needs to be addressed in the AVR programme by providing the returnee with the necessary tools for making informed decisions about the return project. The pre-return AVR package needs to be strengthened to include not only training, but also information and links to international contacts. These networks can greatly enhance the success of projects especially in the context of global markets, and prevent situations where the markets are

so limited that the returnee will end up in the same situation as before he started the journey to Europe. In this way push factors are being addressed in a broader context and return sustainability is enhanced.

On the other hand push factors may take different forms that sometimes cannot be addressed by AVRs because they are not simply economic factors. FSM Malta explains that sometimes people are forced to leave their communities in a certain region of their country because of conflict. Contrary to the belief that such persons may resettle and reintegrate in other safe parts of the country, these persons often do not have any guarantees to restart life in these areas.

> *"The 1951 convention was promulgated after the second World War and it saw people as nations, so a refugee is a person who has fled their country of origin because of persecution or serious harm, and cannot return for specific reasons, and these reasons can be mainly because of war or religious persecution or political persecution. So war is seen on the terms of a nation, so Somalia is in war, Syria is in war... but you go to other places as well you know, Egypt is in war but not everywhere in Egypt is in war.... because there is the principle of the safe country....so if there is war in the North of Ghana and in the South it is peaceful, a person cannot go to another country and claim asylum, because they can tell him you can move from the North to the South. That is a very simplistic way in seeing how conflict even in a localised area effects a person…"* (FSM Officer)

In such a situation when a person migrates from rural to urban areas, such as in the case of North-South migration in Ghana, the person has no guarantee of resettlement. There is high unemployment, lack of housing opportunities and no government welfare

or support for the internally displaced person. This can force the person to engage in criminal activity, and in order to escape such a situation the person migrates to a country which can guarantee him or her a safe place of resettlement and a more secure future. The FSM officer explained that "this is what the refugee law tried to do, it tried to resettle the person in a different country so that the person can start anew; the person enjoyed all the benefits of a citizen."

AVRs can be successful in cases where personal training, counselling, capital investment and reintegration measures can lead to sustainable return. However in the case where persons cannot return because of the lack of freedom and the lack of guarantees for resettlement, AVRs would not be able to address those broader factors which are the actual push factors for migration, and which many times are not addressed in the asylum system. Because serious deprivation and poverty can lead to serious harm, although NGOs and other entities and individuals believe that such persons have the right to migrate in these situations, there is no legal framework that can be applied besides immigration law, which is mostly applied within the remits of national interest. Refugee law is also applied in a restrictive manner and does not address situations where persons are facing regional or tribal conflict that leads to poverty and deprivation that is ignored by local governments. When people have no other options, irregular migration becomes a way out, and therefore people do not want to return to a place where conflict will stem their development and fail their project. The UNHCR officer explained that asylum lawyers need to be aware of certain issues when applying the law in terms of the

definition of 'persecution', since certain economic conditions brought about by elements

of persecution can be addressed by refugee law.

> *"It depends in economic terms...what is the reason for your economic problem? Is it something that affects everyone equally or is it affecting you because you belong to this tribe which doesn't have recognised this and this rights? Then you are getting closer to something which can be termed as persecution because of who you belong to and it could become a refugee issue...it is not automatic that all economic reasons are not recognised as rights issues but it depends on how it is applied and this is where it becomes difficult to be an asylum lawyer...they are supposed to look at these aspects, it is not a simple question of who has been attacked or who is fleeing war...it is looking at a refugee definition, looking at what does persecution mean, what does it mean to belong to a certain social group for instance, how does it affect you..."* (UNHCR Officer)

Implementation of AVRs

   a) *Information, recruitment and decision making*

Beneficiaries of AVRs often have many questions when they first approach IOM,

however IOM Malta first deals with this enthusiasm by delaying the application until the

person has understood, through counselling, the aim of AVRs for return and

reintegration, and has acquired enough understanding to make an informed choice. At

this stage it is very important for the person to gather information and go through a planning process where he or she can construct a business plan, and also to have more than one plan in order to increase the probability of success and sustainability. Persons considering AVRs can change their minds in the last minute. During the process of counselling persons may experience stress or frustration as they think about return, and some of the recruits may leave the programme. This poses some problems on the funding of the project, especially in claiming expenses which were made for recruits who then decided to leave the programme.

The experience of SOS Malta in the DAR project was that the number of returnees increased during the process of recruitment. A lot of this success was due to the investment of SOS Malta in conducting research on the needs and experiences of migrants in relation to return migration through focus groups and face to face interviews. In this way beneficiaries felt that they were being respected and that the NGO implementing AVRs was listening to them, not only as individuals but as members of communities and tribes.

