

## DOCTOR OF PHILOSOPHY

### The nature of criminal networks in the irregular migration by sea from Libya to Italy

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# **THE NATURE OF CRIMINAL NETWORKS IN THE IRREGULAR MIGRATION BY SEA FROM LIBYA TO ITALY**

**By**

**Lebia Barineme Fakae**

***A Thesis***

***Submitted in partial fulfilment of the requirements for the  
degree of  
DOCTOR OF PHILOSOPHY***

**June 2018**



Please note that the names of witnesses cited in Judicial Proceedings have been partially redacted in the online version of this thesis

## **DECLARATION**

I hereby declare that this thesis is entirely the result of my own effort and investigation. No component of it has been submitted elsewhere for any other degree requirement. Every information from previous research authors have been properly recognised and referenced.

*Lebia Barineme Fakaë*

18 June 2018

## **DEDICATION**

To God Omnipotent

And

To my sweet mother, Mrs. Dorathy Fakae, for believing in me and encouraging me to press on to the end.

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## ABBREVIATIONS USED IN TEXT

|          |   |
|----------|---|
| BBC      | British Broadcasting Corporation                                |
| CISS     | <i>Cooperazione Internazionale Sud</i>                          |
| CRESME   | <i>Centro di Ricerche Economiche e Sociali per il Meridione</i> |
| DW       | Deutsche Welle  |
| EU       | European Union  |
| EUROPOL  | European Union Agency for Law Enforcement Cooperation           |
| GIATOC   | Global Initiative against Transnational Organised Crime         |
| HS       | People smuggling  |
| INTERPOL | International Criminal Police Organization                      |
| IOM      | International Organisation for Migration                        |
| ISS      | Institute for Security Studies                                  |
| MSF      | <i>Médecins Sans Frontières</i>                                 |
| OC       | Organised Crime   |
| OCG      | Organised Criminal Group  |
| REF      | Research and Evidence Facility                                  |
| TIP      | Trafficking in Persons  |
| TOCG     | Transnational organised criminal groups                         |
| TOCN     | Transnational Organised Criminal Network                        |
| UK       | United Kingdom  |
| UN       | United Nations  |
| UNCHR    | United Nations High Commissioner for Refugees                   |
| UNODC    | United Nations Office on Drugs and Crime                        |
| US       | United States of America  |

## ABSTRACT

The thesis is about the criminal organisation of people smuggling and human trafficking from Libya to Italy. In order to concentrate on the nature of the criminality, the separate but closely related crimes of people smuggling, and human trafficking are conflated into the portmanteau criminal concept of the 'human trade'. It argues that the nature of the criminality involved in this human trade between Libya and Italy has significantly changed over the last decade. Previously, scholars regarded criminal networks engaged in this trade as fluid and unstructured. This work demonstrates from a close examination of the criminal networks that they are now, for the most part, specialised, scattered, unrestrained and structured.

The research uses a qualitative approach to investigate the trade based on unique access to the judicial proceedings of cases investigated by the Italian criminal justice system and tried in Italian tribunals. Statement analysis of these proceedings, alongside semi-structured interviews conducted in Sicily and Rome offer novel and original insights into the way criminal networks involved in this trade have evolved.

The thesis examines significant aspects of the trade, namely the actors involved, their roles and degree of specialisation and their 'way of operating' or *modus operandi* which has become increasingly unrestrained in its use of violence and coercion, hostage taking and ransom demands, whilst analysis of the structure of the networks finds that they are scattered and more structured than networks operating five years previously. In other words, the thesis demonstrates that these criminal networks have, over the past ten years, become better organised, more violent, sophisticated and complex as reflected in the models developed in this research. These models are recommended to enhance the understanding, and likewise enable an effective management of the phenomenon.

The longevity, prosperity and sustained appeal of these criminal networks is attributed to their ability to adapt to new circumstances arising from state policies. It is therefore concluded that the Libya to Italy irregular migration across the

Mediterranean once driven by fluid unstructured networks is *ipso facto*, now steered by specialised yet scattered networks that are unrestrained in their *modus operandi*.

## Chapter 1 INTRODUCTION

Reports indicate that the criminal organisation of the ‘human trade’ from Libya to Italy, a trade that is estimated to have transported 11,749 irregular migrants in 2007 which, at the time constituted a national emergency and triggered a political crisis rose by 2014 to 42,000 persons. The number increased rapidly to 170,000 in 2015 and 181,000 in 2016, then fell to, the still substantial, 119,000 in 2017 (*Médecins sans Frontier* 2013; BBC News 2015; Sherwood, Smith, Davies, and Grant 2014; *Médecins sans Frontier* 2017; International Organisation for Migration, IOM 2017; Squires 2015). Many of these migrants were recorded as unmarried and arrive from Eritrea, Nigeria, Gambia, Senegal, Guinea and Niger. Many die *en route* and, of those who survive, the UN estimates that 80% of the women end up being trafficked into prostitution (a sample demographic data is presented in the chapter 3 of this work). This human tragedy attracted my attention since many women and girls trafficked from Libya to Italy, in fact come from my own country, Nigeria.

The research examines the nature of the criminality behind this human trade. It argues that over the last decade this criminality has changed from being organised by fluid and unstructured networks, to being organised by structured networks that are increasingly specialised, scattered, unrestrained and structured.

Research has shown that the majority of these persons, who decide to move or flee, often undertake the movement with the aid of criminal agents (Europol-Interpol Report 2016). This is because they mostly do not possess the required authorization which will grant them access to legal migration channels (Triandafyllidou and Maroukis 2012). These include border-related bureaucracies and control systems which they may not be able to deal with. Secondly, migrants may resolve to employ the services of criminal agents or gangs as a result of the geographical distance, as well as the complexity of the trip which they do not have the capacity to manage. In these circumstances, the illegal and risky alternative way is perceived as the only viable option for migrants



searching for the 'safest' means of escape from the perils of war in war-torn regions and also better economic alternatives.

To what degree has the Arab Spring of 2011, encouraged irregular migration by sea to Europe? While some have agreed with the claim that the Arab Spring has been a catalyst for the increase in the volume of migration across the Mediterranean, which in addition has boosted the business of criminal gangs, a number of scholars such as De Haas (2014) and Paoletti (2014) have strongly opposed the submission. Their view is that the Arab Spring has only amplified the 'logic of criminalization' that has long marked immigration debate in Italy and elsewhere' (Paoletti 2014). The Arab Spring is critically examined in chapter 3 as is its impact on the role of Libya in the criminality involved in transporting migrants across the central Mediterranean.

The issue of the actual nature of criminality involved in the practice has also become a topic of debate. Although Triandafyllidou and Dimitriadi (2013) explain that the 'Arab Spring' might have contributed to the geopolitical changes which in turn led to the emergence of new migration flows created by diverse regional crises, the active involvement of organised crime groups have also played a significant role in the whole migration process which this study refers to as the 'human-trade'.

Prior to the political, economic and social shocks of the Arab Spring, a tentative analysis emerged in the literature that sought to map the criminality involved in this maritime human trade through the activities of loose, fluid networks which never crystallised. It is the scope of organised criminal networks' involvement in the trafficking and smuggling of migrants that is yet to be determined in ethnographic and migratory studies. While, myriad of studies have focused on the continuum of organised crime versus a criminal network continuum in the light of terrorism, national and international security among others, the influence of criminal networks in the human trade has been somewhat neglected.

Though there have been previous studies on the human trade – people smuggling and trafficking – they have failed to fully address events such as the

Lampedusa boat tragedies and other humanitarian cases in the Mediterranean exposing a gap in the approach. A better analysis of these recent events will hopefully expose the underbelly of the various criminal networks involved.

Other debates in the migration discourse concern the use of terms such as ‘illegal’ or ‘irregular’ migrants and the manner of labelling used for migrants which has made the question of identification an issue. The literature argues that irregular migrants, trafficked victims, refugees and asylum seekers have been conflated, hence not properly managed (Batsyukova 2012; Phillips (2014). Again, the question of ‘who’ the actors are in this phenomenon, their links and roles, particularly with reference to the routes and period examined in this work, remained unclear. One of these debates as regards the actors is the involvement of the European states and their complicity in irregular migration crimes. A good number of them have argued that the manner in which the EU policies and the restrictive immigration measures have been managed and applied respectively have resulted in the violation of human rights of the migrants as well as the consequential humanitarian crisis that characterised the last decade. (Nigram, 1965, Hollis 2012 & 2016, Achilli 2016, Research and Evidence Facility (REF) 2017, and Molenaar and van Damme 2017, Adler 2018, Welandar 2018, Guiraudon 2018, and Estevens 2018). There is also the question of the relationships existing between the different roles involved in the business and the structure of the organisations; whether they are centralized and hierarchical in nature or in the form of networks of self-governing actors linked by short-term agreements which are periodically renewed. This investigation is not intended to provide solutions on how to stop people smuggling or trafficking in persons, but it does seek to examine the extent to which transnational criminal organisations – regardless of their structure and formation - are involved in the smuggling of migrants from Libya to Italy in particular. And it interrogates what role these Transnational Criminal Organisations (TCOs) play in this process; who are the actors and how are they involved or linked?

Additionally, gender issues permeate the issue of irregular migration. The research identifies five key areas where gender is relevant to the phenomenon of irregular migration: (a) females are under-represented in the smuggling networks;

(b) gender influences the reasons for migration and who migrates; (c) gender influences the networks subscribed to and their accesses to resources; (d) gender influences the treatment experienced throughout the migration process; and (e) gender also influences how migration is perceived by outsiders. These five elements are reflected in this work.

Through evaluating these debates and gathering new data this study seeks to determine the nature of criminality in the irregular migration of persons by sea, from Libya to Italy. The study begins by contextualising the phenomenon of irregular maritime migration from Libya to Italy through a review of literature focused on organised crime, migration studies and networks. It seeks to establish the distinction between people smuggling and human trafficking, given that in the debate the two phenomena are often conflated in such a way that it has led to confusion about how the victims and the offenders of irregular migration are managed. A careful distinction between the two will aid in identifying the category of migrants who travelled before 2007 from those who form the majority in the current sea border crossing from North Libya to Italy. Some have argued that migrants who are refugees and asylum seekers should not be classified as criminals, since they are doing no more than using irregular migration as a means of escaping conflict (Liempt 2011; Phillips 2014).

This study then proceeds to analyse the scholarly debates on models and paradigms of organised crime, examining their applicability in divergent categories of organised crime particularly human trafficking and people smuggling from Libya to Italy. The analysis is undertaken with the aid of unique access to irregular migration cases from the courts of Palermo and Agrigento in Italy, reviewed on a case-study basis and juxtaposed with evidence and data from interview transcripts. The analysis of organised crime covers the actors, the *modus operandi* used by these actors and the structure of the networks involved. It finds that contemporary networks have specialised parts that they are unrestrained in their use of violence to achieve their ends, and that are scattered.

Having outlined the debates on and definitions of the core migration concepts, the thesis proceeds with a combination of abductive and deductive approaches

to critically assess the connection between the political-economic dynamics of Libya and the evolution of the flows of irregular migration across the Mediterranean. This further enables the evaluation of the impact of socio-political crises and other push factors that feed the migrants' need to enter Europe and the resultant increase in the volume of detections on the Mediterranean from 2007-2017.

This study also analyses the changes in the organisational structure and *modus operandi* employed by the human smugglers involved in the Libya to Italy irregular maritime migration. The consequences of these changes is evidenced in media reports of shipwrecks and mounting death tolls among the migrants venturing across the Mediterranean. The aim is to revise and reconstruct model(s) of the means and methods of this form of irregular migration. This work reveals models that will bring to light the nature and role of criminal group/organisations involved in this human trade. This is evinced with substantial evidence and robust analysis.

### *Research objectives*

- To investigate the nature and reality of irregular migration by sea from Libya to Italy
- To critically analyse the role of the *dramatis personae* [actors] and their *modus operandi* as organised criminal groups in the Libya to Italy human trade.
- To critically evaluate the causal links between changes in irregular migration flows by sea and the evolution of transnational criminal networks

### *Research questions*

- Within the scope and context of this research, what is organised crime?
- Who are the actors, how is it structured and organised and what is the *modus operandi*?

- What are the strategies – old and new – as, identified by the research findings?
- How do the research findings compare with previous models of organised crime in relation to people smuggling and human trafficking?

### *Scope of study*

Although irregular migration is an increasingly global phenomenon, this research will be limited to people smuggling and trafficking on the routes from Libya to Italy. The investigation will focus on the Libya to Italy route. The selection of Libya-Italy route is based on the scale of the recent and current maritime humanitarian crisis and the volume of interception on the Libya-Italy route (GIATOC, 2014).

The study will use the neologism ‘human trade’ throughout the thesis to refer to the separate, but closely connected, concepts of ‘people smuggling’ and ‘human trafficking’. The distinction between people smuggling where the victim is ostensibly the state into which the migrants are smuggled, and human trafficking where the victim is the exploited trafficked individual, is recognised and accepted. However, it is equally argued that there is a debate over the validity of the existing legal criteria that distinguish between the smuggling and trafficking (Bhabha & Zard 2006) and a growing recognition that smuggling can very often transmute into trafficking. That is, an apparent business arrangement to transport an irregular migrant can readily become an exploitative relationship. So as to concentrate on determining the nature of criminality in the movement of migrants from Libya to Italy, rather than becoming distracted by the, often contested, distinction between smuggling and trafficking, the study will employ the portmanteau term ‘human trade, as a deliberate conflation of these two concepts.

### *Summary of the chapter structure*

This study is broken into chapters as follows:

**Chapter 1** introduces the main over-arching aim and the subsidiary objectives. It delineates the scope of the study, notably the type(s) of criminality being investigated and sets the geographical limits to the study. Finally, it outlines the chapter structure for the thesis.

**Chapter 2** provides a review of the scholarly literature outlining the debates about organised crime as a phenomenon and the nature of [transnational] organised criminal networks. These scholarly debates are placed in the context of the increased volume of irregular migration from Libya to Italy and the changing nature and character of the transnational organised criminal networks involved in this human trade.

**Chapter 3** begins by more closely exploring the inter-connectivity of the distinct but closely connected criminal activities of people smuggling and human trafficking, justifying the approach of this study to conflate these related crimes into a portmanteau [criminal] activity: the 'human trade'. The chapter concludes by delineating the specific routes used to move irregular migrants from Africa to Europe, and most particularly through the central route from Libya to Italy.

**Chapter 4** explains and justifies the chosen methodologies for the study. In particular, it explores the use of judicial proceedings as a key methodology for the study, critically assessing the benefits and potential drawbacks to using this powerful, but under-employed methodology in social scientific research. The use of the 'scientific content and analysis' and Statement analysis techniques as tools to analyse the proceedings are also explored. Finally, the chapter explains and substantiates the use of semi-structured interviews conducted in the field in Sicily and Rome to balance and cross-check the evidence and data extracted from the judicial proceedings.

**Chapter 5** is the first chapter based primarily on the evidence and data gathered from primary research. As with the subsequent two analysis chapters it uses evidence and data from one particular investigation conducted by the Italian criminal justice authorities against those criminals involved in the human trade. It

focuses on the thesis' contention that the actors involved in the human trade from about 2011 onwards have become much more specialised in their roles than was previously the case. Using data mined from the proceedings and evidence and data gathered from semi-structured interviews, the chapter produces a typology of the near-contemporary role categories of the criminal actors, investigating how this evolution has changed the nature of criminality in the human trade between Libya to Italy.

**Chapter 6** is concerned with the evolution of the criminals' 'way of operating' or *modus operandi* in the human trade from Libya to Italy. Again, it concentrates, although not exclusively, on a particular investigation that turns on new or changing means and methods employed by the criminals, and criminal networks, involved in the trade. In particular, the chapter defends the thesis finding that the ways in which the criminals and networks operate lack restraint whether in terms of the monies extorted or the violence and coercion used against the migrants.

**Chapter 7** analyses the ways in which the human trade has evolved from the 2000s when the number of irregular migrants crossing the central Mediterranean could be measured in the tens of thousands to the current situation when the numbers are in the hundreds of thousands with a concomitant increase in the numbers drowning whilst making the crossing. It focuses on a case that highlights changes to the way in which the criminal networks are structured arguing that previous findings from the scholarly literature that these networks might be characterised as 'fluid' and 'unstructured' need to be revised to recognise a more 'scattered' and 'structured' approach to their organisation.

**Chapter 8** concludes all the arguments and presents the study's contribution to knowledge, strong suggestions, recommendations and areas possible of future researches.

## Chapter 2 ORGANISED CRIME AND TRANSNATIONAL CRIMINAL NETWORKS

Organised crime has been labelled transnational organised crime (TOC) by the UN and identified as a serious threat that undermines a country's institutions and norms. Findlay (2000) argues that TOC is a feature of transnational globalised societies. Pivotal to globalisation is the movement of people across borders and the role of TOC as a facilitator of the human trade is contested in the scholarly literature. The purpose of this chapter is to explore models of organised crime with reference to the human trade. It first critically examines initial models that perceive criminal networks as fluid and unstructured networks. It then offers an alternative analysis in terms of networks that are specialised (as regards their actors), unrestrained (as regards their behaviour) and scattered (as regards their nature).

The academic literature details several structured networks that exist globally. However, based on general assumptions, stereotypes and American action/crime films, such as Mario Puzo's *The Godfather* (1969), whenever mention is made of a structured criminal group, the Mafia always comes to mind (Arsovska, 2014). According to Arsovska, 'The Godfather' and 'Scarface' movies contributed a lot towards painting the Mafia as a criminal organisation especially when organised criminal networks is being discussed. Using the Mafia as a model, this work will examine if a network so structured can fit into the concept of a transnational organised criminal network. This is aimed at providing an understanding of the role of criminal networks in the organised crime of human trade, providing answers to the investigation on the nature of criminality in the human trade particularly from Libya to Italy.

The analysis in this chapter will begin with an encapsulation of the concept of transnational organised crime and the definitions that are prevalent. It will further analyse the debates and the paradigms of the phenomenon, highlighting the predominant models presented by scholars in the field. Subsequent sections of this chapter will present a critical analysis of transnational criminal groups/network which will endeavour to answer questions bordering on the



involvement of parties in transnational organised criminal groups. The analysis in this chapter will conclude with a summary of major disagreements and agreements on transnational organised criminal networks and their link with people smuggling and trafficking. The terms ‘organised crime, transnational organised criminal groups or networks, organised criminal groups, smuggling of migrants and trafficking in persons will be used frequently in this work and as such will be represented by OC, TOCG/N, OCG, SM and TIP respectively.

### *The Theoretical Framework of Organised Crime and Transnational Criminal Networks*

This section explores the different perceptions, concepts and definitions of organised crime. Organised crime (OC) has been described by UNODC as a phenomenon that ‘threatens peace and human security, violates human rights and undermines economic, social, cultural, political and civil development of societies around the world’ (UNODC 2014). This view is supported by Williams (1994) who claims that perpetrators of OC such as transnational criminal networks (TCNs) not only undermine civil society, but also create chaos and exploit the uncertainties created by domestic and international development, flourishing in weak states with weak governance structures. Wright (2006) further argues that the phenomenon has become one of the key public policy battles of the 21st century. Galeoti (2008) considers OC an essentially modern phenomenon, despite its long history.

At present, there is no generally accepted definition of the phenomenon, rather it is generally understood as the coordination of various aspects of an activity such that it creates a particular structure commonly identified by its categories and features (Adamoli *et al* 1998). On the other hand, Allum and Siebte (2004) point out that organised crime in its contemporary form is often both invisible and pervasive. Van Dijck (2007) does not believe in the need for a harmonised definition of organised crime. He rather considers it as ‘a threat image’ which is being brandished in the absence of a more decisive way of addressing the phenomenon and its aftermath. Several scholars have presented different

definitions (Adamoli *et al* 1998), but strikingly, Arsovska (2014:1) points out that the term *organised crime* does not mean that the crime in question is necessarily organised. She further maintains that although certain crimes require a degree of organisation, they still cannot be referred to as organised crime. Hence the need to differentiate the various types of crime (Arsovska 2014). Following Arsovska's argument, Hauck and Peterke (2016) explore the term 'organised criminality', emphasising that a number of crimes that are not listed as organised crimes nonetheless fall into that category such as burglary, vandalism car theft etc. being that defining OC broadly or narrowly influences what is to be covered or left out. Bullock (2009) identifies these sort of crimes as crimes which the public perceive as high-impact crimes – associated with high levels of harm – judging by the extent it impacted mainly the physical and emotional wellbeing of a victim rather than how organised it was. The argument of Hauck and Peterke (2016) here points to the fact that a mere listing of crimes provides no information about what category of crime is identified, and the possibility that organised crime may refer to criminal organisation (e.g. drug cartels, triads, Mafia, etc.). However, the facts of modern criminal law permits that individuals are punished not for what they are but for what they do, and with the use of indicator activities<sup>1</sup>; OC is identifiable as a clandestine criminality when investigated (Hauck and Peterke 2016, Andrews *et al* :125). Bearing in mind these complexities in understanding the actual category of crimes to be classified as 'organised', and following the analysis of Hauck and Peterke (2016), it is possible to contest the opinion of Arsovska (2014) that a structured organisation of a crime automatically classifies such crime as an organised crime. This is because the main motive of OC which is profit appears to be often misplaced in analysis of organised crime by scholars (Madsen 2016).

Further on the debate, Dobovsek (1996) argues that '...different definitions of organised crime throughout Europe as well as in the world, the differences in judicial systems, the differences in the police registration methods of organised

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<sup>1</sup> Monitoring that detects the action/activities of organised crime groups either by Frequent Item set Mining or Real-time Situation assessment, powered by Formal Concept analysis (a mathematisation of concept and concept hierarchies represented by a table (Andrews *et al* :125). This implies that no matter how much elusive OC group may make their activities so as not to be detected. These strategies will pick up frequent/repeated actions that would expose their activities.

crime and the differences in registration of criminal offences and of police activities' (p.324), make it difficult to accurately define organised crime. The definition for organised crime often differs from country to country (INTERPOL 2014). Wright (2006) to this end, contends that some scholars adopt an emotional or romantic approach to defining organised crime. Likewise, Albanese *et al* (2003) refers to factors such as geographical location, economic circumstances, history, politics and government, as well as culture, beliefs and traditions of a country as influencing different definitions of the term. This equally contributes to the complexities in identifying an all-encompassing definition of the phenomenon.

Arsovska's explores the historical etymology of the term organised crime. A report made by a US Federal Commission set up by President Herbert Hoover in 1929 described organised crime as a *business*, listing crimes of legitimate businesses and commercialised fraud and all forms of racketeering, naming it 'organised crime' (2014). A second attempt at defining organised crime is to be found in the United States Omnibus Crime Control and Safe Streets Act (1968)

...unlawful activities of members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labour racketeering, and other unlawful activities of members of such associations (Public Law 90-351, cited in Arsovska 2014).

This definition has been criticised for directing the focus from the offenders of organised crime to the crime itself. Arsovska also charts the involvement of the UN in defining organised crime beginning in the mid-1970s (2014). This journey produced the first Draft Framework against Organised Crime in early 1997 following the World Ministerial Conference on Organised Transnational Crime which foresaw the possible expansion of the phenomenon and first referred to Transnational Organised Crime. The related definition states that organised crime

...means group activities of three or more persons, with hierarchical links or personal relationships that enable their leaders to earn profits or to control territories or markets, internal or foreign, by means of violence, intimidation, or corruption, in both furthering criminal activity and infiltrating the legitimate economy, in particular by the following means: illicit traffic in narcotic drugs or psychotropic substances, and money-laundering; traffic in persons; counterfeiting currency; illicit traffic in or the theft of cultural objects; the theft of nuclear material; terrorist acts; illicit traffic in arms and explosive materials or devices; illicit traffic in or the theft of motor vehicles; and the corruption of public officials (quoted in Arsovska 2014).

This attempt at a definition by the UN rests on a legally binding instrument of December 2000 which finally came into force in 2003 known as the United Nations Convention against Transnational Organised Crime (UNTOC). This definition may have implied that the offenders of organised criminal activities (of which human trade is a part) could be categorised merely under hierarchical or personal groups which enable profits earning for their leaders. However this research presents networks that are not structured in this way. The evidence of the research demonstrates a shift into specialised, unrestrained and scattered networks that do not operate solely for the profit gain of an overall head. Even so, UNTOC defines 'organised criminal group' and 'serious crime', rather than organised crime (UNTOC Article 2, a, and b). According to Arsovska (2014), there exist presently over 200 scholarly and institutional definitions of organised crime as a phenomenon, but still no universally accepted definition.

Two definitions by British commentators deserve mention. Mills *et al* (2013) refers to two UK government definitions

Organised crime involves individuals, normally working with others, with the capacity and capability to commit serious crime on a continuing basis, which includes elements of planning, control and coordination, and benefits those involved. The

motivation is often, but not always, financial gain. Some types of organised crime, such as organised child sexual exploitation, have other motivations (UK HM, cited in Mills *et al* 2013:15)

The National Crime Agency (NCA) states that ‘organised crime can be defined as serious crime planned, coordinated and conducted by people working together on a continuing basis. Their motivation is often, but not always, financial gain’ (NCA 2014).

A crime is referred to as *transnational*, if it is a crime ‘not confined to a single nation or state, but including, extending over, or operating within more than one’ (Encarta 2012). Lampe (2011) refers to a ‘...crime that somehow transcends international borders’ (quoted in Lampe 2011:3). For Lampe this can include the *cross-border* movement of people in the form of human trafficking and smuggling, goods in the form of drugs, stolen vehicles, pirated textiles, and information in the form of child pornography and embargoed information (Lampe 2011). As noted by Đorđević (2009), the term *transnational* emphasises the international element of the crime, as well as actors involved in the crime. The term TOC was first used in 1975 during the Fifth Congress of the United Nations for the Prevention of Crime and Treatment of Offenders (Đorđević 2009). Although UNTOC is acknowledged to have provided the definition of a transnational organised group, the US National Security Council (NSC) provides a more detailed definition of the term;

Transnational organised crime refer to self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their illegal activities through a transnational organisational structure and the exploitation of transnational commerce or communication mechanisms (NSC 2011, cited in Bergeron 2013:6).

Madsen (2009:1) argues that it is important that transnational crime is tackled at the international level, since its illicit trafficking activities mirror licit global trading

mechanisms and structures. This tallies with Findlay's (2000) contention that commercial crime benefits from the transnational movement of goods, services and finance that, as in the case of licit trade, cannot be controlled or regulated by domestic legislation or sanctions. Madsen further contends that the terminologies alluding to the transnational such as 'transnational crime', 'transnational organised crime', 'international organised crime' and 'multinational crime' often clearly overlap (Madsen 2009:8).

In defining TOC, several scholars have approached the term from the perspective of international and national security, terrorism, economics, war and crisis as well as cultural diversity. Đorđević (2009) places the threat posed by TOC in four key state sectors: the economy, politics, internal security and foreign policy. Bergeron (2013) widens the relationship between states and TOC arguing that it is possible for the goals of states and TOC to intersect. This claim is informed by the fact that both states and TOC rely on planning, process, management and leadership to achieve their goals. One example given by Bergeron is the Camorra, a Neapolitan criminal organisation that will be analysed later in the thesis. The Camorra seeks to control territory in a similar manner to the state (Bergeron 2013). Likewise, Bergeron contends that the complexity of TOC can be compared with the complexity of providing international security such as the NATO interventions in Bosnia and Afghanistan (Bergeron 2013:7). TOC acts on the fault line between state authority and the rule of law, thriving where states and the international community are weak (Bergeron 2013:8). Williams (1994) agrees, maintaining that TCOs are a threat to national and international security. He also identifies the resilience of TOC to law enforcement citing the capacity of drug traffickers to refine their *modus operandi* in response to international policing operations. In addition, Madsen (2009:64) argues that there are multiple points of similarity between TOC and international terrorism contending that those involved are 'birds of a feather' employing mutual methodologies to achieve their ends with terrorists engaging in TOC including abductions, armed robbery, and drug trafficking to fund their operations, whilst organised criminal groups use terror tactics to assert control over their victims (Madsen 2009:64)

Vlassis (2002) on the other hand, challenges the generally assumed notion of threats posed to national and international security and further argues that the threat is in fact the aftermath of activities of individuals and organisations as regards corruption in state institutions, undermining of the rule of law, contravening legal and social norms and the violation of national borders to mention but a few. To this end, there is evidence that the impact of TOC has a serious and toxic impact in places where organised crime takes root, such as in Italy or parts of Africa.<sup>2</sup> Valassi's (2002) analysis is complemented by Williams' (1994) study on the impact of changing international conditions on the rise of illegal activities which maintains that these activities have been made easier as a result of an increase in the number of porous borders. Hansen and Papademetriou (2013) assert that the effort of controlling borders has yielded unintended and contrary consequences such as people smuggling and trafficking, drug trafficking, illegal migration among other criminal activities.

Bergeron (2013), refers to a definition of TOC offered by the US NSC by which he emphasises the organisational elements which is drawn to light by the term 'transnational organisational structure', thereby introducing the notion of networks. Although criminal networks have been traced back to the 1920s, the advancement in transportation and telecommunication particularly in the 1990s became the impelling cause which, to a reasonable extent, has influenced the nature and structure of traditional OCGs (Hill 2003, Đorđević 2009, Albanese 2011, Arsovska 2014). To this end, Grabosky (2013) examines OC in terms of its link with the internet, lamenting the inability of the proffered definitions of OC to precisely reflect the category in which cyber-crime falls. He considers that although some forms of cybercrime could be regarded as a nuisance, they cannot be categorised as threats to national/international security.

With the view that the major objective of OC is maximising economic gain, responding to a particular demand and the pursuit of profit by these organised criminal organisations which makes them no different from commercial organisations as shown by the divergent views presented hitherto (Schloenhardt

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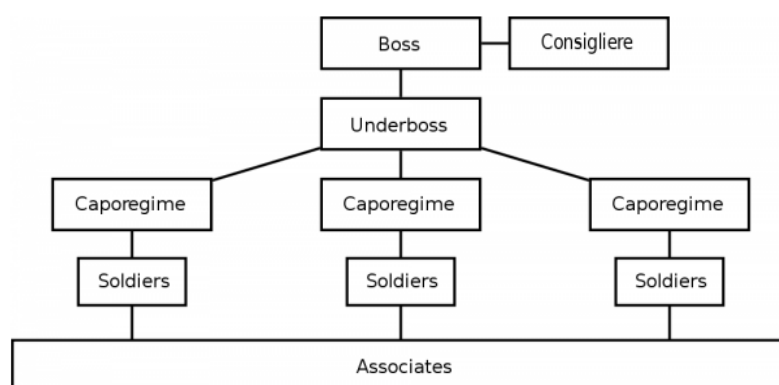
<sup>2</sup> See accounts of the horrifying slavery happening in Libya as an example of the result of the activities of organised groups and criminal networks (McKernam 2017; BBC 2018).

1999), the next section will analyse the models of organised crime used in classifying the concept.

### *Transnational Organised Criminal Groups*

There exist multiple paradigms regarding transnational organised crime groups. Arsovska (2014) draws on Albanese's (1994) use of behavioural theory (1994) in her overview of the models attached to TOCGs including 'the hierarchical/alien conspiracy model', the 'patron–client model', and the 'enterprise model'. In terms of the hierarchical model, Arsovska (2014) uses the example of the Cosa Nostra, a Sicilian organised crime organisation. This model, otherwise referred to as the 'bureaucratic model', 'national conspiracy' or 'corporate/organisational model', comprises

...bosses of individual families, capo regimes, which are lieutenants, and soldiers. Territory and criminal enterprises were divided among families of men of Italian descent. Hence, this model came to be characterized as a governmental-like structure, where illegal activities are conducted with the approval of superiors (Cressey 1969 cited in Arsovska 2014).



*Figure 2-1 A crime family structure (adapted from National Crime syndicate (n.d))*



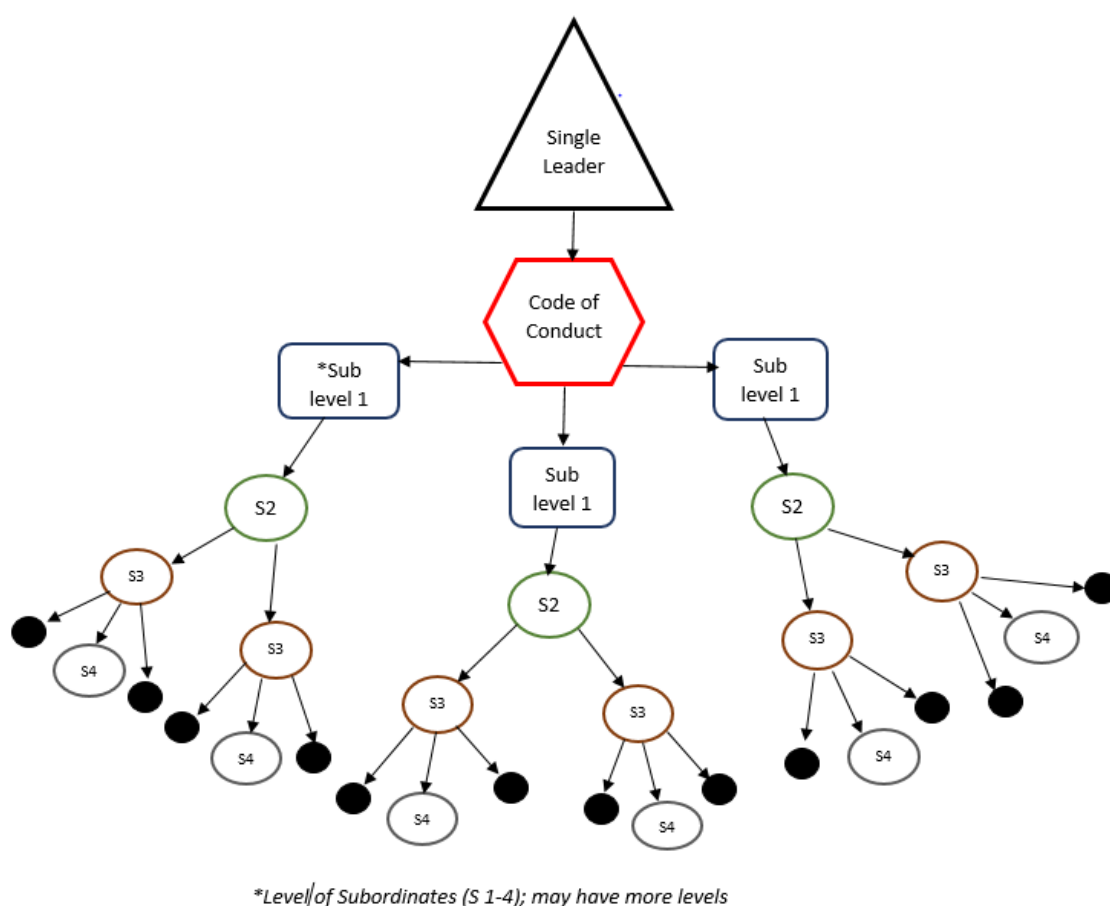
The figure above depicts how a traditional mafia family is structured based on Arsovska's (2014) hierarchical model.

***The hierarchical/alien conspiracy model*** presents organised crime as imported from outside the territory where the criminal group is based, operating a formal hierarchical structure, which was the dominating assumption of the academic discipline of sociology and of business in the 1960s coinciding with major government hearings on organised crime such as the Kefauver and McClellan Committees (Arsovska 2014). This description of the hierarchical model, agrees with Cressey's (1969 cited in Arsovska 2014:4) research conducted in the late 1960s that the system of organised crime in the US was made up of an alliance of 24 tightly knit criminal Mafia families which were hierarchically structured and included a distinct criminal organization. Arsovska (2014) characterises this paradigm as a 'governmental-like' structure, under an extensive division of labour in which illegal activities are undertaken with the authorisation of superiors (Cressey 1969 cited in Arsovska 2014:4). It is alleged to be a powerful syndicate that is nurtured by the demand for illegal goods and services (Cressey 1969).

Cressey's (1969) reliance on the Italian families' link to organised crime was challenged by later research that found a multiplicity of criminal groups operating including Cuban, Colombian, Japanese, Chinese, Vietnamese, Mexican, Russian, Canadian, Irish, and Jamaican gangs. Conversely, Finckenauer (2007), dissatisfied with the explanatory power of the alien conspiracy model, argues that organised crime had existed in America long before Sicilian/Italian immigration. He bases this argument on historical studies of the existence of organised crime in communities including white protestant, Jewish, and Irish. Finckenauer (2007) disagrees with the view that OC is an explicitly Italian phenomenon, as well as arguing that the Mafia's *modus operandi* in the US differs markedly from that of Mafia organisations in Sicily/Italy (Finckenauer (2007). Edwards (2004) accuses the UNCTOC of encouraging the notion of OC being an external threat from ethnically defined pathological groups. Finckenauer (2007) concludes that this

model fails to encourage research and investigation, categorising it as a close minded ideology instead of a theory.

Based on the various definitions, an illustration of a hierarchical bureaucratic model produced by the author is presented below to enhance and aid the understanding of the analysis in this section. Despite the debate of hierarchical models being merely an exception, or unnecessary by some scholars (Finckenauer 2005:65, Morselli 2009, Pearson and Hobbs 2001) hierarchical models have been observed to exist in network and hybrid criminal organisations and the co-existence of hierarchies and networks are equally possible as argued by William (2001). The hierarchical bureaucratic model exemplifies the organisational structure of OCG despite its fluidity or flexibility.



*Figure 2-2. An illustration of a hierarchical bureaucratic model of organised criminal organisation*

Bound by a code of conduct, it is a defined hierarchy comprising of a single leader, with various levels of subordinates (Subordinates level 1 and S2), with division of labour (S3 and S4 as the case may be).