Both IOM Malta and SOS Malta included persons in detention in their information and recruitment services. While recognising that persons in detention were vulnerable and that they were still waiting for the results of their asylum application, both entities also recognised that informing such persons about AVRs could help them make a more informed decision in terms of considering all options available. This was very important especially for persons and groups who knew their application could easily be rejected.

b) Pre-screening

Pre-screening criteria for AVRs are important in understanding the way organizations perceive the individual beneficiary in terms of safety, vulnerability, access to services and opportunities on return. In the case of persons with international protection both IOM and SOS Malta accepted such persons in AVR programmes, on certain conditions. SOS Malta explained that such persons were very few; the beneficiaries understood their rights but they also wanted to go back and contribute to development in their country. Three of these persons went to Sudan and started a business project there. IOM Malta also referred such persons to UNHCR for screening. UNHCR established that persons with international protection can be recruited in AVR programmes if their decision is voluntary. Voluntariness is tested by making sure that:

a) the person understands his or her rights as beneficiaries of international protection

b) the person understands the implications of returning to their home country through an AVR programme and of losing the right to maintain their status

If UNHCR finds that the prospective recruit understands these rights and implications, that he or she is taking an informed decision and that their decision and consent is consistent, then they agree with the person's decision to go back home.

> *"We don't automatically assume this person knows what he's doing, that's*
> *why we do the interview, but it's not our role to be paternalistic and say no,*
> *you should not go home, we know what's best for you. Our role is that he*

knows that international protection is available for him and he can keep it,
if he is taking a well informed choice that he might be going home, and we
feel he has all the tools he needs to make that decision, then who are we to
stop him? That is not our role, our role is to offer protection for those who
seek it.'' (UNHCR officer)

For persons with special medical conditions requiring care, SOS Malta collaborated with medical consultants who established whether prospective recruits were fit to travel, and how they were going to adapt in their situation on return to their home country. The SOS Malta officer explained that there are always unforeseen risks when dealing with such medical conditions. In one experience involving the return of a person with a medical condition, the return was successful. SOS Malta made sure the person had medical supplies to last for many years, and it was the person's desire to return and to die in the home country. In another case the situation was complicated because of family intentions to gain from the financial package of the AVR programme. Although SOS Malta communicated effectively and several times with the medical staff in Malta and the family in the home country, the false intentions of the family led to the failure of return goals for the returnee.

c) *Pre-departure counselling, financial package and disbursement*

There is a clear difference in the financial package in the two AVR programmes DAR (implemented by SOS Malta) and RESTART (implemented by IOM Malta). IOM Malta explained that the AVR programme RESTART started with a package that

allocated EUR 2400 to each beneficiary which was later increased to EUR2600. The financial allocation has recently been increased to EUR3000. This is seen as a good package to start a microbusiness, although one has to consider the context in the countries of origin. For example in Ghana the IOM missions in Malta, Germany, Netherlands and Ghana conducted a research, under the European Return Fund, in order to explore economic sectors in Ghana which were open to investment, and the social structures available to support the social reintegration of returnees. According to IOM, the research findings indicated that there are many enterprise initiatives that are possible with a budget of EUR2600. Some activities however are not possible. In Ghana and Nigeria for example the renting of a shop requires a deposit for a period of two years, which makes it difficulties for returnees to invest in renting a good shop. Therefore Ghanaian and Nigerian returnees usually buy second hand taxis because they simply need to send an invoice for the car to the IOM office to make the payment. The permission for a taxi business also takes a short time and is not expensive, and a taxi business can bring an income to the returnee in a very short time. In French speaking countries such as Mali, Burkinafaso and Niger it is possible to rent a shop with this amount of money (EUR2600) however in Sudan the amount is insufficient for renting a shop although agricultural projects are more feasible.

The perception of some of the other interviewees however was that EUR 2600-3000 is not a sufficient amount for potential returnees to invest in a sustainable return project, and that the package has also other hidden costs. Some explained that if the flight ticket, transport, food and accommodation are covered by the financial package, then it is

clear that the package cannot start a sustainable enterprise. Moreover they point out that

administrative costs for IOM are high in relation to the financial package allocated for

returnees, so that the programme is not cost-efficient. The requirement of invoices is also

regarded as disadvantageous to persons in rural areas who need to incur costs in order to

deliver invoices to IOM offices in the area. KOPIN explained that some AVR

programmes do not consider the particular context of persons returning to rural areas, and

do not have inbuilt mechanisms to support such persons in reaching their objectives. This

limits the option of returnees, especially those returning to rural areas who are already

limited by other factors.

In the DAR project on the other hand the financial allocation for each beneficiary

was EUR5000 and the individual was trusted and given the cash in hand. A lot of

resources were also focused on pre-departure preparation in the form of training in areas

such as hairdressing, driving, pig rearing and business entrepreneurship. SOS Malta

explained that the strength of the DAR project was that it placed the needs of the returnee

in the centre of financial planning. The price for this decision was that there was not

enough monitoring. SOS Malta tried to network with IOM in monitoring reintegration in

the places of return; however administration costs were too high for this service.