The second paradigm, the '**patron-client**' model, originating in the 1970s, was based on the exchange relationship between 'those with power and those who need access to power' (Arsovska 2014:5). According to Le's (2012:125) analysis of Abadinsky's (2007) definition of the patron-client (Patrimonial) model, it is '...a network model that focuses on the relationships between families, friends and patrons'. The model is characterised by its traditional strong emphasis on relationships based on trust and emotional ties in which members are recruited based on their relationship as family relatives or friends (Le 2012). Bound like members initiated into a brotherhood, penalties were used to instil discipline in the majority of kin-like relations (Le 2012). This paradigm was a product of studies in the field of Anthropology which did not accept the concept of the formality of the institutional approach but rather emphasised the *patron-client* relationship. Arsovska draws from the debate of other scholars' such as Albin (1971), Ianni and Reusslanni (1972) to demonstrate the diversity of scholarly interpretation showing the opposing opinions of scholars at this time. Although the contention of this paradigm was that OCGs were, in essence, friendships based on cultural, ethnic and economic ties, and consisted of networks of patrons and clients instead of rational hierarchies, Le (2012) proposes that the model combines elements of both standard hierarchies and a criminal network.

The perspective of this analysis is shown below as presented by Klaus von Lampe (2003) referred to as Cressey's model. It comprises the government, society, illegal markets and organised crime that undermine the morals of the community.

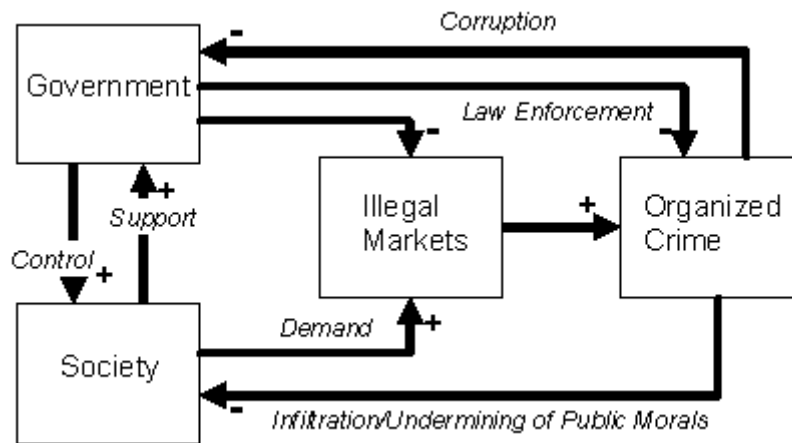


Figure 2-3 Cressey's model as presented by Klaus von Lampe (2003)

Being mono-ethnic in nature, members were recruited solely from family and friends, placing emphasis on relationships, trust and emotional ties such as is the case in the Sicilian Mafia. (Albadinsky 2007)

Arsovska (2014) considers these models as behavioural models which can influence the analysis of organised crime such as Albanese *et al* (2003) description of the 'ethnicity trap'. Albanese *et al* (2003) argue that although the roots of organised crime groups lie in economic, social and political causes, 'these groups are defined in ethnic and national terms' (Albanese *et al* 2003:7). Hence it is a fallacy to analyse organised crime based on biographical attributes which cannot give precise explanation of a person or a group's behaviour. To further emphasize this position, Albanese *et al* (2003) advance different organised crime activities and particular places where these crimes thrive and are not, or may not, be perceived as organised crime, for instance Namibia and money laundering. Finckenauer (2007) strongly disagrees with the use of ethnicity in defining organised crime arguing that organised criminal behaviour is not caused by ethnicity, rather the reason for their susceptibility to this type of criminality is attributable to the difficult socio-economic circumstances in which ethnic migrants find themselves. He adds that though some groups such as some prison gangs possess ethnic identification, ethnicity theory cannot explain the emergence of non-ethnic groups in organised crime adding that not all, or even most, members of these ethnic groups join criminal organisations. Hence this theory does not represent an inclusive theory of organised crime. Following

the evolution of OCGs in the context of the argument of this study, there has been a shift from traditional inclinations of OCGs and TCNs to what seems more like multiples of core groups or clustered hierarchies building a formidable network (See chapter 7- where evolved criminal networks are analysed).

The ***‘illegal enterprise model’*** is a contemporary paradigm on which most current international and state definitions of organised crime are based (Arsovska 2014). This paradigm is focused on the business of organised crime arguing that criminal behaviours are triggered by economics; in this case, economic activities that are illegal (Liddick 1999). Consequently the theories used in analysing legal business organizations may equally be applied in analysing criminal enterprise organisations. Finckenauer (2007) claims that the theory explains the ‘what and why’ of criminal endeavours. The theory proposes that ‘illicit entrepreneur exist because the legitimate marketplace leaves potential customers for goods and services unserved or unsatisfied’ (Smith, 1980 cited in Finckenauer 2007). He adds that this theory is realistic since it employs the propositions of economic law of supply and demand, for example the demand for illegal drugs and the effect legalising drugs could have on the illegal markets. In Liddick’s (1999) opinion, the unit for analysis for this model is not the individuals or the OCG, but rather the illegal market place. However, the illegal enterprise model is used by a number of researchers to analyse TCO/N. Kleeamans (2012) analyses the illegal enterprise models as a case of offenders being considered as regular profit oriented entrepreneurs/companies who operate under the same law of demand and supply as legal institutions. It is probable that even bans and restrictions will not lead to their extinction but rather increase demand for their services. This is because, theorists believe, that because legal boundaries are bound to change meaning, the marketplace will under the weight of demand, exceed the brink of legitimacy, with entrepreneurs aiming to meet the demand no matter the means (Liddick 1999). This implies that difficulty in distinguishing between legal and illegal markets will continually exist as a result of their similarities.

In addition to the models discussed above, Finckenauer (2007) introduces the concept of 'strain' theory and the impact of 'cultural conflict'. Cultural conflict which has been observed to be most common after migration, is discussed here to be a reason for the involvement of members of some migrant groups in OC as a result of issues such as clash of cultural values/tradition/behaviours and unemployment of the migrants. These migrants form neighbourhood street gangs which in turn become brooding grounds for criminal organisations (Finckenauer (2007)). A number of scholars such as Agnew (1985), Giddens and Sutton (2017) have used the strain theory – first developed by Merton in the 1940's – in elucidating the effect of certain strains and stresses on individuals in a society which in turn results to their act of perpetuating crime. Finckenauer (2007) explains that these strains are caused by frustration and anger felt about their inability to attain social status. Therefore, these strains serve as an impetus for the involvement in criminal activities and the metamorphosis of criminal organisations. Schloenhardt (1999) also adds the '**network model**' theory, arguing that the relationship between the core members of the criminal group are organised horizontal, particularly those involved in complex and dynamic illegal markets such as the sex industry, and trafficking prohibited goods which involves multiple competitors. It is important to note that the evolution of the traditional models into flexible criminal networks, functions as a result of the social environments of the OCGs. Le (2012:126), opines that the ability of networks to respond to changes in their environments supposedly makes them "lighter on their feet". The next section critically examines what makes networks in view of transnational criminal networks in the Libya to Italy human trade.

### *Transnational organised criminal networks*

This section is particularly focused towards understanding what constitutes a TOCN and their involvement in the human trade. While diverse perceptions of the workings of the criminal groups in the Libya to Italy human trade abound, it is important to consider the intricacies and the different forms of network and how they translate to being transnational and the applicability of the models discussed in the previous section.

## Networks

Galeoti (2009) considers it natural for criminals to organise, as well as work towards developing their relationship with the upper-world. However, certain characteristics make networks ideal for organising criminal activities. Williams (2001) identifies these specific characteristics drawing comparisons with social networks and business theory. For Williams, networks are a 'series of nodes that are connected ...can be individual, organisations, firms, or even computers so long as they are connected in significant ways' (Williams 2001:66). The concept of criminal networks has gradually gained popularity as scholars realise the complexity of crime in present times. The size, shape, membership, level of cohesion and purpose of a network are crucial in classifying a network. Essentially, networks are indispensable supplements to markets which make them efficient, reduce transaction costs as well as provide opportunities for parties interested in buying and selling (Williams 2001:65). Wright (2006) describes the transformation from 'gang-related underworlds of the pre- and post-second World War periods to a more fragmented and diverse panorama of criminal groups at the beginning of the 21 century' (2006: xvii). Le (2012) drawing from the network topology created by William (2010), explains in line with network leadership variations that networks could either be (a) directed – core group organisers who are the steering mechanism of the network; (b) mesh – member performing task as standard criminal networks; (c) transactional – which can be part of a directed network but functions with the aid of a broker or middleman; or (d) flux – opportunist OCGs that operate as ad-hoc networks without a conventional structure (Le 2012:127). Evidence and data collected for this research indicates aspects of all these network types in the Libya to Italy human trade (see chapter 7. As the focus of this study is on the nature of transnational criminal networks, it is important that themes such as the characteristics and dimension of criminal networks be understood.

In his analysis of networks, Williams (2001), states that 'networks are not an exclusive organisational form and often exist within more than traditional hierarchical structures, cutting through divisions based on specialisation or

rank...it is possible to have networks in which hierarchical organisations are key participants' (Williams 2001:65). In his detailed analysis, he submits that networks have characteristics that brand them 'indefinable' which he identifies as '...pervasiveness ...capacity to coexist both within and outside the hierarchies, ...ability to make markets more efficient by facilitating directed flows of information and commodities (Williams 2001:65). In addition to the identification of the characteristics, he further discusses networks as differing in rationales such as social networks and business networks. Campana (2016) on the other hand, suggests that the concept of networks could also be used in describing the recent mode of operation employed by criminal groups, as well as terrorists. To this end, it is possible to suggest that networks vary in dimension and cannot be said to be clear-cut. This to a large extent, suggests an explanation for the flexibility of networks. Social networks are recognised as flexible and dynamic based on how ties are often formed, strengthened or broken. Therefore, in analysing social networks certain issues are important:

[the] prominence of particular individuals in the network, the concept of centrality [which refers to] the individual ...with the most-or most important-ties; the notion of closeness and distance based on communication paths among actors in the network; the notion of cohesive subgroups;...the extent to which the relationships and transactions within it are regulated by explicit or tacit rules; and the number and diversity of actors within the network (Williams 2001:67).

Williams (2001) claims that some sociologists are of the opinion that network-based organisations are able to perform better than traditionally structured hierarchical organisations, particularly in their adaptability to change. The concept of networks and their advantages to organisations are also being identified by practitioners. The EUROPOL report of 2016 revealed that a significant proportion of over 40,000 suspects that were investigated by the Europol were identified to belong to a criminal network (EUROPOL 2016). These groups and networks reflect homogenous features, vary in size and consist of assorted specialists, carrying out diverse roles (EUROPOL 2016). It is therefore



possible to agree that the success of migrant smuggling in recent times affirms the claims of Williams (2001) as regards the characteristics of networks.

Although 'centrality' in a network has been identified as a criterion to prove importance, influence and control, Morselli (2009) contests centrality as regards criminal network discourse, arguing that the applicability of the concept as regards crime remains contestable. This stand by Morselli (2009), contradicts Williams' (2001) analysis of criminal networks. Although Williams acknowledges that the role of network peripheries remain invaluable in enhancing the success of most criminal networks, he further argues that the core member has the responsibility of providing steering for the network, a relationship which enhances trust and cohesion. Campana (2016) on the other hand points out that degree of centrality matters; it could be either high or low which in turn affects their roles in the network. Campana however agrees that it works differently with different networks, supporting Morselli's earlier argument.

On the other hand, business networks emerged as a response to 'limitations and rigidities and inefficiencies associated with strict hierarchical structures, the need to exploit globalization through partnerships and strategic alliances, and a desire to emulate the Japanese success with the *Keiretsu*' (Williams 2001:68). This use of the concept hypothesises the development of networks as virtual corporations which enable both the understanding of criminal networks and other types of enterprise networks (Williams 2001). In addition, Burt argues that a network's access to information which their counterparts are not privy to gives them a unique edge over other competitor entrepreneurs (Burt 1992 cited in Williams 2001:68).

Technological networks enhance the operation of larger and more dispersed social networks and also critically aid the growth of certain social network categories (Williams 2001). Williams (2001) holds that globalisation and the growth of technology has contributed immensely to easy access to communication which has become cheaper and easier, enabling the massive expansion of networks. This view is supported by Koslowski (2011) who writes that increasing international migration and expanding transnational crime have a

common accelerator in globalization having their connections intensified by the process of globalization. He adds that globalisation has reduced the cost of communication and transportation thereby facilitating the expansion of the operation of local criminal organisations (see McMullin 2009). Although Koslowski's (2011) argument comes from his evaluation of the impact of economic globalisation processes on international migration and transnational crime, it provides insight to the irrepressible growth of transnational criminal groups. Findlay (2000) supports this argument on the impact of globalisation by reiterating that globalisation is responsible for new and favourable circumstances that perpetuate crime in particular, advances in information technology.

In identifying OC groups, Galeoti (2009) employs certain characteristics such as being profit-oriented, made of multiple members, enjoying close interaction (communicated by means of tattoo, oaths and distinctive argot), hierarchical structure or even egalitarian nature, carrying out crimes and relentless in their activities rather than purely opportunistic (see also McMullin 2009). These characteristics are present in other types of networks. Although McMullin (2009) analyses the nature of OCGs from the point of view of conflict, his views are valuable. He identifies the important points for consideration as the motivation of profit or the greed thesis, structure which varies, globalisation which has aided communication and transportation, violence which is a tactic that varies according to different OCGs, and the unit of analysis whether they are a group/individual or organised as a market activity or corporate entity (McMullin 2009). Regarding criminal networks, Williams (2001) argues that networks provide criminals with attractive and irresistible advantages such as the ability to operate clandestinely and by so doing evading law enforcement. The second point is that networks do not run conspicuous centres and are mostly deficient of physical infrastructures which will not invite the interest of law enforcement. This does not however obliterate the fact that the networks in the Libya to Italy human trade do not own structures that enhance their strategies which are extensively analysed in Chapters 5 and 6. The trans-nationality of most networks enables them to take advantage of inadequacies in national laws and regulations and also provide opportunities for both easy dismissals, which may not be possible in rigid or

formal organisations, as well as flexibility (Williams 2001; see also Adamoli *et al* 1998).

Additionally, there are indications that women are under-represented in the smuggling networks<sup>3</sup>. This could be analysed as a case of feminine capacity versus masculine dominance. This is because it is generally assumed that the people smuggling, and trafficking networks are solely run by men (possibly powered by the statistics such as the statistics of the members of the smuggling network reported in the FERMO PM GLAUCO case) excluding the probable involvement of women. Research by Siegel and De Blank (2010) highlights the feminisation of the trade in terms of the actual involvement of females in the business of human smuggling and not the perspective of CARITAS International, UN Thirty-Ninth session in 2006 which refers to the statistics of female migrants migrating as economic providers or bread winners; or the gender segregation regarding migrants jobs as argued by O'Neil *et al* (2016). Evidence and data showed that this was prominent with the Nigerian smuggling and trafficking cartels where the trust the females had in their fellow females was exploited. In more serious cases, these women even enslaved the female counterparts to ensure their loyalty to them (CARITAS (nd); De Blank 2010).

What makes a network transnational? It is arguable that the United Nations Convention against Transnational Organised Crime (2000) which was adopted by General Assembly resolution 55/25 of 15 November 2000, and entered into force on 29th September, 2003, provides a definition of a transnational criminal group especially defining the concept of transnationalism. Scholars such as David (2012) and Arsovska (2014) agree that this definition to a reasonable extent addresses the issue in context. It defines transnational organized criminal group as

...a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one

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<sup>3</sup> Nigerian networks are an exception; women are at the helm in relation to human trafficking for the sex trade in Europe – see this thesis and CARITAS (nd) and De Blank 2010).

or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure; ...’ (UNTOC 2000 Article 2: a,b,c),

The Article of this convention further delineates when a crime could be said to be transnational. It states

...an offence is transnational in nature if:

(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State (UNTOC 2000, Article 3:2: a, b, c, d).

Following this convention, it can be said that a crime, criminal network or group becomes transnational when it transcends national borders and involves parties from other states. This goes to highlight the main argument of study regarding the nature of the networks involved in the human trade from Libya to Italy, namely that they are more specialised, unrestrained and scattered, as against the previous perceptions of them as fluid and unstructured. At present, the acceptable definition of transnational OCGs/network attested to by most scholars remains UNTOC, the main international instrument in the fight against TOC.

Williams (2001) noting that networks are not the only form of organised criminal activity, supports the view that the traditional hierarchical model which has been associated with the Mafia families in the US remains relevant. He argues that 'it is possible to have a network of hierarchies, hybrid organisational forms with some hierarchical components and a significant network dimension' (Williams 2001:69). Williams (2001) further identifies the different dimensions of crime networks. In his opinion, a network could be a

- a) directed network – created and directed by core organisers, for specific purpose;
- b) ...it can range from small, limited associations at the local level to transnational supplier networks that move a variety of goods, either licit or illicit – or even both – across national borders;
- c) can be highly structured and enduring in nature or ...loose, fluid or amorphous in character with members coming and going according to particular needs, opportunities and demands;
- d) [And finally] can be focused very narrowly on a single purpose or on the supply of a single product, or they can supply a broader range of illegal products or engage in more diverse criminal activities (Williams 2001:69&70).

Williams (1994:321) holds a similar understanding of the features of TCO/N such as their size and scale and further gives examples such as the Colombian cartels whose strong focus is drug trafficking and the Chinese triads/Japanese yakuza whose criminal activities include extortion, credit card fraud, prostitution and also drug trafficking. Williams concludes that networks have limited exposure to risks based on the limited fixed assets they possess enabling them to adapt and exploit the path of least resistance (Williams 2001:74).

Jackson (2007) argues that there must exist a set of basic conditions for OCGs to start operations including a combination of social confusion, economic chaos, and political disturbance. In circumstances such as this, the political process is weak and is unable to properly protect itself or even the citizenry from illicit activities while the OCGs on the other hand, move to fill the gaps created by the

state's inadequacies (Jackson 2007). OCGs gradually take over the economy, meeting demand for goods and services and consequently will go to any length to maintain their control. This view is supported by Williams (1994) who in analysing the emergence of TCO, writes that the development of transnational organisation enabled by core changes in global politics and economics has opened the door for TCO to also develop. He cites globalisation which in his analysis has enhanced the rate of transnational activity involving money, people, physical and non-physical goods as well as creating a single global market for both licit and illicit goods and services.

In analysing people smuggling/trafficking, Adamoli *et al* (1998) are of the opinion that the involvement of OCGs has increasingly linked migration with crime. This involvement of OCGs they argue is changing the nature of migration, introducing a link between trafficking, exploitation and induced criminality often/usually managed by the same criminal organisation. The explanation for this analysis is that smuggled/trafficked migrants move within the same criminal circles as OCGs, often recruited and transported by OCGs, their transportation enabled by the falsification of documents and their contravention of border laws organised by OCGs, and exploited in the destination countries by other OCGs. This may be the reason for which Adamoli *et al* (1998) pointed out that majority of the crimes committed in countries in the late 1990s were said to be perpetuated by illegal migrants.

Schloenhardt uses the business model of migrant trafficking to illustrate the diversity of the trade including the role of amateur traffickers who provide a single service for the migrant in the form of transport across a border. Others involved include small groups of organised criminals who specialise in escorting immigrants from one country to another and internal trafficking networks that specialise in conducting the whole process of trafficking. Kleemans and Van de Bunt (2008) add that jobs associated with mobility and logistics provide a breeding ground for both smuggling activities and camouflage. Coluccello and Massey's (2007) study on the nature of criminality involved in people smuggling and trafficking with regards to the Libya to Lampedusa sea route argues that the trade is a product of transnational criminal organisations. According to their

study, the trade operated in three phases: mobilisation and recruitment, their transportation and insertion into the destination country. Coluccello and Massey (2007) employ the mixed method of research, drawing facts and resources from judicial proceedings of cases concerning human trade- related operations conducted by the Italian State Police in Calabria. Their work further presents a delineation of the division of labour/organisation of the trade using the Moroccan network. This network shows that designated persons are responsible for the lodging of smuggled persons prior to embarkation. These smuggled persons have been transported from their different countries of origin to the point of embarkation. The different points of embarkation include Libya, Algeria and Morocco depending on the source countries (Haas 2006). A Nigerian source reports that this initial transportation/movement even involved long treks from Mali to Libya by Nigerian illegal migrants (Awoyinfa 2012). Coluccello and Massey also follow the involvement of organised crime in Italy, tracing the involvement of the Moroccan networks in the movement of escaped detainees from the *Sant'Anna* detention centre and their subsequent transportation and insertion into northern Italian cities (Coluccello and Massey 2007:88). Others were involved in the collection of ransom and transportation money, facilitating escapes from detention centres, and supplying forged documents.

Coluccello and Massey's (2007) findings are at odds with a later analysis by EUROPOL (2013) which includes people smuggling/trafficking in the list of criminal activities undertaken by the Mafia. Some scholarly analyses of the Mafia have portrayed them as being based on the dynamics of family ties, political power and respect of territory (Bechi and Turvani 1993; Paoli 2004:22; see also Finckenauer 2007:18). Although emphasis has been placed on the hierarchical structure of the Mafia and its previously believed criminal priority of collecting protection money (Gambetta 1993), Williams (2001) cites the possibility of networks in which key participants are hierarchical organisations. As such the Mafia may not be absolved of involvement in the human trade. Chapter 7 will explore this in more detail.

The word 'Mafia' is often used as a generic term for OCGs. Arsovska suggests that this might be a result of the ubiquity of the 'Mafia' in popular culture including

films and television serials (Arsovska 2014). Seindal (1998) argues that early efforts to provide actual definition for the Mafia focused on the socio-cultural background of the Mafia, defining it as ‘a culturally or socially determined behaviour pattern or as a cultural adaptation to the demands of the surrounding world’ (Seindal 1998:11). Seindal (1998:11) adds that subsequent efforts emphasise the criminal element and defined the Mafia as a ‘close-knit criminal association or secret organisation seeking to overturn the state and itself take power’, while the revelation of their close contact with politicians portrayed them as a tool in the hands of nameless political patrons. Finckenauer (2007) endeavours to explain how the Mafia became linked to Italy in the 1800s after the large-scale immigration of Italians to America and the forming of highly structured secret criminal organisations. He claims, however, that the theories of organised crime that emerged in the US are often loose theories based on *popular myths* surrounding the American Mafia (Finckenauer 2007).

Seindal’s (1998) work provides a detailed description of the existence, recruitment and structure of the Mafia. He characterises the culture of the American Mafia as a synthesis of Sicilian values and norms displayed in extreme, distorted forms which emphasise solidarity, and the rule of absolute silence sworn at admission to the Mafia known as *Omertà*. The Mafia is a formal organisation with structures, rules and rituals consisting of clans linked to a territory which builds its influence on control of the given territory and its economy (Seindal 1998).

Gambetta (1993) identifies the Mafia as an industry that is specialised in producing, promoting and selling private protection which originated in Sicily over 150 years ago. Italian Mafia type organisations include the Sicilian Cosa Nostra, Calabrian ‘Ndrangheta, Neapolitan Camorra, and Apulian Sacra Corona (EUROPOL 2013). Morselli *et al*’s (2010) research explains the expansion of the Mafia from its historic origins and its existence across a variety of settings such as geographical locations, criminal markets and legitimate industries. They argue that this movement is orchestrated by certain push and pull factors ranging from availability of criminal markets, ethnically based criminal groups, legitimising the group, to mass demand criminal markets and criminogenic settings in legitimate



settings stemming from lax security/enforcement/high impunity (Morselli *et al* 2010). This description, though summarised, constructs the Mafia as a secret, illegal organisation, hence the different perceptions and assumptions according to events and diverse encounters with the Mafia makes it inaccessible and challenging to study or even accurately define.

The nature of criminality in human trafficking and people smuggling has not been heavily researched, one of the main motivations for this study. Given the Mafia's roots in Italy, it is often assumed in the popular media and amongst the general public that the Mafia, in its broadest sense, is liable to be involved in the human trade. Schweizer *et al* (2003) emphasise the scope of people smuggling, citing a close interaction between criminal organisations, smugglers and corrupt government officials. Williams (2001) categorises people smuggling as the most lucrative of the variety of enterprises in which criminal networks are involved. Writing in 2007, Coluccello and Massey, concurring with Pastore (2006) argued that 'the criminal networks involved [in the human trade from Libya to Italy] are not 'mafia-like' traditional hierarchical groupings, but rather loose networks' (2007, pg. 86). However, this research adopts a working hypothesis that TOCNs have now become intrinsically involved in the human trade. Following Williams (2001) concept of the possibility of criminal networks coming together without threatening their discrete *raisons d'être*, particularly when it is beneficial and convenient, it is difficult to totally exclude the Mafia from people smuggling activities in the Italian territories. This will be explored in subsequent chapters

A useful comparator with the role of Italian Mafia in the human trade across the Mediterranean is the role of Chinese TOCNs in the human trade. The data from Chin's (2011) survey shows the well organised nature of the Chinese people-trafficking group: a transnational criminal enterprise active in China, Hong Kong, Taiwan, Thailand and the US. He employs a multiple research methodology which includes surveys and interviews with informants. One of his interviewees explains the characteristics of the Chinese smuggling network which includes big heads/recruiters, little heads/recruiters, transporters, corrupt government officials involved in bribery, guides that move the immigrants from one transit point to another, enforcers, illegal immigrants recruited as workers on the smuggling

ship, support personnel and debt collectors (Chin 2011:118-119). Data collected in New York, showed that the leaders and the members of the smuggling network have a close working relationship while specialising in either sea or air smuggling. Chin (2011) claims that according to law enforcement and immigration officers in the US, as well as court testimonies by one of the smugglers, Chinese triads, tongs, and street gangs are involved in the trade. Similarly, judicial proceedings from the 'ticket to ride' case analysed by Massey and Coluccello (2010) reflect the involvement of criminal networks in the smuggling of migrants from Iraq to Italy's eastern sea borders and onward to Italy and other European destinations. Although the involvement of Chinese criminal networks have been reported, Paoli (2010) maintains that the cultural codes and norms of the Mafia prohibit their exploitation of prostitution for instance, and has denied them access to the most known profitable illicit trade, the human trade.

## Conclusion

The overarching argument of this thesis is that the criminal networks engaged in the human trade are more specialised, scattered, unrestrained and structured than previously understood. This chapter has sought to place this contention in context by exploring the scholarly debates surrounding the over-arching concept of 'organised crime' and the related notions of criminal networks and transnational criminal networks.

Drawing on a rich scholarly literature in the field of organised crime, the chapter concludes that the facilitation of irregular migration from Libya to Italy is both a criminal enterprise, certainly when it comes to the maritime phase of the journey, and organised. That criminal networks evolve and take advantage of new technologies, especially in communication, was recognised by Williams (2001) almost two decades ago. This adaptation to take advantage of new means and methods underpins the thesis' main argument. The chapter presents as baseline models a number of studies that find that the criminal networks involved in the human trade before 2010 could be characterised as fluid and unstructured. Further, and perhaps against intuition, there is little evidence that Italian hierarchical Mafia organisations did not seem to be involved in the trade at that

time: 'evidence compiled on the trade, documented in the judicial proceedings indicate that the criminal networks involved are not 'mafia-like' traditional hierarchical groupings, but rather loose networks' (Coluccello and Massey 2007). Both these findings will be tested in subsequent chapters using the new evidence and data gathered, and novel methodologies employed, for this study.

## Chapter 3 IRREGULAR MIGRATION AND PEOPLE SMUGGLING FROM LIBYA TO ITALY

The human trade is driven by the mixed motivations of the irregular migrants. There is the quest for a better life and wider opportunities and migration as a means of escape from natural disasters, extreme poverty, political and religious intolerance and war. Legal means of migration from the developing to the developed world are limited (Triandafyllidou and Maroukis 2012). Hence, the majority of migration from the developing to the developed world is irregular and, very often, steered by linked, but informal, transnational organised criminal networks. Insufficient legal channels of migration, border-related bureaucracies and geographical disposition combine to drive would-be migrants into the hands of organised criminal networks in order to achieve their goals. For many Africans, this perilous alternative has become a surer means of entry into Europe.

The central argument of this thesis is that the criminal networks engaged in the human trade between Libya and Italy have become more specialised, scattered, unrestrained and structured. The rationale for adopting this position will be laid out in subsequent analytical chapters that draw on the evidence, data and argumentation gathered from analysis of the judicial proceeding and from the semi-structured interviews. This chapter, however, will place the concept of the 'human trade', and how the human trade operates from Libya to Italy, in context. The first section explores the definition of the two phenomena that in this study have been conflated to the 'human trade': people smuggling and human trafficking. The second section will dissect the human trade from Libya to Italy, examining the smuggling process, the actors, the *modus operandi*, and the migratory trajectories. The third section will evaluate the factors that enable the human trade to contextualise the nature of criminality of the human trade. Finally, the chapter will set out the way in which the choice of land and sea routes influences the nature of criminality in the human trade from Libya to Italy.

### *Understanding smuggling and trafficking*

A commonly accepted definition of people smuggling is that provided by the United Nations in the Protocol against the Smuggling of Migrants by Land, Sea and Air, which came into force on the 28 of January, 2004. This protocol is one of the three protocols that supplement the United Nations Convention against Transnational Organised Crime which came into force on the 29 of September, 2003 (UNODC 2013). Pursuant to this Protocol, smuggling means ‘...the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident’ (Article 3 UNODC 2013).

The primary aims of this Protocol which advanced the first globally accepted definition of smuggling are; preventing and combating the smuggling of migrants, the protection of migrants’ rights and promoting cooperation among state parties (UNODC 2013). Furthermore, the Protocol criminalises the practice of people smuggling. However, in contrast to criminal prosecution on grounds of illegal entry, the protocol provides that the migrant is not subject to any cruel, degrading or inhuman treatment such as torture but rather more attention should be given to the enabling cause of vulnerability to smuggling (Bhabha 2007; Article 5 of the Smuggling Protocol 2000). Kyle and Koslowski (2011:4) simply define people smuggling as ‘...an individual’s crossing of a state’s international border without that state’s authorisation and with the assistance of paid smugglers’. People smuggling is, however, frequently confused with human trafficking and the distinction between the two is blurred as they share similar features (Batsyukova 2012, Doomernik 2013). A number of attempts have been made by scholars to distinguish between the two phenomena. Kyle and Koslowski (2011) argue that human trafficking is a subset of people smuggling which in turn, is part of a broader phenomenon of irregular or unauthorised migration. Though Kyle and Koslowski (2011) have attempted to simplify the definition provided by the Protocol, this study aligns its argument with Batsyukova (2012), and Doomernik (2013) regarding the complex nature of modern people smuggling. This explains the decision by this study to conflate smuggling and trafficking and refer to the human trade. In fact, based on credible reports, both smuggled migrants and trafficked migrants undergo very similar experiences during their journeys (Human Rights Watch, 2015, U.S Department of State 2017). Therefore, despite

the differentiation in theory highlighted by the UNODC (2017), identification of either trafficked or smuggled migrants remains a highly complex task.

Regarding human trafficking, Siegel and De Bank (2010:437) summarise trafficking in persons as ‘...the exploitation of people under the threat or use of force or another form of control’, while the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, known as the Palermo Protocol, provides a more detailed definition stating that trafficking means;

...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the help of a person having control over another person for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (Palermo Protocol, 2002, Article 3).

Batsyukova (2012) argues that, in reality, the conflation of people smuggling, and human trafficking persists and results in the inappropriate management of trafficked victims as smuggled migrants. This conflation is analysed by Batsyukova (2012) as a ‘conceptual confusion’ which produces incorrect interpretations of the two phenomena. He argues that, to an extent, the UN has contributed to this conflation. The definition provided by the UN might be seemingly clear but in reality, Batsyukova (2012) contends that there exists little or no distinction between the two; arguably adding to the ambiguity. He therefore employs a comparative table in testing human trafficking and people smuggling against some defined criteria which includes ‘the type of crime, characteristics of recruited people, push factors, ... relationship between recruiter and recruited individuals,... profits, use of violence ...’ amongst others (Batsyukova 2012:39).

This methodical approach provides a clearer distinction between the two phenomena as presented in the table below.

**Table 3-1. Batsykova's Comparative Table on Human smuggling and Human trafficking**  
(Source: Adapted from Batsykova's 2012:41-42)

| <b>Criterion</b>                                   | <b>Human trafficking</b>  | <b>Human smuggling</b>   |
|--|---|--|
| <b>Type of crime</b>                               | Human trafficking is a crime against the person and the state(s).<br><br>It can be of transnational (involves border crossing) or national (internal trafficking) nature. | Crime against public order.<br><br>It always has a transnational nature.   |
| <b>Characteristics of recruited people</b>         | Victims.<br><br>Gender, age, appearance, exotic characteristics of the victim are important to the recruiter.   | Customers.<br><br>Identity of the person does not play a role.   |
| <b>Push factors</b>                                | Poverty, unemployment, poor cost of production, war, political conflicts, discrimination etc.   | Same as for human trafficking.   |
| <b>Illegal entry in the country of destination</b> | Entry maybe legal or illegal.   | Entry of smuggled individuals is always illegal and break the migration regulations of the country of destination. |
| <b>Relationship</b>                                | Exploitative relationship.  | Commercial relationship.   |
| <b>“recruiter – recruited”</b>                     | Victim is seen as a commodity. Victims are “bought and sold”.   | Persons are secreted across a border in exchange for money.  |
| <b>Control over the situation</b>                  | Victims have no control over the situation. Traffickers “own” victims.  | Smuggled persons can negotiate the price and destination with the recruiter.                                       |

|   |   |  |
|---|---|--|
| <b>Profit</b>   | Multiple profits.<br><br>Victims can be exploited for many years and re-sold many times.            | One-time profit.   |
| <b>Use of violence</b>  | Violence is used to keep control over victims.  | In some cases violence can be used during the smuggling process. |
| <b>Services, that trafficked and smuggled people are entitled to upon detection</b> | Asylum, refugee status, financial assistance, legal, medical, psychological support and protection. | Asylum, refugee status or deportation.                           |

Similarly, Roth (2011) argues that the application and interpretation of criminal law provisions on human trafficking differ among states, consequently creating a misunderstanding of what constitutes human trafficking. He argues that, although the UN definition of trafficking, has been seen as constituting a consensus definition regarding prostitution and other human trafficking crimes, the debate continues. His argument hinges on the distinction between human trafficking and people smuggling caused by the complex interpretation of the concepts of consent and coercion. Thus, for example, not all prostitution meets the definition of human trafficking. In other words, while some are prostituted against their will, some authentically consent to prostitution, albeit often as a means of survival. Evaluating Roth's (2011) and Batsykova's (2012) approaches to distinguishing between trafficking and smuggling, Batsykova's (2012) comparative tabling seems to offer a more convincing way of distinguishing between these crimes. The key distinction is that while smuggling is a voluntary act which entails moving across international borders using falsified documents and contravening immigration laws (Sadiq 2011), trafficking involves the use of force, deception and forms of coercion such as abduction.

Despite the clarity of Batsyukova's (2012) distinction, other studies point out that the 'smuggled' migrant, at junctures of the smuggling process, is trafficked and subject to different forms of exploitation; particularly in the case of indebted



migrants (Davidson 2013, Kyle and Koslowski 2011). This Ellis *et al*, (UNODC 2010) refer to as an overlap. Davidson (2013) explains that this occurs particularly when the smuggled migrant is unable to meet the cost of the journey and arranges to pay on arrival at the destination country. Most of the cost of the journey is borrowed. This is usually the case with Chinese irregular migration. The cost of the journey is often met by a portfolio of loans from divergent sources including family and friends (Davidson 2013). Smugglers, however, usually demand payment up front. With this understanding, it is debatable that besides the debt owed back home, the anticipated job opportunities at their arrival in the destination country, by which the migrant/victim hope to be able to pay up their debts within months of hard work enslaves the migrants to the smuggler. At this point the category of prostitution identified by Roth (2011) comes to play; be it victims procured for sexual exploitation or forced into the act as a matter of survival. In essence, the majority of the migrants are involved in prostitution pandered and exploited by their smuggler or trafficker and not by their own will but forced into it as a means of survival and paying off accumulated debts (Roth 2011).

Tamura (2010) argues that those trafficked or smuggled are subject to the will of the trafficker or smuggler by no choice of their own. Even though some migrants or victims, seeing the proceeds (remittances) of few successful migration activities might decide to patronise traffickers or smugglers, it is still argued that no one consciously consents to being exploited. Monzini (2010) illustrates this overlap of trafficking and smuggling, citing Nigerian girls ostensibly being smuggled who, in the course of being transported, are required to provide sexual services to their smugglers.

Gebreegziabher (2013) concurs that human trafficking and people smuggling often happen concurrently and that both are primarily profit-making enterprises based on the exploitation by one means or another of men, women and children. Davidson (2010) believes that the differences between trafficking, smuggling and migration are not fundamental, but rather imaginary constructions based on an illusory line between freedom and restriction; and a political judgement as to which forms of exploitation are deemed appropriate and inappropriate (Davidson

2010). From a human rights perspective, Davidson submits that in developing policies towards combating trafficking, the phenomenon needs to be addressed from within a 'broader migration network' (Davidson 2010:245). It is this 'broader migration framework' that this research seeks to address through a holistic investigation of the movement of people from Libya to Italy, rather than an artificial disjuncture of those being moved into 'smuggled' and 'trafficked'.