IOM Malta officers explained that the decision to pay invoices and avoid transfer

of cash to the beneficiary is for preventing money being spent outside the beneficiaries'

intended budget. This is a critical factor especially in family relations, where the returnee

has been the person providing for family needs, and is now expected to sustain family

income and support. In pre-departure counselling IOM assists returnees to deal with

family pressure by encouraging them to organize a plan as to how to involve the family members in their return, while maintaining focus on their business plan.

> *"He told me at least you know neighbours the women the child they need to buy something...I told him look you already prepare the things, his family prepares the shop, renting, his brother prepares the store from where he will buy the goods...you will arrive in the night, you will take the bus, the first day with the family, the things, the food...the second day work but take into consideration, don't eat your budget, if you start giving from the shop you will lose and noone will help you and you will be maybe the last! Look whatever you gave to someone something with 1 Euro value or you gave something with 1000, it could be that noone is satisfied, that's why be a bit strong, think about it, once you economise from your gain you can do what you want..."*
> (IOM Malta Officer)

There is also a need to address the long term goals of the individual project, especially for those investing in a business. Pre-departure assistance and post-return support must include training assistance and must develop and maintain networks before and after departure. There needs to be attention given to long term business plans and support for the adjustment of plans on return is critical for sustainability. The example of Austria was mentioned, which used ERF funding to build a hostel in order to provide accommodation for returnees. Therefore the provision of accommodation, food and support is very important for returnees.

d) *Re-integration and Monitoring*

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SOS Malta explained that one of the weaknesses of the DAR programme was the lack of monitoring. As explained before, this was due to a decision to limit administrative costs and to increase the pre-departure benefits for the recruits themselves. SOS Malta monitored the success of returnees through direct contact and phone calls, and still maintains this contact today. The officers from IOM Malta on the other hand explained that monitoring was the last phase of the AVR programme, where the IOM staff in the country of return would monitor the outcome of the project and learn about the successful strategies and the challenges and failures of projects. This information would then assist IOM in the counselling and pe-departure preparation of new recruits.

IOM explained that when projects fail IOM cannot take responsibility of the failure; every project has its risks but a person could only benefit from an AVR package once. In the AVR programme although the recruit is counselled, decisions regarding the implementation of the project on the ground was also left to the returnee. The procedure was explained many times to the returnee before return, however the returnee became responsible for their return project as soon as they returned. In this case monitoring was done by IOM for the purpose of obtaining information which could improve their return programme itself.

Other interviewees differed on the question of responsibility for sustainability of reintegration by the organisation implementing AVRs. If persons can choose to return voluntarily, therefore the organisations recruiting migrants and promoting the choice for AVR programmes must assume some responsibility for reducing the risk of failure of

returnees' projects. IOM's financial allocation to beneficiaries was also seen to be low, and not able to cover risks associated with failure of a project, even if returnees had plans about what to do in case of failure. The financial allocation was seen to cover the flight ticket and initial expenses of transport and investment, and could not guarantee sustainability.

AVRs, EU policies and states' interests

One interviewee explained that AVRs are part of development but they are not the solution to development. There must be a more holistic approach to strategic development planning, and then returnees can be engaged in these existing development projects. In this way AVRs would not simply be seen as an individual project, but as a project that contributes to national development. The interviewee explained that most Western countries are not ready to make a long term commitment to the development of certain poor regions. There is a need for such development that can effectively stem the migration of young people to other places, and return others who want to contribute to development. Development generates economic growth and employment, reducing the risk of poverty and conflict. Governments of developing countries are willing to cooperate with European countries on these projects, with the involvement of NGOs and civil societies in the countries of origin. However if the interest of the governments of EU member states is simply to send back irregular migrants, then the governments and

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people of developing nations are asking whether Western nations who implement

developing projects in Africa actually have an interest in it.

Other factors are also part of the dialogue between conflict, aid, trade, development

and migration. The concept of the safe country needs to take into consideration that many

times even though there is an election or a peace agreement, the country is not safe. This

is the situation in Mali and Ivory Coast for example, where people are fleeing from these

places because they do not feel safe. On the other hand migration, aid, remittances and

AVRs cannot replace the importance of development in African states. Europe needs to

then address certain policies and "to take certain steps in the case of trade policy like the

CAP (Common Agricultural Policy), to reduce the burden on developing countries, so

it's a package; you cannot see AVR in isolation, you cannot see AVR as a solution to

development...." (FSM Officer).

The SOS Malta officer explained that returnees can be ambassadors of their country,

and open channels and communication and trade between sending and receiving

countries. However development in Africa is greatly influenced also by the way

development aid is administered.