### *Smuggling from Libya to Italy*

Studies by Sandell (2005), UNODC (2010) and Ellis *et al* (2011) point to the early 2000s as the start of medium scale irregular migration from Africa to Southern Italy. More recent large scale migration has, however, moved the issue up the political agenda of the destination countries and the wider European region. In analysing the recent history of migration from Libya to Italy, de Haas (2007) establishes a striking increase in migration from West African countries such as Nigeria and Ghana to Europe from the 1990s as against limited migration in the 1980s which consisted of mainly skilled workers and West African students (de Haas 2007). He contends that, initially, these trans-Saharan migrants, migrated in search of work in Libya, but soon joined the flow of the Maghrebis in their illegal crossing of the Mediterranean by the aid of fishing boats - *paretas* – to Italy and Spain. This was exacerbated by a shift in Libya's foreign policy in the 1990s – pan-African migration policies pursued by the Libyan government – that encouraged mass trans-Saharan migration to Libya. This pan-African solidarity implemented by Al-Qadhafi, which birthed the consolidation of trans-Saharan migration routes and networks was as a result of the air and arm embargo imposed on Libya by the United Nations Security council between 1992 and 2000 (de Haas 2007, Chulov, and Smith, 2011). Furthermore, De Haas (2007), holds that the increase in trans-Saharan migration and the growing demand for migrant labour with enticing earnings and living conditions in Southern Europe led to the creation of a network of human smugglers to facilitate this movement.

Other scholars such as Monzini (2007), Koslowski, (2011), Boch and Chimenti, (2011) and Cheng (2013) argue that people smuggling and trafficking are

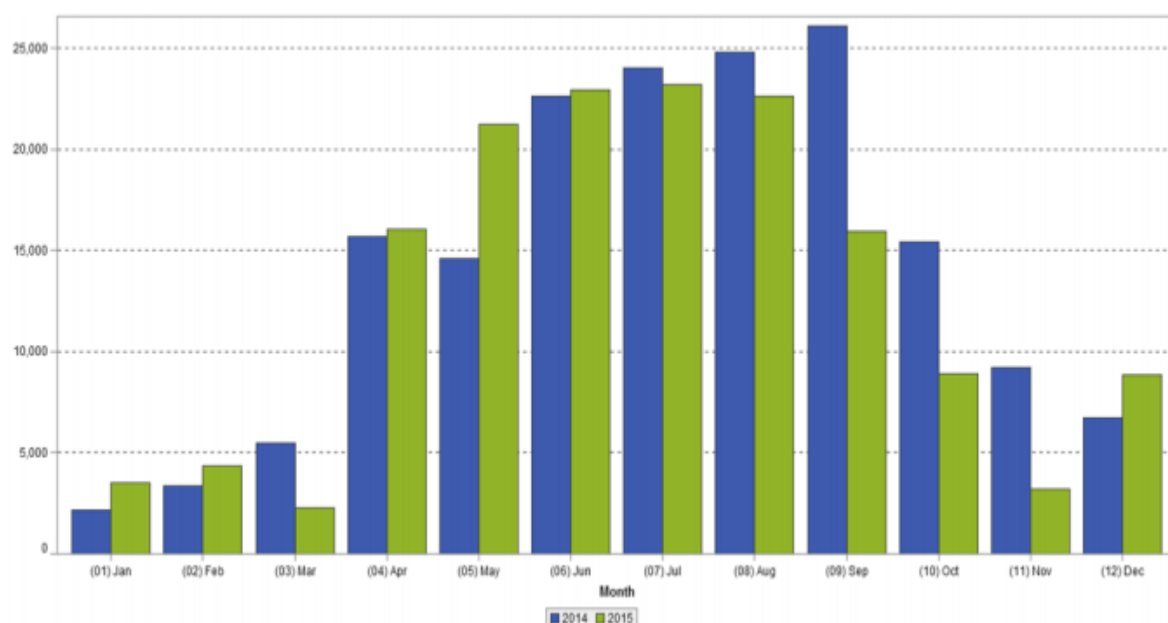
attributable to globalization and push and pull factors such as political crises, poverty, and the search for economic alternatives.

### *Demographics*

By 2011, approximately 23,000 people were recorded to have arrived in Italy between January and March alone, following the crisis and displacement in North Africa. The age range recorded were males mainly 18 to 45 years of age (WHO 2012). By March of the same year, the numbers of migrants had hit 400,000, and in 2015, it had risen beyond 181,000. For the want of specific sex and age demographic data in the Africa to Italy human trade this research employs the 2016 -2017 IOM Flow monitoring Survey Analysis.

**Table 3-2 Table indicating the number of migrant arrivals by sea in the year 2015 (source: IOM 2017)**

| Arrivals by sea to Italy - Main Countries of Origin—All of 2015 |          |                          |          |                          |          |                          |          |
|---|----------|--------------------------|----------|--------------------------|----------|--------------------------|----------|
| Main Countries of Origin  | Arrivals | Main Countries of Origin | Arrivals | Main Countries of Origin | Arrivals | Main Countries of Origin | Arrivals |
| Eritrea   | 39,162   | Ghana                    | 4,431    | Libya                    | 563      | Niger                    | 154      |
| Nigeria   | 22,237   | Ivory Coast              | 3,772    | Burkina Faso             | 470      | Liberia                  | 137      |
| Somalia   | 12,433   | Ethiopia                 | 2,631    | Guinea Bissau            | 456      | Iran                     | 119      |
| Sudan   | 8,932    | Guinea                   | 2,629    | Benin                    | 396      | Afghanistan              | 117      |
| Gambia  | 8,454    | Egypt                    | 2,610    | Togo                     | 360      | Other (26 countries)     | 393      |
| Syria   | 7,448    | Pakistan                 | 1,982    | Algeria                  | 343      | Unidentified             | 7,138    |
| Senegal   | 5,981    | Occ. Palestinian T.      | 1,673    | Sierra Leone             | 250      |                          |          |
| Mali  | 5,826    | Iraq                     | 996      | Comoros                  | 192      |                          |          |
| Bangladesh  | 5,040    | Tunisia                  | 880      | Chad                     | 174      |                          |          |
| Morocco   | 4,647    | Cameroon                 | 662      | Congo                    | 154      | TOTAL                    | 153,842  |



**Figure 3-1 Graph indicating the arrivals by month in the year 2015 source: IOM 2017)**

This report records a summary of the profile of surveyed migrants along the central Mediterranean route who would have arrived Italy between 2016 and 2017 providing a sample of the demographic of the migrants who accessed the central Mediterranean route to Italy (IOM 2017). The focus is on 2016 which has been recorded as the deadliest year on this route. A sample from 2016 provides solid demographic statistics and a breakdown of the data collected is presented in the box below.

### Box 3.1

Men represent the majority of the sample (87%) while women are 13%. Children between 14 and 17 years of age (boys and girls) are 24% of all migrants interviewed.

The average respondent is 22.5 years old. Average age of Gambians (20), Guineans (20) and Senegalese (22) is slightly lower than the average age of Nigerians (24) and Eritreans (24). Interviewed children are almost exclusively men (91%) and are especially present among Gambians (47%) and Guineans (37%), as compared to respondents of other nationalities.

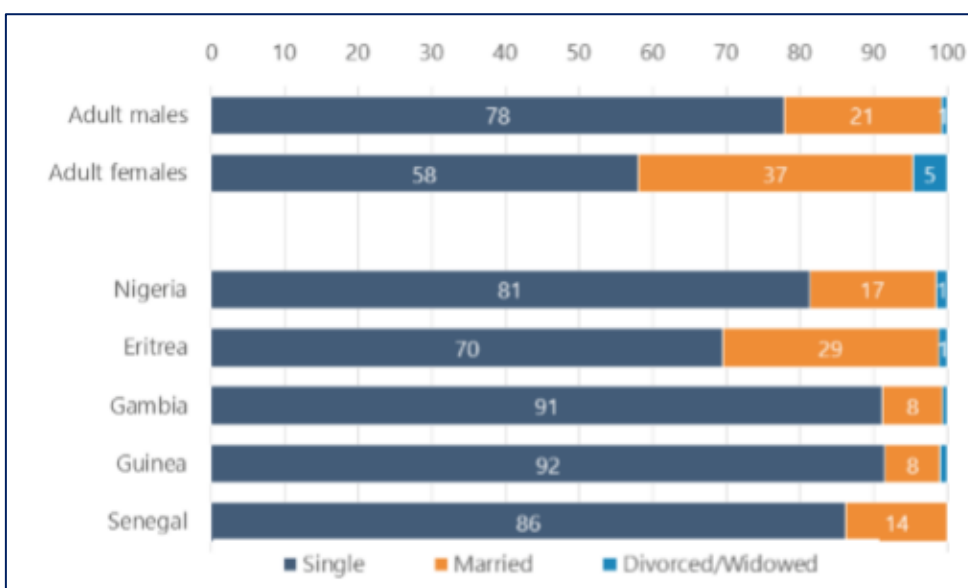
Majority of all interviewees is single (81%). Children reported to be single in almost all cases (99%). Females are more often married than men (32% vs 16%). Eritreans, Nigerians and Senegalese were more likely to be married, as compared to Guineans and Gambians: 29% of Eritreans, 17% of Nigerians and 14% of Senegalese reported being married, as compared to 8% of Guineans and 8% of Gambians.

Before departure, majority of all interviewees is single (81%). Children reported to be single in almost all cases (99%). Females are more often married than men (32% vs 16%). Eritreans, Nigerians and Senegalese were more likely to be married, as compared to Guineans and Gambians: 29% of Eritreans, 17% of Nigerians and 14% of Senegalese reported being married, as compared to 8% of Guineans and 8% of Gambians.

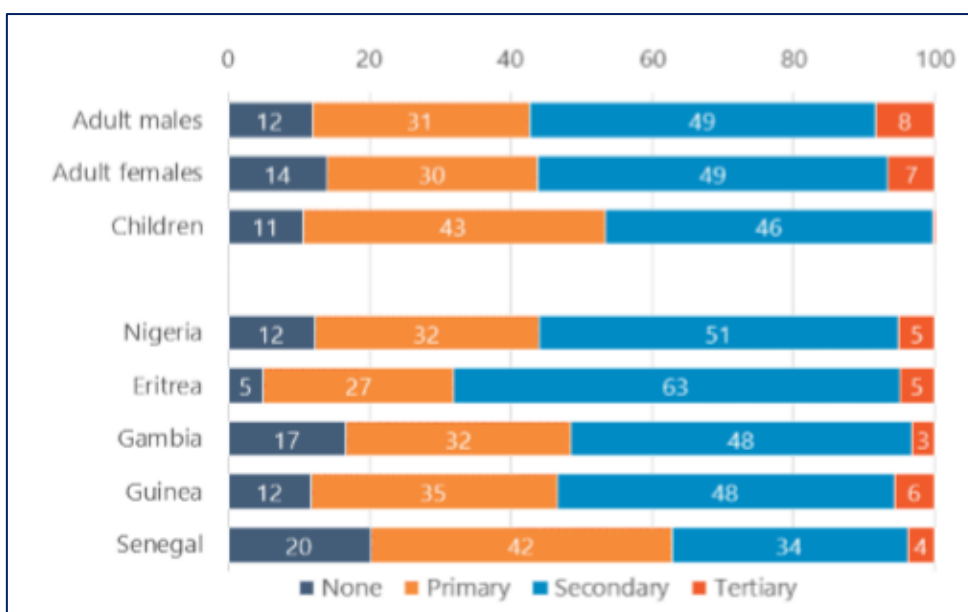
46% of the sample was employed, 25% reported to be a student and 28% was unemployed at the time of starting the journey.

Majority of the males (77%) compared to the women (56%), travelled alone and with no family member while children (6%) were recorded to travel with family members. (IOM 2017 reports)

### 3-1 Data on surveyed migrants along the central Mediterranean route who would have arrived Italy between 2016 and 2017



**Figure 3-2 Civil Status of adult from 5 major nationalities by sex in percentage**  
(Source: IOM 2017)



**Figure 3-3 Educational level of Children and adult by sex from 5 major nationalities, in percentage (Source IOM 2017)**

The data indicates that the majority of the migrants within that period were males, mainly unmarried, unemployed, originating from Eritrea and Nigeria and had basic education up to secondary level. Very few had tertiary education. Their situation could be attributed to their displacement or their inability to meet their responsibilities following conflicts and political and economic decadence of their countries. Very few chose to migrate for economic reasons as generally assumed which is actually a 'fallacy appeal to past practice' The data which is based on the 5 major countries from where the migrants surveyed in 2016 to 2017 originated from, is shown in the figure below.

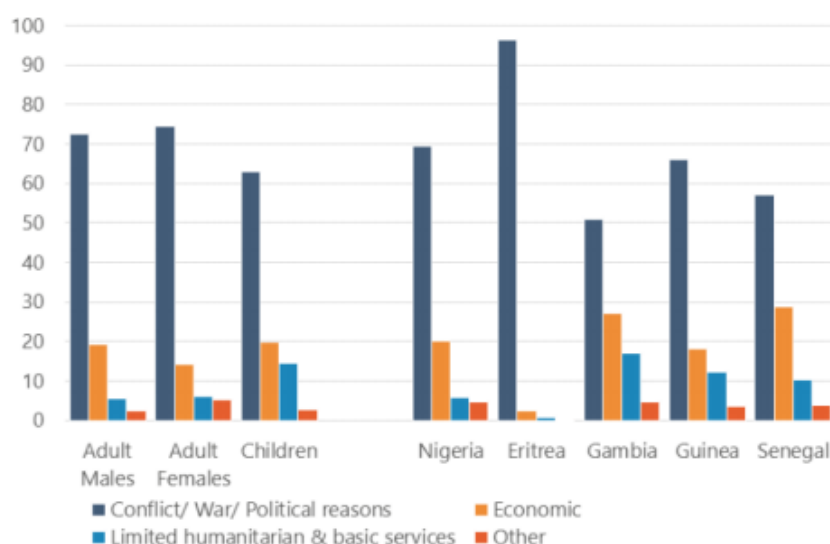


Figure 3-4 Graph indicating migrant's reason for leaving home country (Source: IOM 2017)

The UNODC has referred to the Mediterranean routes as the deadliest routes, with the central Mediterranean route accounting for 91% of overall migrant deaths in 2017 (UNODC 2018). Factors that caused these deaths include, vehicle accidents, illness and harsh conditions, drowning, and homicide<sup>4</sup>.

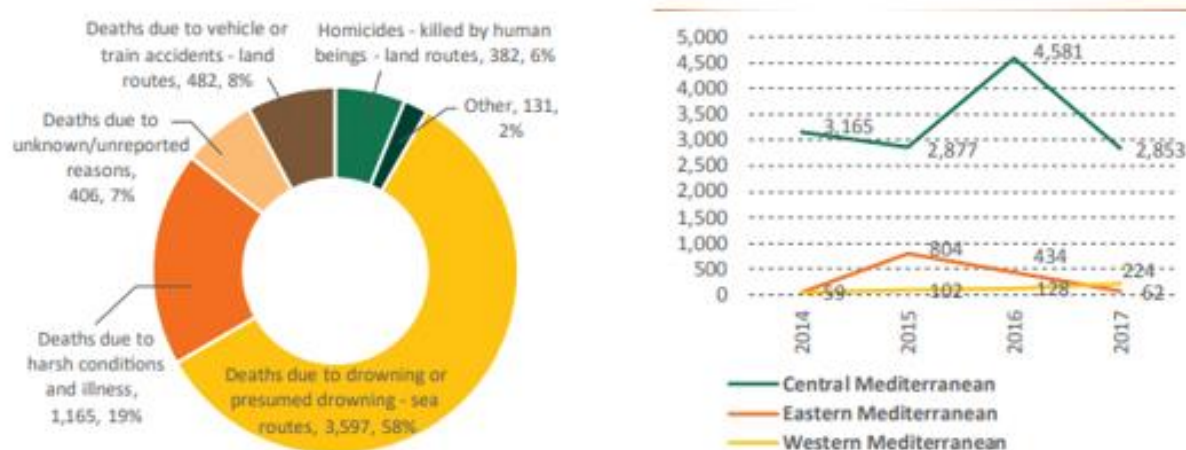


Figure 3-5 Data on migrant deaths, causes and trends in the death along the Mediterranean (source: UNODC 2018)

<sup>4</sup> these were normal occurrences in the transit cities and migrant holding centres

The breadth and complexity of the human trade across the Mediterranean obliges the research to concentrate on a single route, the smuggling of migrants from Libya to Italy and to concentrate on the involvement of transnational criminal networks.

## People smuggling and criminal networks

The connection between people smuggling and criminal networks is a contested phenomenon. Albanese *et al* (2003) cite geographical location, economic circumstances, history, political and governmental situations as well as social culture, beliefs and traditions as factors that influence what constitutes smuggling and organised crime. What is considered illegal varies from culture to culture and country to country. In discussing assisted migrant experiences, Liempt (2011) makes a distinction between the smuggling of Kurdish women from Iraq and the Horn of Africa perceived as not criminal, but rather illicit yet socially accepted. He further contends that smugglers in this instance are seen as professionals who offer 'alternatives to legal migration', as 'alternative migration experts' who would enable one to migrate without being caught, and not as criminals (Liempt 2011). In this context, not only does the perception of what form of migration is illegal differ from what the legal instruments on transnational migration hold, but also what is safe for the migrants. According to Liempt's (2011) study, most of the women interviewed from the Horn of Africa strongly maintained that it was safer for them to migrate than to stay in the war-torn countries from which they came.

The way in which research interviews are conducted is arguably important when it comes to gathering accurate data. Liempt (2011) uses interview methods that encourage openness amongst his respondents using phrases such as 'assistance or help' rather than 'smuggling or trafficking', and creating a non-threatening setting for the interviews. This is corroborated by Thomsen (2012) who considers how evidence and data is incorporated into the knowledge production process, given the highly politicised discourse surrounding irregular migration. His own practice includes the use of the explorative study approach, for example in his exploration of Polish workers in Denmark. He also utilises



biographical interpretative methods to understand the experience of migrants who could be termed as 'difficult to access' groups. Phillips (2014) concurs with Liempt that refugees and asylum seekers should not be defined as 'illegal migrants'. Human rights campaigners contest the legal accuracy of conflating the terms refugee and migrant. Citing the categorisation of, for example, Eritrean refugees as migrants, Phillips (2004) argues that the media will use the intellectually lazy term 'migrant' without contextualising the horrendous push factors that exist in this authoritarian state impelling the migration.

In an explicit analysis on human trafficking in the context of trafficking from Eastern Europe, Mahmoud and Trebesch (2010) argue that despite policy relevance, academic research on human trafficking - particularly as an economic phenomenon - has been scarce. The thrust of their argument is based on simple supply and demand considerations (Mahmoud and Trebesch 2010). They further argue that human trafficking and migrant exploitation as a market, has been largely ignored by the scholarly literature, and practitioner dialogue (Mahmoud and Trebesch 2010). Mahmoud and Trebesch's (2010) analysis indicates that some smuggling transmutes to trafficking particularly where migrants who may have employed smuggling services, decide to leave voluntarily. Applying the business model of organised crime to the human trade, Schloenhardt (1999) argues that the trade responds to a specific demand, and that those involved in criminal activities are simply seeking financial gain and enhanced social status.

Sutherland (2013) argues that migrants play a critical and positive role in shaping the twenty-first century as engines of poverty reduction in spite of the perceptions of migrants as burdens. Reinforcing the findings of DFID (2007), Michael and Stephen (2009:76) and Mallett & Hagen-Zanker (2014), he argues that international and internal migration is a means of escaping poverty and conflict, as well as a way of adapting to environmental and economic shocks. Families rely on migration to improve their income, health and education, often through remittances (Sutherland 2013). Travis (2014), Hartikainen (2014) and Lusenti (2014) argue the need to establish legal migration channels or opportunities as an answer to the humanitarian crisis in the central Mediterranean. Lusenti contends that restrictive border management measures simply shift the departure

points and transit routes and lead to yet more inventive smuggling methods such as the use of ships capable of holding up to a thousand migrants. She argues that the dearth of legal migration possibilities is the major driver of the human trade.

Boch and Chimenti (2011) explore the expansion of labour migration from developing to developed countries contending that ‘the congruence of interests of economies, policies and individuals in both ‘receiving’ and ‘sending’ countries’ explains the current trend’. This approach is supported by Beat and Belser (2009), Koslowski (2011) and Van Lampe (2011) who emphasise labour shortages in developed countries resulting in increased forced labour and on the other hand, globalization which has made transportation and communication easier in recent years (see also Chindea and Ramirez 2014).

Again it is useful to make a brief comparison with Chinese TNOC. Chin (2011), writing in the context of people smuggling from China, compares smuggling networks to a dragon with tightly linked diverse organic parts. Chin’s (2011) research details the organisation of the Chinese smuggling organisation which includes arrangers or investors referred to as *snakeheads*; recruiters known as *little snakeheads*; transporters, and corrupt Chinese officials who accept bribes; guides; enforcers; and support personnel. Chin’s (2011) depiction of Chinese smuggling organisation partially complements Arsovska’s (2014) analysis of the hierarchical/alien paradigm of organised crime and criminal bodies and, at a wider level, William’s (2001) analysis of most criminal networks. Chin’s (2011) analysis reveals the involvement of Chinese triads; tongs and street gangs in the business of the smuggling of undocumented Chinese to the US. However, Monzini (2010) argues that change remains a constant feature of smuggling networks, and that people smuggling to Italy, may not involve powerful cartels or even organised groups such as the Mafia, but can be small-scale organisations. Monzini (2010:28) summarises the characteristics of smuggling organizations as ‘...flexibility, changeable hierarchical structures and relationships and limited longevity’ with the ‘boss’ being the only stable figure. She, however, notes that Nigerian smuggling organizations differ as they are highly structured, coordinating with other networks and out-sourcing part of the transportation

(Monzini 2010). Chindea and Ramirez (2014) concur that criminal groups are flexible observing that drug cartels can morph into more complex entities such as *polydrug* entities and diversifying beyond drug trafficking to other illicit activities such as kidnapping, people smuggling and human trafficking (see also Dill 2011). They list Mafia organisations, drug trafficking organisations, prostitution rings and street gangs, inter alia, as different forms of organised criminality (Chindea and Ramirez 2014). Similarly, Reitano *et al* (GIATOC 2014)<sup>5</sup> suggest that smugglers who traditionally have been locals and acted alone in the smuggling of people from Libya to Italy have in recent times become part of professional networks as their activities have become more sophisticated.

### *The smuggling process and the drivers of irregular migration*

Based on research by the OSCE (2010), people smuggling shares similar features with human trafficking, and can be referred to as a process. It comprises different stages or nodes each organised by different personalities. Reitano *et al* (2014) affirms EUROPOL's statistics that 80% of irregular migration to Europe is facilitated by smugglers and criminal groups contracted to carry out the process. Her analysis provides a breakdown of the types of migrant smuggling:

- Ad hoc smuggling services, in which migrant travels on his own but employs certain services of smugglers during the journey such as when crossing borders;
- Migrant smuggling through misuse or abuse of documents, where migrants can afford the visas and travel documents;
- Pre-organised stage to stage smuggling, where migrants are escorted through the journey by smugglers (Reitano *et al* 2014:2)

Much scholarly research (Monzini 2010; Ellis *et al* 2011; OSCE 2010) categorises the actors and roles in the human trade as consisting of *recruiters* who are usually the first contact for the migrant, also known as *rabatteurs* and *coxeurs*. Monzini

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<sup>5</sup> the Global Initiative Against Transnational Organised Crime

(2010) lists the second category as *middle men* who are responsible for creating contact between the migrant or victim and the organiser of the journey; they are known to be in contact with more than one smuggler. According to her analysis, the trip is usually organised by the *smuggler* – which could be either in the country of departure or destination country -while the *innkeeper* makes safe houses available at embarkation and departure points. In the case of smuggling by sea, Monzini (2010) and Reitano *et al* (2014) stress the role of the *passeur* who pilots the boat.

Ellis *et al* (2011) have developed a detailed typology of those involved in the smuggling process. The typology includes migrants; people providing food and other requirements; *coxeurs/rabtteurs/touts*/guide men; intermediaries such as chairmen and connection men; burgers, *In Tchaga*, *passeurs*, and *Jefes* (see Ellis *et al* 2011:49). The typology should also expand to include state officials who facilitate passage in return for bribes, but also migrants who work as part of the networks to earn money for their own journey. Monzini (2010) observes that in most destination or transit countries there are indigenous middlemen incorporated into established international networks with the responsibility of assembling the clients/migrants in the location. However, the motivation of these indigenous middlemen is seemingly ambiguous according to the literature. Callan (2012), investigating people smuggling to Australia from Asia, contends that many locals involved in helping to transport migrants do so out of a sense of altruism as much as a money-making opportunity. Her interviews with middleman suggest that they are not fully aware of the nature of the role they play in facilitating the migrant journeys. Humphris (2013) researching people smuggling and trafficking from Eritrea to Sudan and Egypt reports that the local Eritreans who act as brokers for the Rashaida ethnic people who act as smugglers are not really aware that they are part of a smuggling network, but rather opportunists fulfilling money-making tasks as they arise.

The scholarly literature also explores often sizeable and distinct groups involved in networks at different junctures and in different roles. Siegel and de Bank (2010) investigate the specific role of women in human trafficking (rather than smuggling). These are often former trafficked victims who assume the role of

‘madams’, controlling women exploited as prostitutes. Koslowski (2011) researches the role of traditional gangsters, not explicitly part of the network process, but willing to undertake diverse violent roles such as enforcers or debt collectors. Reitano *et al* (2014) analyse the role of the semi-nomadic *Tuareg* and *Tubu* in the Sahel, again not professional people smugglers, but with a long-standing tradition of involvement in the movement of goods across the Sahara.

Each region in Africa has its peculiar dynamics in terms of organisation and structure of migration. It is therefore important to briefly highlight some of the debates on the reasons for migrating besides the existence of smuggling and trafficking networks that encourage migration. These reasons are considered by this research as drivers of irregular migration.

From the year 2000, it can be observed that irregular migration which at the time was mainly inspired by the search for ‘greener pastures, was recorded to have significantly dropped in 2010 and thereafter increased as an aftermath of the revolts of the Arab Spring of 2011. In recent times, it has been observed that the unprecedented drive for irregular migration has shifted from the quest for alternative economic opportunities to fleeing from wars, political and religious crises, and poverty (Reitano, Adal and Shaw, 2014). A number of factors influence the decision to migrate and these decisions, as pointed out by Cummings *et al* (2015), range from personal to political reasons and at the same time are subject to change over the course of the migrant’s journey. Drawing from the analysis of Cherti and Grant (2013), Browne (2015), highlighted violence and instability, limited opportunities and the culture of migrating as push factors, while the influence of the diaspora, media and social technologies and improved prospects as pull factors that act as motivations that contribute to the migrant’s decisions to migrate. McAuliffe (2017) however agrees with De Hass 2010 about the fact that it is not possible to categorise a number of factors that act to facilitate migration. These factor are referred to as ‘enabling factors’ and they include geography and ease of travel, ability to travel through transit countries, travel assistance from diaspora population, increased ability to self-fund journeys, communication technology and global asylum systems (McAuliffe 2017:2). There

is a caveat to these factors; there is a possibility of rapid change. The changing characteristics of these factors make the decision making of the migrant complex which in turn makes it difficult to categorise the enabling factor or drivers of irregular migration in a number of instances.

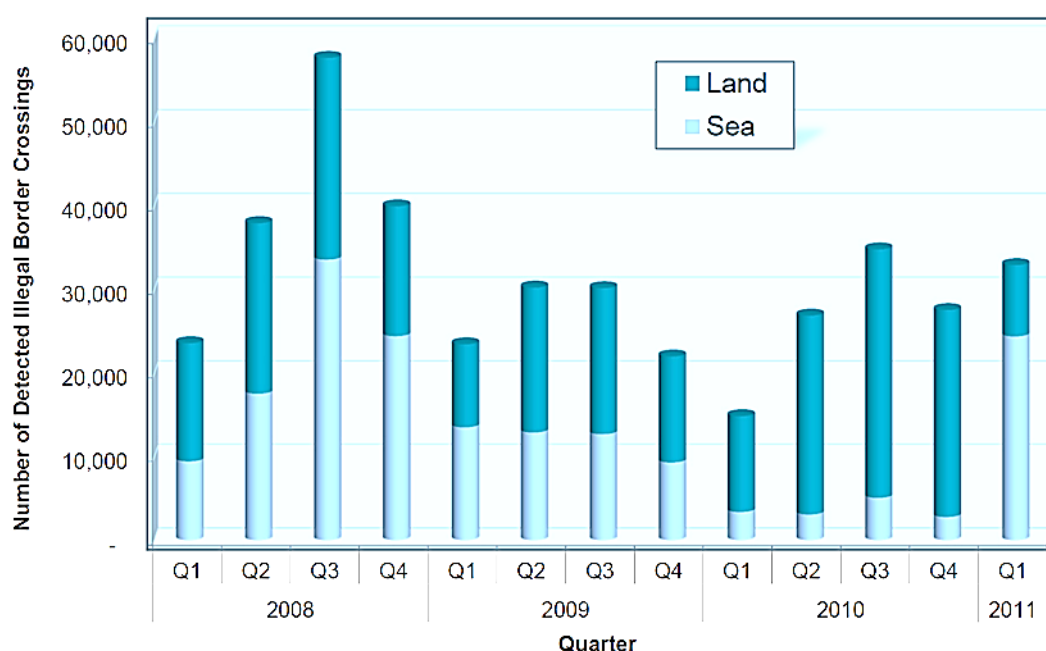
Equally, gender norms significantly influence the reasons for migration; who and where they migrate to. IOM states that gender influences reasons for migration and who migrates, networks subscribed to and their accesses to resources both in their country of origin and at the destination countries. Ahmad (2008) working with Pakistani migrants concluded that it was easier for Pakistani male migrants to migrate while the female migrants would not have access to the resources that would enable them to do so even if they desired. As a matter of fact, they had little or no choice at all regarding migrating. In such instances, and in such statistics, the female gender may not resonate when human trafficking or smuggling issues are examined but rather it is a case of masculinity. While both males and females migrate in search of economic alternatives that would help their families and escape from socio-political crisis, additional factors necessitate and shape the movement of females. This movement could be both voluntary and forced. O'Neil *et al* (2016), identifies the lack of autonomy of the majority of female migrants; they are not allowed to make the decision to migrate for fear regarding remittances. In cases where they are finally allowed to, there is huge expectation of remittances to the family laid on the female migrant (Jolly 2005). Nonetheless, some females, especially adolescents, migrate to escape harmful cultural practices such as genital mutilation and early or forced marriage which is imposed on them by their families (O'Neil *et al* 2016; Jolly and Reeves 2005). Females in some societies are banned from migrating by their governments with the claim of protecting them from the various risks associated with feminine migration. Females seem to be the easiest prey of the human traffickers and smugglers. This is because of being exploited sexually. There are no indicators that men are sexually exploited as well in international migration (Ahmad 2018). Jolly and Reeves (2005) examining voluntary and involuntary migration, identify inequalities within and between countries as one factor that can influence gender as a cause of immigration; either economic, family unification, accesses to desired jobs opportunities and or gender discrimination.

In the same context, Dibeh *et al* (2019) considers a different perspective of drivers of migration, focusing on drivers of youth irregular migration in the North African region, with regards mostly to youths from disadvantaged backgrounds. The motivations of the migrating youths in the MENA region and North Africa were categorised into ‘...socio-economic factors, wealth, adaptability, the labour market, institutional factors, and the Arab Spring’ (Dibeh *et al* 2019:234). This research significantly contributes to the debate regarding the increased migration rates post Arab Spring, with the Arab Spring considered as a catalyst to migration dynamics. Although Triandafyllidou and Dimitriadi (2013) explained that the ‘Arab Spring’ might have contributed to the geopolitical changes which in turn led to the emergence of new migration flows created by diverse regional crises, the active involvement of organised crime groups have also played a significant role in the whole migration process which this study refers to as the ‘human-trade’. In contributing to this debate of the Arab spring as a catalyst to migration dynamics, this will be examined in greater detail in the succeeding part of this thesis.

Doomernik (2013) argues that international migration is highly motivated by social considerations, economic opportunities or drivers which include prolonged economic underdevelopment and growing competition for scarce resources and the search for employment. Institutionally weak states are also often unsafe and autocratically governed. Doomernik (2013) refers to these drivers of immigration as a mix of push and pull factors which are not quickly remedied. In the same vein, Humphris (2013) provides instances of push factors in the Eritrean context such as the lack of political freedom, educational opportunities and freedom of movement.

In collaboration with the Migration Policy Centre, Fargues and Fandrich (2012), argue that the fallout from the Arab Spring provided the impetus for major refugee crises in Libya and Syria forcing refugees to flee to Europe. The statistics in proof of this were gathered from first-hand surveys conducted in the spring of 2012, competent offices from European member states and policy documents, which indicate that about one million fled Libya while about 100,000 fled Syria. De Haas (2012), expand on the role played by the Arab Spring by arguing that migration

in its various forms has played a key part in the uprisings that have spread across the North African region. He supports his claims with examples such as sea-border crossings to Lampedusa, returnees to Cairo joining protests in Tahir Square, and migrants in Egyptian and Tunisian holding centres (De Haas 2012). Fargues and Fandrich (2012: 12) examine challenges that have followed the Arab Spring such as ‘unemployment and underemployment, especially of educated youth; wage differentials between the North and South; the attractiveness of Europe in regards to gaining skills and education; the desire to live within European cultures and lifestyles; and [also] for family reunification’. They argue that Arab Spring resulted in the increase in the number of detected illegal crossings of EU sea borders, a position corroborated by Morehouse and Bloomfield (2011) who further add that border management operations impact on irregular migration as indicated by the figure below.



**Figure 3-6. Illegal border crossing at sea and land borders 2008 to 2011 (Source: Morehouse and Bloomfield 2011).**

At this juncture, it is important to examine the Arab Spring in the light of the centrality of Libya and the central Mediterranean route



### *The Arab-Spring-Catalyst Debate*

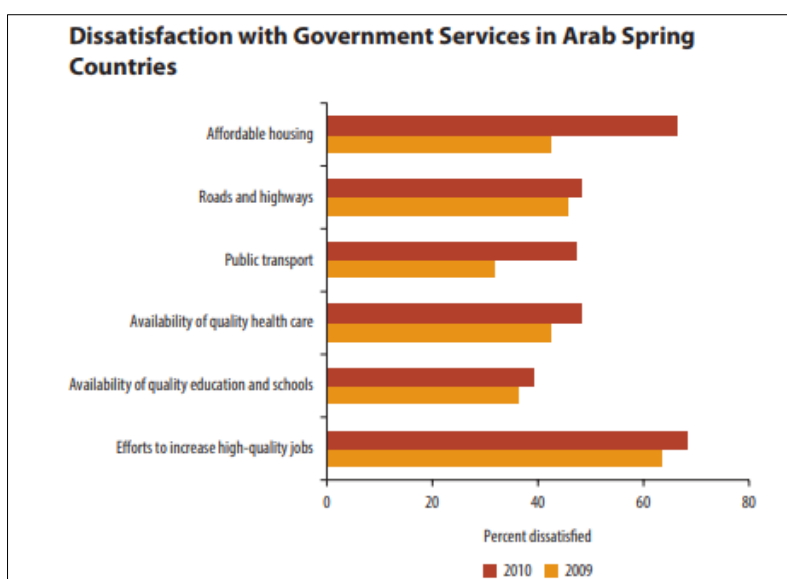
This section presents an overview of the socio-political context of the research into irregular migration from Libya to Italy. It is a period characterised by uprisings across North Africa often referred to as the 'Arab Spring'. First, the section recounts the socio-economic hardships that prevailed at the time of this research's focus. Second, it looks at the catalyst of the first uprising in Tunisia and the spread of uprisings across North Africa. Next, it examines the nature of those uprisings in terms of scale, demography and regime response. It then moves on to consider the possible causes of the uprisings. Finally, the section recounts the impact of those uprisings on migration country by country.

The phrase Arab Spring was first used by an American political scientist, Marc Lynch in his foreign policy analysis (Abusharif, 2014). Qadir Mushtaq and Afzal Arab (2017) used the term to represent the Arab uprisings and it was subsequently popularized by the Western media in early 2011 when there was an uprising by Tunisians against their former leader, Zine El Abidine Ben Ali, (Manfreda 2011, Salih (n.d). The backlash of the Tunisian regime only resulted in the evolution of what was hitherto a peaceful protester to violent protest (QadirMushtaq and AfzalArab 2017). The success of this uprising emboldened similar anti-government protests in many Arab countries leading to a series of protests, uprisings and armed rebellions that spread to other Arab countries including Libya, Egypt, Syria, and Yemen in early 2011.

### *The Socio-Political Context of the North Africa Uprisings*

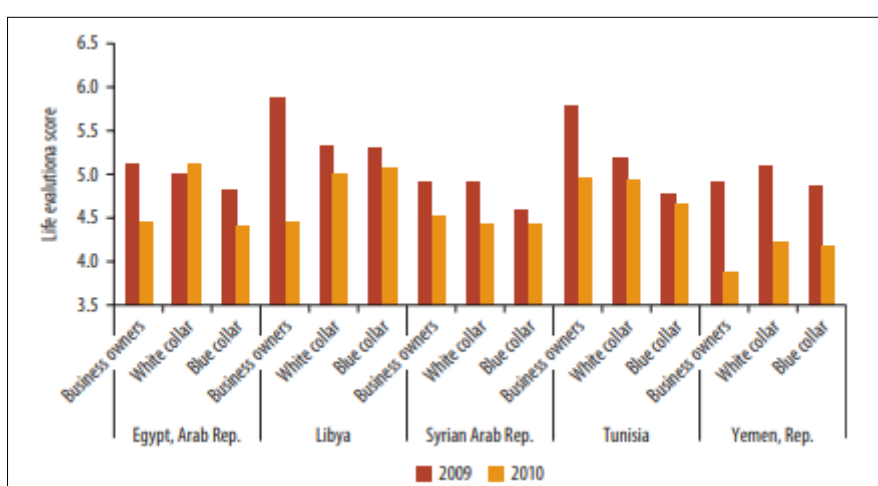
To understand why these protests took place, it is helpful to examine the socio-economic hardship in the region prior to the uprisings, The World Bank (press release of October 21, 2015) argued that these regions faced, prior to the uprisings, a severe decline in life satisfaction that was masked by the seemingly high growth rates recorded in the regions. The fact that the polling of the population was not readily visible to observers exacerbated the precipitous conditions (World Bank 2015). The general subsidies that the regimes offered served as a palliative which did not deter a majority of the middle-class protesters.