>   *"It is absolutely immoral that people don't have access to clean water,*
>   *which is the entry point to development. So how on earth, after all these*
>   *years, we still have people having to walk 6 kilometres for water it is*
>   *incomprehensive, and when there are extremely efficient and very cheap*
>   *cost effective measures to take even with rain water harvesting . So I would*
>   *say the whole development arena needs to be looked upon, and in how much*

of we ourselves as Europeans are taking out of that budget to expatriate
salaries, expatriate living in these countries...instead of absolutely using the
money totally towards the beneficiaries. I know development creates
employment, fine, but I mean is the budget there to employ Europeans or is
it there make a difference?...I think the message is coming loud and clear, I
mean we didn't make it for 2015, we're not going to make it...women are
still dying, children are still dying, especially women giving birth are still
dying, how can we live with that when we have pumped in so much
development? So it needs a lot of reworking...let's build on the good
practices to make sure that development aid is really reaching the people".
(SOS Malta Officer)

The interviewee explained that the EU allocates 33 % of development aid to budget support (support for the government budget towards development), however this money often does not reach the people who need it because of corruption within government sectors. More of the development aid budget can be used to assist people in need if it is given directly to civil society organisations. FSM explained that many successful initiatives in African developing countries were implemented effectively by church organisations and civil society. The reason for this is that such organisations usually have a strategic development plan that addresses individual, community and regional needs in a comprehensive and coordinated manner. In comparison development assistance is simply based on trade.

"Ok so a borehole is put in a town or a village, so they go they drill it and
they put the bore hole and it's broken, they cannot sustain it...so there's no
need in building a borehole when a person has not been trained as a

technical person to produce this. But in that case aid is seen as selling
Western industry because the drilling equipment all the boreholes in the
ground....so it is a business because at the end the material, the equipment
is sold as development aid, it is trade based, it does not look at the cause!!"
   (FSM Officer)

One interviewee explained that development aid cannot be the main driver of change, and that developing countries need to be given the chance to use their resources and to have access to markets. If states are not given this chance then the simple transfer of development funds will not be a proper solution. However developing nations also had a responsibility towards the development of their own nations, whereby solutions were also present at national level. Another interviewee stated that international dynamics are strongly influenced by political factors. One of these factors relates to how states interpret and apply the Cotonou agreement, and how assisted voluntary return is effected by the way states use development assistance as a leverage to negotiate other conditions.

Some of these conditions are related to migration policy and readmission agreements. Negotiations between states engaged several policy discussions and were part of a broader "package". In the context of this broader framework AVRs are at times seen as serving the state more than the beneficiary, as it is a way by which people are deported back to their countries of origin in dignity. Implementation however varies from one country to another, and one interviewee had a negative experience of AVR implementation in Malta, because the programme concentrated on numbers and on the priority of sending people back to their countries of origin. An officer from IOM Malta explained that both sending and receiving governments support AVRs; governments of

destination countries know that those who return through forced return activities have a higher chance of migrating to Europe again than those who return with the assistance of AVR programmes, especially if their return project is successful. Developing countries also favour returnees especially when their return is linked to development projects. For example in Mali the government assists with the giving of land, irrigation systems and facilities for development projects initiated by returnees. Returnees' organisations are in fact key to assisting returnees with re-integration.

These findings shed light on the specific challenges, contexts and interpretations of AVR programmes in Malta, and of their implementation. They are therefore important in drawing conclusions that address the research question, in relation to the findings in previous chapters and to the concepts explored in the literature review. These conclusions will be presented in the next and final chapter.

CONCLUSION

The research starts by addressing a question on the effectiveness of AVRs in relation to EU policy on migration and development, and in relation to return sustainability. It is the purpose of the research to approach the subject of AVRs in a broad framework, where social and global justice are central concepts in understanding the effectiveness of specific and targeted policy decisions in the areas of migration, development and return. Within this purpose the research highlights inconsistencies and gaps which can however be addressed in a comprehensive and just manner. AVRs are therefore analysed in the light of these inconsistencies and gaps, but also in the hope of further efforts to construct and adapt policies which can reflect more of the moral justice required of institutions and states today.

The power dynamics

It is critical to understand the importance of power dynamics in the context of migration, return and development. Institutions in positions of power assume not only that their interests come first, but also that discourse is framed to their advantage. Because of this, separating the real issues from the superficial ones becomes difficult, as the attitudes of powerful institutions towards 'others' are based on principles shaped and formed by the same dominant institutions. Therefore there is no agreement on a

'universal criterion of justice', and many times real issues are ignored while the interests of dominant institutions such as the European Union take centre stage. Analysing the responses and actions of institutions and groups affected by them can bring out a contrast which exposes the gap between the two, and highlights the type of engagement they undertake. In this research the response of the European Union to irregular migration can therefore be contrasted with the response of irregular migrants to EU policies.

The writings of Pogge and Sen as explored in the literature review shed light on the contrasts found in this research. The main contrast is between the goals and expectations of EU policy on migration and development, supported by financial commitment, and the goals and expectations of individuals in developing nations in Africa, who are motivated by specific needs, perceptions and personal experiences. The two languages are different; one is institutional, formal, and rational. The policy documents issued by the European Commission are all integrated, one document supports the other, and there is a unidirectional, rational, logical argument with seemingly no flaws in its logic. The expansion of policy to considering the migration and development relationship also shows the willingness of the EU to discuss the push factors of migration. Attempts are however limited and in all the policy documents and reports there is very little about the intentions, experiences and interests of African states. Euro-African processes, migration policy, development policy and other related policies appear as a one way conversation, and one is left wondering what the reaction might be on the other side of the negotiating table.

The other players in this research are those individuals affected by these policies. Their experiences are hard and rough, and a vast space lies between the experiences that they share with others at any given point in time, and their decisions. This space is a space of complexity in events, identities, relationships, situations and opportunities. There are so many different types of interactions in this space that one can hardly fathom the outcome. In the analysis of FSM's research, migrants and returnees featured as persons with very unique characteristics, opinions and experiences. On the other hand groups of persons were facing similar challenges and restrictions in their environment.

The 'space of complexity', as I have termed it, is perceived by the individual as one integrated space in which the person interacts with other elements. People, organizations, situations, tragedies or experiences can all be present in this space, while the person himself or herself is constantly responding to it and manipulating it. In the complex subject of irregular migration, it is organizations, and institutions such as the EU, which attempt to divide that space of complexity into many sections, accordingly, in respect to the various policies and practices within the EU, the EU member states and the organizations involved. In the end however, the beneficiary of AVR is the same person.

This division brings fragmentation within the individual, who is struggling constantly to keep the various dimensions of life together, to maintain control of the diverse elements within the space of complexity, and of one's identity. Konsta and Lazaridis' concept of plasticity here applies to the many forms of resistance built within irregular migrants who face this fragmentation. The Ghanaian interviewees in the research analysis found many ways and means of resisting legal restrictions, in order to pursue their goals.

Particularly interesting is the migrant who later became a 'connection man', and by doing

so presenting an individual who builds enough resistance to use his experience, the

environement and the needs of others to his own advantage.

Here the writing of Burton appeals to the relationship of human needs to deviance.

What is interesting is that, while in EU member states irregular migrants are 'deviants', in

their own countries they are esteemed persons who assist children to finish school, who

take care of their parents' needs, and who build projects that can employ others. In a way

they are seen as those who bring development, but there is too much on their shoulders,

and when they fail and are returned they meet discrimination and shame. Perhaps the EU

can use its power here to promote the participation of migrants and representative groups

in the agreements that are made between the EU and African states for projects involving

development and migration. This participation can ensure a more just way of allocating

resources, by establishing monitoring and evaluation systems. The action can disfavour

private agreements and lobbying on natural resources in exchange for finances and

projects, which agreements exclude and disadvantage poor communities that are effected

by outward migration.

Pogge's universal criterion of justice is an important concept to apply in the

interaction between European and African institutions. First the criterion must be

universal, meaning that there is agreement between all parties, and secondly it must

respect the autonomy of various peoples and societies in relation to human rights.

Pogge's appeal to the moral framework of justice rather than the legal one is also critical.

In the migration-development nexus the moral framework is necessary, since fragmented

one-sided policy making cannot ensure any satisfactory solutions, even when laws are upheld. A moral framework would demand respect for the views of others, whether they have an ethical or personal view, and on the moral demands that people have of institutions, especially when they are affected by institutional policies and decisions. But how can one know the views of others unless one gives them a voice and listens? The EU cannot hope to reach a solution to irregular migration, neither by spelling policies that can affectively deal with selecting those who can stay and those who should leave, nor by providing incentives for return and development such as AVRs. Primarily the EU needs to allow a participatory dialogue, where other groups are well represented, and where the voice of developing nations can be allowed to feature in the dialogue about irregular migration and the migration-development nexus.

Barriers of exclusion

The writings of Sen address the dynamics of power in the access to development and freedom. Throughout the research one can understand better the life of persons who have left their community because of poverty, deprivation or conflicts that are unknown, or are not recognized by EU member states as conflicts meriting the granting of asylum. Sen refers to the "life one has reason to value", while Pogge refers to "human flourishing". In both these concepts the individual is at the centre, and interacts with the environment in order to find out whether he or she has access to development, independence, and other values that make life something that they value for themselves. But the agency of the

person meets not only with the environment, but with the social institutions which regulate, govern and monitor these interactions. Therefore, the amount of freedom one is given by the institution is a determining factor, and rules and policies can greatly restrict such freedoms. In the global sphere however these restrictions affect people who have very little power, and their voice can be hidden neatly away.