The World Bank Chief Economist of the Middle East and North Africa Region, Shanta Devarajan argued that the social contracts were '...old social contracts of redistribution with a limited voice [which] had stopped working, especially for the middle class, prior to 2011...'. The economic indicators did not alert the regimes to their impending doom. The decline in socio-economic conditions is analysed by Piciello (2011). In Tunisia, Egypt and Algeria, there were deteriorating labour markets which principally affected their educated youths. This featured high debts and inflation which pushed these countries into seeking help from the IMF and the World Bank. Although their economies recovered slightly around the 2000s, they struggled to generate a growing sustainable job-creating labour market (Piciello 2011). This failure of government economic policies particularly affected disenfranchised youth, including young graduates and women. The people were therefore not silent about their dissatisfaction with the deterioration in their lives and the quality of the public services; emphasizing the need for improved economic opportunities, economic and social justice. The figure below indicates the percentage of dissatisfaction with government services prior to the uprisings which could serve as an indicator of an important trigger of the uprisings. The graph enumerates affordable housing, roads, public transport, and availability of quality of health care, quality of education and effort to increase quality of jobs as aspects the citizens were dissatisfied with in 2009 and 2010 (see figure 3.7).



**Figure 3-7. Graph indicating aspects the citizens of the Arab regions were dissatisfied with pre Arab spring. (Source: quoted in lanchovichina 2018)**

The data indicates that availability of high-quality jobs, accessible roads, affordable housing and availability of quality health care remained crucial for the people. This dissatisfaction particularly regarding economic occupation in the Arab region in 2009 and 2010 is reported in the figure below. The level of dissatisfaction is visible with a striking deterioration in the life evaluation score of business owners in Libya and Tunisia between 2009 and 2010.



**Figure 3-8. Life evolution score regarding occupation in the Arab countries pre Arab spring, indicating the degree of dissatisfaction among citizens. (Source: quoted in lanchovichina 2018).**

Though market-oriented reforms were adopted, they proved inefficient in addressing the increasing unemployment crisis. Rather, there arose lay-offs, worsening living conditions and an increase in authoritarianism, repression, and limiting of basic freedom. Economic management was not transparent and the regimes were coercive and ineffective in the provision of social services. The high level of coercion and exclusion resulted in a push-back by citizens who perceived the high levels of deprivation as unacceptable.

Before 2011, public protests were rare in Tunisia and the Arab world in general and dissent was usually put down forcefully. Mohammed Bouazizi became a martyr and was seen as a symbol of resistance for all the poor, unemployed and oppressed youths in not only Tunisia but the wider Arab world. By the spring of 2011, similar violent protests had led to despotic rulers being ousted in Egypt, Yemen, and Libya. In the case of Libya, however, it took the intervention and involvement of NATO forces to topple the regime of Muammar Gaddafi and send the long-time Prime Minister to his grave. There were also civil uprisings and major protests in Syria, Bahrain, Algeria, Jordan, Kuwait, Morocco and Oman and protests in Saudi Arabia, Sudan, Western Sahara, and Lebanon. The uprising in Syria developed into a full civil war that remains unresolved till date in spite of/despite the involvement of major world powers on both sides of the conflict. The campaign against state despotism and rentierism, that is the generation of a large proportion of their income from unproductively earned payments, was the crux of the uprising in 2011 and 2012 (Gray 2011:1).<sup>6</sup> As Hamzawy (2016) puts it, this situation of despotism and rentierism enabled systematic crimes and human rights violations in countries like Iraq, Syria, Egypt, Libya, and Algeria. This is based on the fact that Mohammed Bouazizi's martyrdom in Tunisia, as narrated by Rosiny (2012), indicated that the wares of the young man were confiscated and would not be released by the municipal official because he did not possess the necessary permits and had no funds to bribe the official.

In a society facing despotic rule and rentierism, tyranny and violence infiltrate every arm of the government and the rule of law seems absent. This is what

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<sup>6</sup> For a number of Arab countries this is most rampant in the oil and gas export business which was one of the main sources of external income.

Ghazi Moradi (2017) referred to as forceful domination. Forceful domination, he implies is an essential tool for despotic rule. In despotic rule, the people are not represented because according to Ghazi (2017) there is no intermediary in political domination. Hence despotic rulers are not answerable to the people but rather dominate them. These rulers simply make promises they do not intend to keep during their election campaigns resulting in leaders such as Tunisia's Zine el-Abidin Ben Ali holding office for 23 years. It took the martyrdom of Bouazizi to break this complacency. An intermediary for helpless citizens with no funds to bribe officials, was missing in that context. Governments lost their political legitimacy, public institutions were not able to maintain popular trust, and a situation where '...decision and public policymaking processes became increasingly dominated by military, security, and intelligence institutions' (Hamzawy 2016:3), it could be argued that despotic rule was evident in these countries and thrived on the fear it built in the citizens. People became unable to speak up for their right. This explains why the majority continued in silence, save for the likes of Bouazizi who resorted to self-immolation.

The spark and speed by which the wave of protest went through the Arab regions (excluding U.A.E and Qatar) indicate the thirst and eagerness to speak up which had been suppressed. Al-Azm (2011) argues that despotic rule was the reason for the '...inevitable vertical disintegration of our societies along religious, sectarian, ethnic, regional and tribal lines (Al-Azm 2011:8). Likewise, Hydemann (2016) argues that for weak states that cannot or will not fulfil their side of the social contract, violent conflicts and collapse are inevitable.

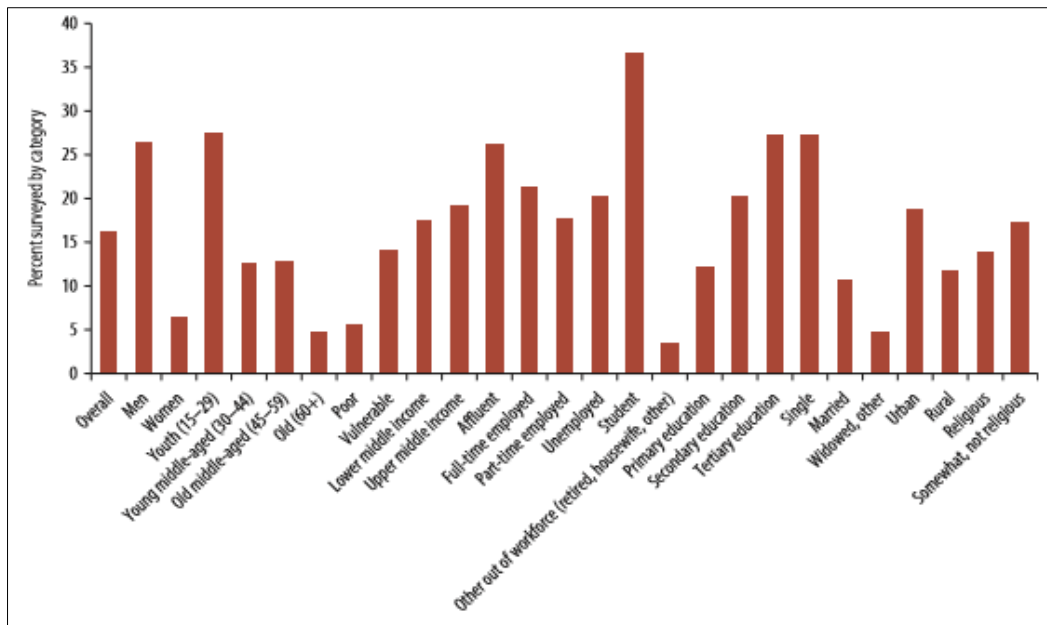
### ***The catalyst of the first uprising & its spread across North Africa***

As mentioned above, the social and political upheavals that beset most Arab states in the Middle East and North Africa could be best described to have been initiated by the self-immolation of 26-year-old Mohammed Bouazizi, a university graduate who sold fruits and vegetables without a licence in Sidi Bouzid because he could not find formal employment. He doused himself in petrol and set himself on fire in protest and died days later. His death set off violent protests in major cities across Tunisia culminating in President Zine El Abidine Ben Ali fleeing the

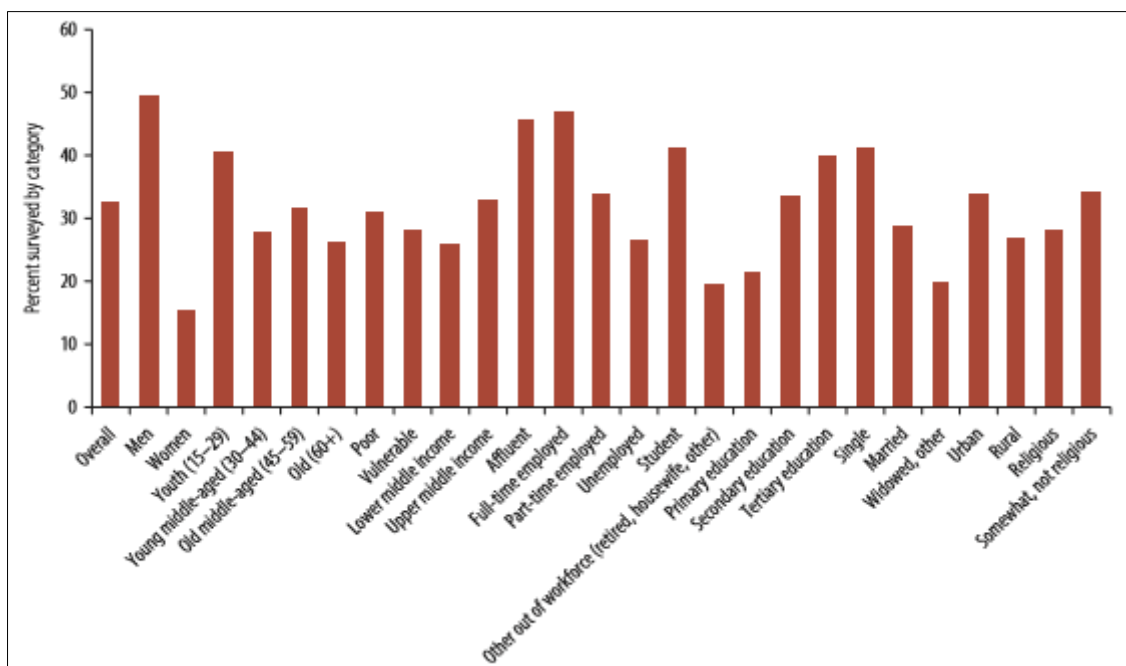
country within a month. The death of Bouazizi also inspired uprisings in Libya, Yemen, Egypt and Syria that came to be seen as a socio-political revolution in the Arab world. The sacrifice of individual martyrs was magnified by social media which became a significant driving factor in the process. Benkirane (2012), refers to the roles that the social networks and new media played in the revolutions - particularly in Egypt and Tunisia – as ‘catalytic’. Social media is identified to have played a critical role in the spread of protest across the region, for example, the Facebook campaigns in early 2011 which went viral (Stepanova 2011). New media was more relevant to the general population given the control of conventional media by the authorities as a means of restricting criticism and opposition. Social media was seen, therefore, as the most effective means of disseminating information (Khondker, 2011)

### ***The nature of the uprisings and regime response.***

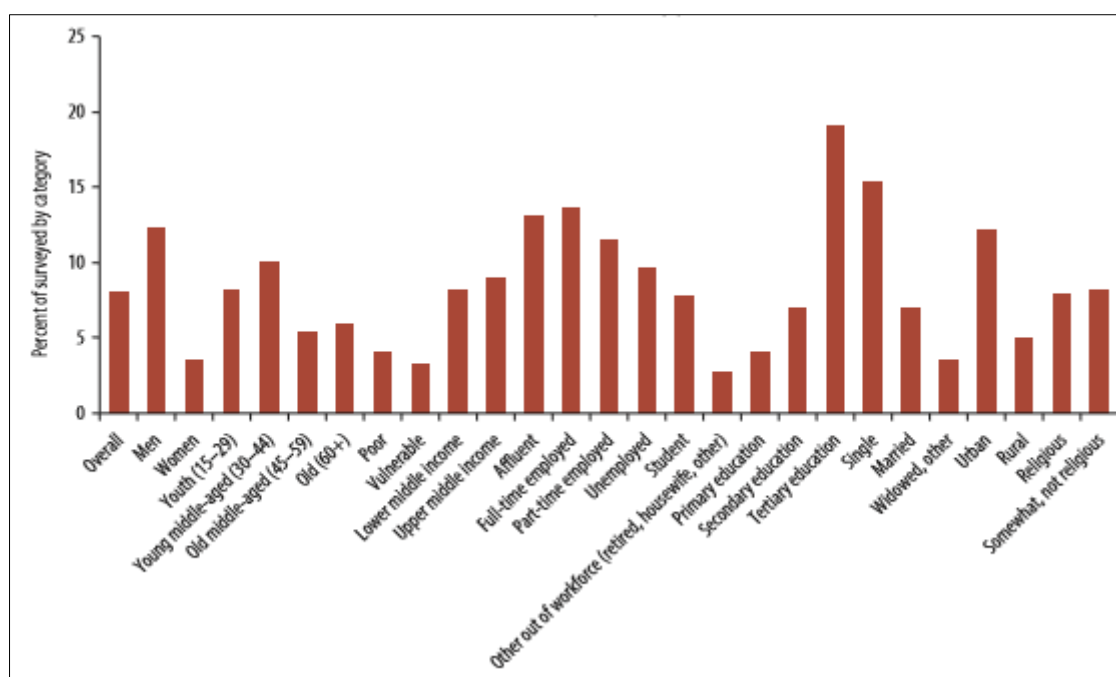
According to the ‘Arab barometer’ the protesters in the copycat protests in Egypt were mainly young men between 15 to 29 years, as well as middle-aged men between 45 to 59, with the majority having tertiary education, and being single, affluent, and urban, some with part-time employment, but with very low pay. (Arab Barometer, Ianchovichina 2018). The majority of those protesting in Tunisia and Libya were students, while the data for Yemen shows that there the protestors also included those in full-time employment. The protests campaigned against corruption and deterioration in the quality of life and public service (Arab Barometer, 2018).



**Figure 3-9. Arab Barometer showing the profile of Arab spring protesters in Tunisia (Source: Arab Barometer, lanchovichina 2018:6)**



**Figure 3-10. Arab Barometer showing the profile of Arab spring protesters in Libya (Source: Arab Barometer, lanchovichina 2018:6)**



**Figure 3-11. Arab Barometer showing the profile of Arab spring protesters in the Arab Republic of Egypt (Source: Arab Barometer, Ianchovichina 2018:7)**

The figures presented above display higher levels of popular engagement in Libya than in Tunisia and Egypt, and it is understandable why Libya spiralled into a full-blown civil war. While Tunisia experienced some significant change, the uprisings did not yield the desired result in other participating countries. While self-immolation became more rampant in Tunisia (some 104 persons were admitted to the hospital burn unit in 2016) as a way of protests and suicide,, activists were also locked up in countries such as Egypt and Syria, while labour exploitation and slavery became the order of the day in regions such as Libya (Amnesty International 2015; Blaise 2017; Sherlock 2018). The similarity in the profile of the protesters, who were mainly young students and middle-aged employed men, captured a sense of being frustrated by the never-ending marginalisation, exclusion from public-policy making processes and the neglect of the economic and social demands of the citizens. This appeared to cut across the Arab/MENA region. The fact, as the graphs above show, that the majority of the protesters were either employed or studying or had graduated from university study indicates that the protests were not just a movement stirred by the jobless and poverty-stricken. They were people who were frustrated at the failure to



improve standards of living, exacerbated by these despotic regimes. Yet, post-Arab Spring conditions show worsened conditions for those involved in the uprisings. Examining the region 8 years after the initial event, Gabon (2018) considered it an unfinished phenomenon, and 'a disastrous landscape'. Nonetheless, Makdisi (2017) argues that the outcome of the uprisings remains highly uncertain with forces pushing for a return to autocracy, as well as forces seeking to deepen the infant democracies.

The regime response to the protests was initially violent. However the increased killing of protesters by the security forces only resulted in political, local and tribal leaders joining the revolution in order to save their families (Lacher 2012). Although Tunisian and Egyptian regimes tried to suppress protesters, Egypt had protesters killed and detained (Rane and Salem 2012: Amnesty International 2015:6). The response of the regimes as well as the outside interventions, resulted in continued social movement in some regions while in some countries such as Tunisia, Egypt and Libya, long standing rulers were forced from office (Rane and Salem 2012)<sup>7</sup>, although the removal of individual autocrats did not erase autocratic tendencies.

In other words, the Arab Spring proved to be an combination of protests against despotic sit-tight rulers, hunger, poverty, unemployment, ethnic and minority discrimination, lack of political freedom and economic inequalities (Ansani and Daniele 2012; QadirMushtaq and Afzal Arab 2017). The rash of violent uprisings and attempts by the different states to quell them, resulted in population displacements and a mass exodus of citizens from areas of conflict. The breakdown of law and order in strife-torn states, the upsurge in the number of migrants and the reluctance of most EU member states to accept refugees and economic migrants created a fertile environment for human smugglers/traffickers to thrive.