The research finds out that the EU has created many barriers of exclusion towards individuals in developing nations. Certain pillars of the migration policy reinforce these already existing barriers. The first barrier involves attitudes and prejudices that have been set up historically from colonial times. The question is whether enough has been done and is being done to undo the damage, in relation to prejudices and discriminatory attitudes that persist between societies in the North and those in the South. Perhaps even though the EU contributes financially for many integration projects, and sets up several forums and conferences for dialogue, the type of language the EU speaks is still one sided, formal, rational and in a uniform logic that appeals to the EU institutional framework. This type of discourse excludes any consideration for diversity, and assumes that the institution is the leader of policy and progress. This means that unless the EU promotes a two way dialogue the processes cannot lead to a meaningful agreement on the justice criteria that are used for instituting policies. Perhaps one of the developments within the EU framework has been in the growth of development education, since many EU citizens have become interested in development through such projects. These programmes have increased the awareness of people in Europe on causes of development inequalities, so that they are more informed about the global factors that are responsible

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for poverty and deprivation, and which are push factors for irregular migration. The involvement of communities from developing nations is also important here, so that they are not simply the 'receivers' of policies, projects and financial assistance, but need to be given a place to participate in matters which involve them.

Secondly, exclusion can be seen in strong economic terms. In EU law and policy, there is a clear distinction between irregular migration resulting from a decision to avoid 'persecution', and migration resulting from a decision to avoid 'poverty'. Definitions and interpretations of the two are highly contested. The first is left to refugee lawyers to interpret, the other is the subject of development debates and policies. One important difference is that the first, that is persecution, has a historical past associated with the dangers that persecution can bring to a people, a community or a nation. Persecution is seen as a threat, a 'positive' force, intentionally manufactured even if its implications are indirect. The UNHCR Officer in the research explained that when someone is deprived from the ability to generate an income simply because of his or her belonging to a particular group, this may(or may not) amount to persecution. On the other hand, poverty is seen somehow, as something resulting naturally, a product of natural limitations or restrictions of communities, peoples and nations. It is not the responsibility of the world to ensure that those who are hungry get fed, and that those who lack access to education find opportunities to do so. Although there is a document stating the 'right to development', its meaning is somehow blurred as to how this right translates into the life of developing communities, and who takes responsibility for which issues related to this right. In this respect the EU follows world institutions in monitoring and evaluating

development through the Millenium Development Goals and other indicators. However such indicators, which have been taken as the basis for eradicating poverty, have not led to the expected outcome. The repercussions of poverty and development inequality is constantly felt in Europe, especially in the Southern European countries like Malta, where boat arrivals speak not only of persecution, but of people who have basic unmet needs, and people who want a chance to contribute to their families and communities. As one of the interviewees in the research remarked, the exclusion of people from access to clean water and access to maternal health points out to the need for understanding why this exclusion persists when the EU is committing finances for such projects. The 'do no harm' principle here applies to the need of the EU to make policy decisions that do not disadvantage the poor, especially in areas of trade, development and agriculture.

In another context, strong barriers to finding legal employment in Europe for African citizens is highly unfair when considering the ease by which EU citizens can enter the same states that such African citizens come from. The exclusion resulting from biased immigration policies needs to be addressed if the EU hopes for better relations and negotiations with African states that are countries of origin and transition, and if it aspires for cooperation from such states on migration management. The Partnerships for Mobility for example have not been successful in making agreements that provide spaces of employment for African individuals. The barriers to immigration need to be addressed seriously because such barriers can be a strong driving force for those who feel excluded, to seek other means of migration, especially when they still find jobs in Europe.

Finally the research has indicated clearly that there are barriers to integration in Malta and in other states. These integration barriers serve not only to delay return, but to jeopardize the sustainability of return. Lack of integration measures can lead to the emergence of various dependent behaviours which are hard to address after some years. The economic conditions of migrations and the lack of integration in their host societies greatly affects their embeddedness on return.

The option of AVRs

In relation to EU policy, AVRs are considered an effective option for migrants, based on choice (voluntariness), for addressing push factors of migration, by overcoming such push factors on an individual level through the AVR package. Here AVRs are not seen to act on their own, but need to be in parallel with other measures in development and migration policy, if they are to lead to development of communities and regions. In this holistic approach it is assumed that irregular migrants who are not granted asylum or subsidiary protection need to return to their countries of origin. They can return voluntarily, or they can be forcefully returned. AVRs are a third option. It is however seen as preferable to assist those leaving back to their country with AVRs, and therefore several entities have written on the importance of ensuring that this option is made available to migrants before they are returned. Organizations in Malta were very positive towards AVRs and agreed that individuals can be informed about the availability of AVRs when they are still in detention, although precautionary measures should be taken

to inform individuals of their rights and to avoid placing any pressure on vulnerable individuals who can decide on impulse.

At the same time migration, return and development are seen as a policy dialogue that recognizes the potential of migrants and returnees in contributing to development in their home countries. This recognition is first of all seen in monetary terms, and then also personal contributions are considered. Here however the EU perspective is challenged by others who argue that return does not always lead to development, and that these assumptions are used to further EU interests rather than to assist migrants to return and reintegrate in their home countries. Different organizations also have different viewpoints. Some understand return to be important for family relationships and the contribution returnees can make to their own country. Others are positive about AVRs because migrants have a possibility of returning with dignity. The dignity of the person is a central point in AVRs, because the perception of the home community and family is very important for the reintegration of the returnee. However the research of Van Houte and Davids points out that many returnees do not in fact succeed in generating sufficient income to improve their quality of life to a certain level where persons have sufficient access to basic goods and services such as health care and education.

Some organizations see that AVR programmes should not be limited by EU funding for projects, but part of a broader national strategy to address development issues. The EU should therefore take a more proactive approach in ensuring that funds promoting development equality are in fact made accessible to those who are excluded from it. It is also the criticism of Van Houte and Davids, who found in their research that returnees

had faced great difficulties in re-integrating in their community, that AVRs are serving more the EU interest of sending back people to their countries of origin, than the beneficiaries whom they seek to empower. Some of the interviewees in this research also shared this view. This is because of the question as to whether AVRs are truly optional, when the only other option is forced return. A harder question therefore is as to why AVRs even exist, especially for those who are legally bound to return to their countries of origin.

There are two answers to this question, from the research, one more skeptical than the other. A more positive answer is that EU member states cannot give all irregular migrants the right to stay, and that irregular migration needs to be controlled. Therefore those who are not granted asylum or subsidiary protection, should leave. AVRs simply make it possible for them to return with dignity and to be economically empowered to re-integrate on return. The second answer is skeptical. The EU, recognizing the power that human rights groups have to advocate for irregular migrants and to raise a moral consciousness for global justice, honours its institutional moral obligation awareness by complying with policies that support certain programmes such as AVRs. However, in doing so the EU is simply acting out of 'benevolence' in the issue of irregular migration, and avoids addressing its discriminatory policies on developing countries. In this second answer the allusion is to the points mentioned earlier on EU policies that maintain exclusion for poor populations.

The mention of 'benevolence' is important here, because it speaks directly to the position of power that Europe has maintained historically over Africa, starting from the

colonial period. The colonial ruler was a master and could do whatever he wanted of his slaves, yet he could also choose to act in kindness. The fact was that it was his choice, and that when he acted in kindness this was 'benevolence', or charity. It also speaks to the way the EU assumes this power even in its efforts to promote the migration-development dialogue with Africa. If AVRs are an option, the question is why is this option given to economic migrants who have breached migration law, simply because of their suffering? Here benevolence fits in very well, because benevolence is not based on the concept of human rights, but on the charitable character of the institution. The argument of Sen on transcendental institutionalism is central, since he is arguing that perfectly just institutions cannot exist if there is no agreement about the nature of a just society. Therefore in seeking to become more just, the EU as an institution may appeal more to its benevolence and charitable projects, but respond less in terms of reaching agreements on justice and applying such concepts to reducing injustices it is imposing on others, especially those most effected in developing nations. Rawls' 'veil of ignorance' also applies here; the fragmentation of policies dealing with the same people from the same communities can have serious implications, as also policies that treat different people with different situations the same. This refers to the various policies in development, migration, asylum and return, as explained earlier, which are policies established and controlled by different bodies within the EU and in the international context. However they are dealing with the same person, who is unique in every way, and is simply looking for an opportunity to reach personal goals. This argument however is not meant to lower the importance of asylum law and the responsibility of organizations

that uphold the rights of refugees. Rather it seeks to criticize the fact that other important contexts of migration need to be addressed effectively, and that solutions can also be found if there is the same willingness and effort among nations and international organizations.

The effectiveness of AVRs

Both AVR programmes described in this research were seen to be successful, since most of the beneficiaries had a successful return and reintegration, according to the officers interviewed in the research. Only one beneficiary was known to have experienced a failed return, and this was due to family neglect which resulted after the family had shown willingness to receive and take care of the beneficiary. On the other hand the study of Van Houte and Davids shows that several returnees were negatively affected on return by various factors, including economic factors and cultural prejudices.

My personal conclusion is that AVRs are partially effective, since better solutions can be found for dealing with irregular migration. Their effectiveness can be seen in providing a 'dignified' return, however economic sustainability is doubtful especially in the context of large extended families living in communities which face enormous neglect from their governments and institutions. Many of these communities are looking for a chance to radically transform their communities, but they are however disabled from doing so because they cannot meet their basic needs. A comprehensive policy strategy can be address these situations where the focus can be to remove the barriers to inclusion,

often instituted by policies such as EU policies described in this research. If this comprehensive approach is considered, there may even be no need for AVRs. However if it is the EU's intention to use AVRs and other programmes in order to escape other moral responsibilites to global justice, then AVRs can be seen as an effective tool. In this respect the attempt to increase the amount of beneficiaries taking up AVRs may be seen as a strategy of the government to use funds which could have been used for forced returns to still reach the same goal (return) but through AVRs. Since both AVRs and forced return is funded by the ERF this can be a plausible strategy. This strategy however is not sustainable, as can be seen from the continuity of irregular migration.

In the research interviews some recommendations were made on AVRs:

1) AVR should not simply be funded as EU projects, but there needs to be a strategic approach in developing a national policy and a management plan for AVRs
2) Government can set up its own AVR programmes together with NGOs, with a yearly budget for AVRs as part of the national budget, and offices can be set up in central strategic places with competent staff
3) There needs to be greater involvement from NGOs and diasporas, to connect and involve various groups of migrants with what is happening in their countries of origin; activities can include various types of return programmes and AVRs
4) There needs to be a long term, multi-year perspective towards return management

5) AVR programmes can be improved by involving NGOs which can engage a multidisciplinary team of social workers, psychologists, lawyers and other professionals and experts who can better assess factors related to the request of candidates for AVRs

6) AVRs can be implemented in a holistic manner by looking at the causes for the initial migration of candidates, and to understand reasons for which the individual desires to return.

7) The AVR process should be as thorough as the asylum process so that persons are made to feel responsible for the AVR package and they take ownership of their return project by which they know they will be contributing to development in their country

8) The person should be at the centre of the AVR programme, so that the package can be flexible according to the capacity and the plans of the returnee for their return project.

9) There should be more collaboration from civil societies in the countries of origin, so that AVRs will not simply revolve around the financial package, but focus more on holistic and long term reintegration

10) There should be a way by which AVR projects are monitored, not in an imposing manner, but to establish responsibility and accountability.

These recommendations indicate the general view of organizations that NGOs, civil societies, and migrants themselves need to be more empowered to participate in the setting up of flexible and diverse return programmes which focus more on holistic and diverse individual needs, and which take a long term perspective towards return. The commitment of the government is also essential for this approach, and further

collaboration between government and non-governmental agencies and organizations should follow. In my opinion, AVRs should perhaps be part of an integration policy for migrants, which policy does not exist yet in Malta. Since integration is found to be a determinant of successful and sustainable return, and because most migrants prefer to return to their home countries when they have reached some or most of their objectives, then integration should be a priority for Malta. An integration policy can enforce the legal rights of migrants in terms of employment conditions and wages, and can assist migrants in accessing various educational strategies. It can also diminish prejudices and discriminatory practices that often restrict migrants from personal and social development, and lengthen the time they need to reach their goals. An integration policy should therefore aim to change the image of the migrant from one of 'dependant' to that of 'contributor'. Once the individual is empowered by this policy framework, it is easier to address the prospect of return, since return is part of the strategy for reaching the goals for which the migrant has left. In some cases however AVRs are offered to those who would be otherwise forcefully returned. In my opinion this practice should continue, because the return of individuals should be one of dignity and respect. In contrast, those who do not wish to return after many years in Malta should be able to do so through long term residence and citizenship rights.

ANNEX 1

The following are the questions used for the research interviews.

a) What is the experience of the department or organization on AVRs? Is AVR a
   good option in general?

b) Do AVRs bridge the gap between migration and development? If people are
   returned to the place where they started from and have to face the same push
   factors and the same environment, how can they succeed?

c) The implementation of AVRs: Should information on AVRs be given in
   detention? Which agencies should implement AVRs? What do you think about
   entry bans? What were/are the prescreening criteria? What is/should be the
   financial package allocated for each returnee? Should the package be in cash/in
   kind/ on invoice and why? Is return and reintegration monitored, r should it be
   monitored, and how? Why have some projects been successful or not so
   successful? How do migrants currently perceive AVR programmes in Malta and
   why?

d) How do returnees deal with family pressures on return?

e) The lack of opportunities for legal employment and for finding a way out of
   poverty and deprivation force many African young people to cross borders and
   seek asylum in Malta and other EU member states. What is the impact of this on
   the EU member states and what can be alternative solutions? Are AVRs a
   solution?

f) In the case of rural or regional conflicts, many times persons from these areas are
   not seen as having the right to international protection because the person can
   migrate internally. Is this a realistic solution or not?

g) Do you think governments are benefiting more from AVR programmes than beneficiaries, in the sense that governments are gaining more in reducing the numbers of irregular migrants whereas programmes do not give as much priority to the needs of returnees in terms of reintegration in their countries of origin?

h) Some writers and human rights organizations insist that poverty in Africa and other parts of the world is reinforced through some of the EU policies, which greatly favour Europe and disadvantage Africa in terms of trade, competition, resources and development. Do you think the European Union is responsible for the persistence of development inequality, and what then is the impact of the European Union's development aid to Africa?

i) What are your recommendations for AVRs in Malta?

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BIOGRAPHY

Marcelle Zanya Bugre (nee Seychell) grew up in Luqa,Malta. She worked for 15 years with diverse migrant communities in Brussels, Belgium and in Malta. She attended the University of Malta and received her Bachelor of Arts in Social Policy in 2012. She is employed with the Foundation for Shelter and Support to Migrants (FSM) where she works on project and organizational development. She has also conducted research on migration and return for FSM in Ghana, and she is a visiting lecturer at Nehemiah University in Pogradec, Albania where she teaches a course in 'Strategic Management'. Ms. Bugre looks forward to continue working with local and international organizations on diverse projects related to migration and development, and on pursuing further research on the subject.