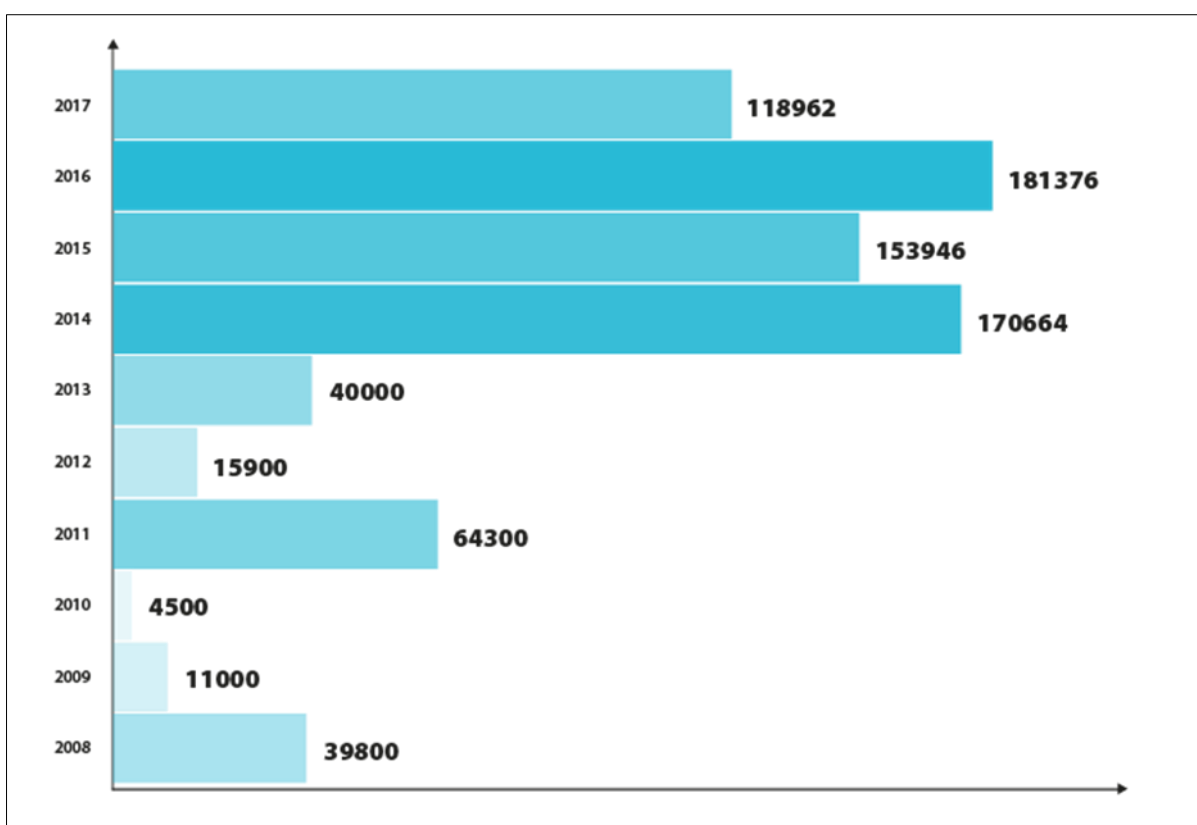
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<sup>7</sup> Elseewi points out a long-debated view that '...years of a dilapidated educational system, an ineffectual pretence of a democratic infrastructure, and the continued valorisation of patriarchal culture had left Egyptians an apolitical, simple-minded, and ultimately fatalistic mass of apathetic (young) people (Elseewi 2011:1).

The importance of the migratory outcome of the Arab Spring as a core driver of the increase in smuggling and trafficking is debatable. De Hass (2012) argues that migration played a key part in the uprisings. He suggest that the movement of people including the sea crossings to Lampedusa; the return of Egyptian migrants to Cairo to join protests in Tahir Square; migrants fleeing the crisis in Libya and the return of migrants who were previously held in Egyptian and Tunisian holding centres should be seen as migration flows as a catalyst of revolt. (De Hass 2012; Hussein 2012; Knell 2012; Global Detention Project 2015). He further suggests that

Recent migration events are not simply a side effect of the revolutions [but rather] the possible links between declining opportunities for migration from North Africa to the EU (due to the economic crisis and intensified border controls) and the exclusion and discontent of disenfranchised youth on the one hand, and the protests on the streets of Tunisia, Egypt, Libya, Algeria and Morocco on the other, deserve closer consideration (De Hass and Sigona 2012:4).

A premise for this argument could be the striking shift in the number of migrants before, during and after the uprisings (UNHCR 2014; Massari 2015; Roman 2015). Prior to the Arab Spring approximately 23,000 migrants were recorded to have travelled from North Africa to Italy by boat between 1997 and 2010; the numbers increased to 63,000 in 2011 and a further 170, 000 in 2014 (McMahon and Sigona 2016).



**Figure 3-12.** Graph indicating the illegal border crossings on the central Mediterranean from 2008 (pre Arab spring) to 2017 (post Arab spring period) (Frontex 2018)

The figure above indicates crossing figures to Italy between 2008 and 2017. There are migration spikes in 2011 and 2014 as a result of a mix of factors including political turmoil, the economic crisis and opportunistic migrations. The declines in 2012 was largely the result of Italy's controversial agreement with Libya on intercepting and returning migrants as well as stiffer migration policies within this period (Cummings *et al* 2015, Connor 2018). The impact of the uprisings in the Arab region records several spontaneous movements; mass displacements and trans-border migration of people from Tunisia to neighbouring countries, the breakdown of the rule of law in Libya resulting in migrant workers fleeing the instability and violence, crossing the borders for Egypt, Tunisia and eventually Italy. The full-blown war in Syria, contributed to more movement of persons to Libya *en route* Europe in search of asylum in 2014 and 2015. The figure above indicates the shifts in the movements in the region and the eventual surge to the European Union, resulting in 3771 migrant and refugee deaths in 2015. Although migration for economic betterment and other reasons, as argued

by De Hass, may have occurred before the time of the uprisings, it is debatable that the triggers the actual uprisings and their aftermath played a significant role in increasing migration numbers.

The intervention by NATO which Koser (2012) believes has been overlooked in the analysis of the Arab Spring, has also been argued to have aggravated the protests in Libya as well as the effect the support received from other media protesters. The intervention had been criticised as having failed to outline its true objectives which were to ‘...protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity’ as a collective action (UN General Assembly 2005). The intervention by NATO could be classified as justified on humanitarian grounds. There are those that argue that the intervention was intended to remove Gaddafi from power, ignoring for example the cease-fire that the Gaddafi regime offered and the heavy aerial bombardment despite the Libyan population not being protected. This raises questions as to its objective of ‘responsibility to help protect populations’ (Terry 2015:164; Green 2018:1).

Hollis (2012; 2016) on the other hand, argues that the nature of EU, in terms of its conflicting objective policies, institutional inefficacy, and its diffuse power structure notions, unintentionally contributed to the creation of the Arab Spring. Hollis's argument points to the EU's prescribed reforms for North Africa lacking in the area of political reforms, and the economic reforms advocated, under the umbrella of the Euro-Mediterranean Partnership (EMP), only resulted in low wages, inflated living cost, corruption and pronounced youth unemployment (Hollis 2016). Clearly, the implication of opening up their systems to democracy was not fully understood by the new politicians of the Arab world. Whilst it might be assumed that the essence of the EMP was to allow the free flow of capital and goods, it has been argued that the partnership was in reality a way for the EU to restrict the flow of migrants and labour into the EU (Hollis 2012). Funds were thrown at problems in the region by the Europeans with the aim of creating economic investment that would restrict the desire for migration to the EU for economic improvement. However it did not solve the problems as the chasm between rich and poor had already become unbridgeable. In reality, ‘...the common market principles upheld inside the EU were not fully replicated in the

Mediterranean Partnership', thereby failing the shared prosperity concept (Hollis 2012; 2016: 5). Consequently the shared geopolitical strategic and economic space that the plan hoped would address the problems, did not address these institutional imbalances. The EU only exacerbated the already existing issues in the regions which triggered the eventual migration drive.

The Arab Spring has been held to be a key reason behind the increase in migration flows since 2011, according to Fargus and Frandrich (2012). In their view, the Libyan protests and the NATO intervention that led to the fall of the Gaddafi regime was the main driver of migration in the country, leading to more instability and the consequent exodus by the main transit migrants from sub-Saharan Africa based in Libya. The Libyan route became a means of escape for those already in Libya and a potential transit hub for those attracted by the instability and absence of effective land and maritime policing. (Jones 2012). It is noteworthy that prior to this time, Libya had played a significant role in Mediterranean migration as a result of Ghaddafi's open-door migration policy which welcomed sub-Saharan African workers to Libya in the 2000s (McMahon and Sigona 2016).

### ***Impact of the Arab spring on migration***

#### ***Tunisia***

Unlike other Arab countries, Tunisia recorded two phases of migration. First there was increased labour migration from Tunisia to Italy and Malta (about 25,000 migrants at the time of the revolution). This was helped by the dissolution of the Tunisian border police following the protests allowing for unhindered border crossing. The second phase was due to mass migration into Tunisia from neighbouring Libya as a result of the Libyan revolution in 2011; including 15,000 Tunisians, who between 2011 and 2013, were repatriated from Europe (Natter 2015; De Bel-Air 2016; Fargues 2017). This incident resulted in several practical challenges including health care, accommodation and provision of food (Natter 2015). Miraculously

## Libya

As Gadhafi entered end game, he used his supposed ability to control the smuggling and trafficking of persons to Europe as a shield against his removal from power.

Frattoni [Italian Foreign Minister] warned that the fall of Gaddafi's regime could lead to an exodus of Biblical proportions. Likewise, Gaddafi warned that if he fell: 'You will have immigration, thousands of people from Libya will invade Europe. There will be no-one to stop them anymore.' (Fargues and Fandrich 2012: 6).

With the breakdown of the rule of law in Libya and widespread armed conflict, mass displacements were recorded in Tunisia (Fargues 2017). However, following the Arab Spring, Libya itself became the most popular migration hub or point of embarkation for maritime migration to Europe (Massari 2015). Libya became the country experiencing the greatest migration pressure. The uprising particularly affected migrant workers from Sudan, Syria, Eritrea, Somalia and other countries in Africa. These made up the largest category of migrants into Egypt, Tunisia and Italy (Koser 2012; Fargues and Fandrich 2012). The Libyan route consequently featured fluxes involving a mix of both 'conflict-induced' and 'voluntary' migrants.

## Syria

The protests in Syria resulted in an increase in deaths following airstrikes and chemical weapon attacks by the Assad regime (BBC 2019<sup>b</sup>). Whilst Libya attracted migrants as a transit point, Syria, on the other hand, experienced emigration on a massive scale to escape the civil war (Lynch *et al* 2014; Hollis 2016). Subsequently Syrian migrants chose to be smuggled into Europe because of the inability to get a visa for their travel following their displacements (Bani Salameh 2018).

## Egypt

Following the protests in Egypt the 29-year reign of Hosni Mubarak forcefully came to an end and the Supreme Council of the Armed forces took over the

leadership until parliamentary elections in 2012 which resulted in the short-lived government of Morsi (BBC 2019<sup>a</sup>). Further protests led to the creation of an interim government in 2013. Consequently, the country became polarised between supporters of the interim government and military and those supporters of the Muslim Brotherhood, Morsi's political party. The aftermath of the uprisings in Egypt resulted in two presidents being overthrown, more deaths, interim governments and great division in the country.

Egypt experienced an influx of migrants - up to 135,000 Syrians at the time of the revolution - as a result of the displacement in Libya and Syria following the violence and instability in their countries, and equally served as a transit route for Syrian refugees *en route* to Libya (Fargues 2017). The category of migration flows in the post Arab revolution Egypt was a case of voluntary, forced or deferred migrations. It featured voluntary or temporary returns of Egyptians to participate in the revolutions and reconstruction of the country; forced returns of Egyptians from Libya following the explosion of irregular migrants, and deferred returns based on the fact that a good number of Egyptians preferred to remain or even move onwards to western countries due to the catastrophic post-revolution situation in Egypt at the time (Pagès-El Karoui, 2015).

These records indicate the genesis of the Mediterranean human trade which eventually became the humanitarian crisis on the Mediterranean in the last 9 years, claiming thousands of lives and ruining families; with about 10,000 persons declared missing or dead within 2014 to 2016 alone (McMahon and Sigona 2018). Also, the economic impact of the revolutions such as the falling of oil output in Libya (from previously 1.6 barrels per day to 0.1million barrels per day), or the economic paralysis experienced by Egypt, and the instability in the region, in turn, impacted migration negatively, acting as a push factor of trans-border migration (Abdelfattah 2011).

Though the impact of the Arab Spring on migration flows was significant, we must not lose sight of other preceding factors that birthed irregular migration – economic constraints. The Global Initiative against Transnational Organized

Crime (GIATOC) (2014) has shown that the central Mediterranean route has the highest percentage of illegal border crossings to Europe. Syrians and Eritreans constitute the largest number of migrants. Similarly, analysis of illegal border crossing routes by Frenzen (FRONTEX 2012) shows the central Mediterranean routes as the route with the highest detection rates of illegal migrants, particularly during the Arab Spring.

UNODC statistics indicate that the bulk of movement – about 90 percent – uses embarkation points along the Libyan coast either from Tripoli, Zuwara or Zuwiyah, changing according to the actions of local communities or security situations (UNODC 2018).

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**Figure 3-13. Mediterranean countries by Getty images (iStock)**

Why is Libya the number one migration hub since 2002 and not other closer coastal countries, especially for migrants from Syria who have apparent easier access to Europe via Turkey? This study suggests that the existence of a thriving smuggling market in Libya may have contributed to the pull of migrants via the Libya route. A mixed make-up of migrants - both poor, political/religious crisis-compelled, economic alternative-compelled and trafficked – find the Libya-Italy route more viable. Is the breakdown of the rule of law in Libya a principal factor? There are also questions about the identity and role of other contributory actors

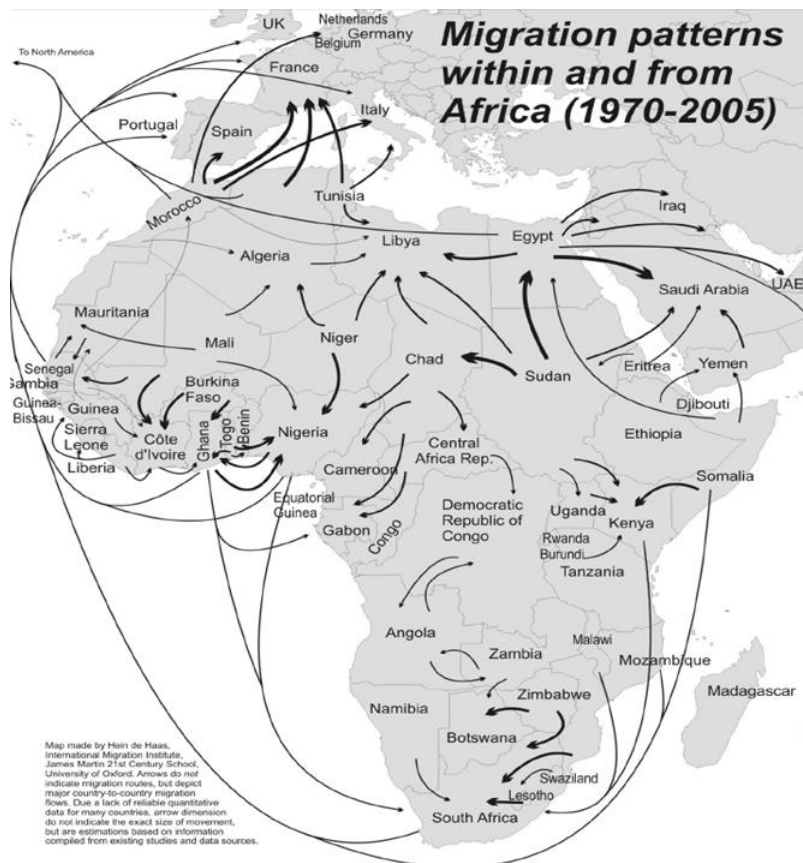


like the European Union, autocratic state rulers and restless youths of the various states seeking emancipation. The role of the contributory actors, be it the 'looking the other way' attitude of local authorities and border protection authorities of the sub-Saharan countries from where a majority of these journeys commence (in-the- face human trade activities, see chapter 5); or paying no attention to the impact of their actions and decisions on the populace as observed of the autocratic state rulers; or even the stringent immigration policies of the EU countries; in more ways than one enhances the evolution of the human-trade networks and markets, particularly along Libya to Italy route. A critical analysis of the actors and their roles in relation to the 3 Cs concept introduced by this work is presented in chapter 5 hereafter.

Based on the different views raised as regards reasons for migrating, it is evident that these drivers of migration also influence the choices made by the migrants as regards the means and mode of migrating. The next section looks at the routes through which these migrants are smuggled.

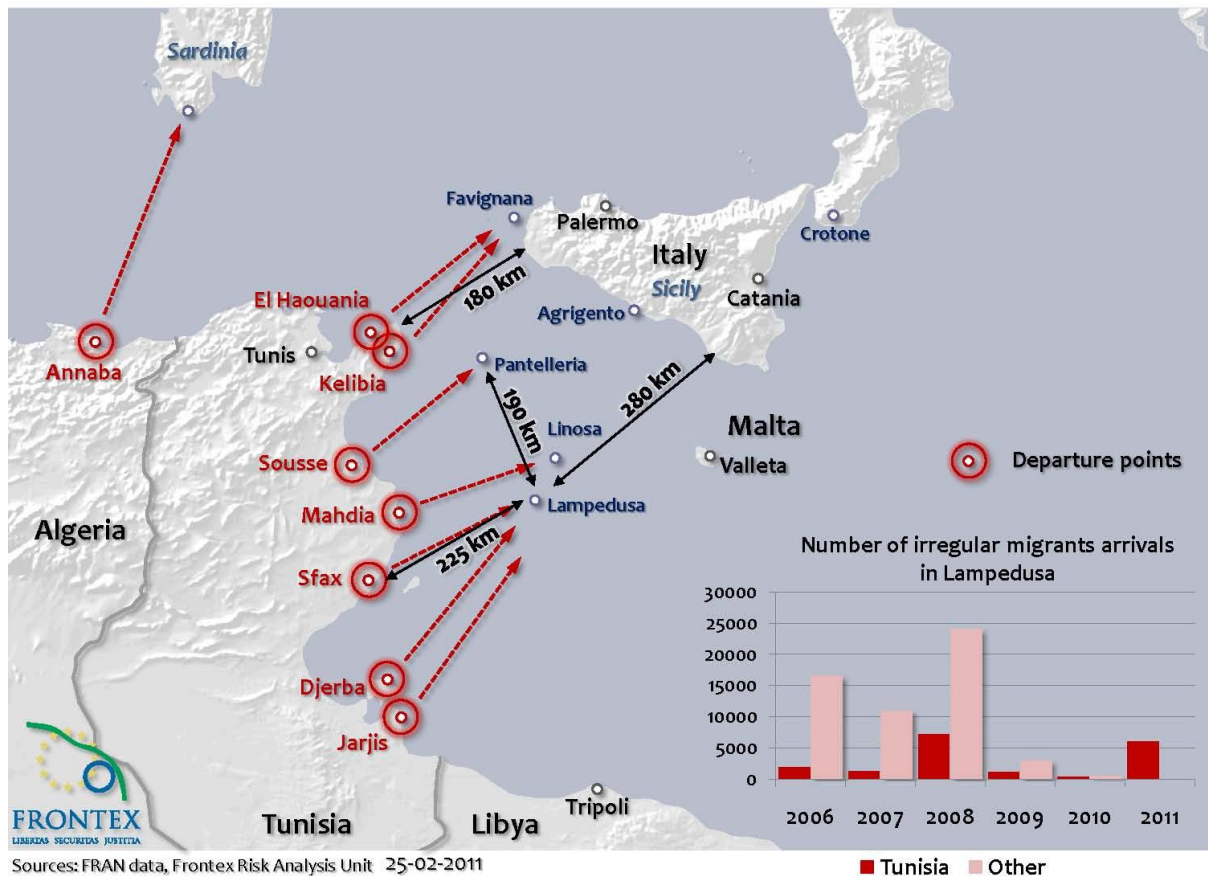
### *The smuggling routes*

Migration has been a given throughout most of the history of human beings as a species. Modern migration trends within the continent of Africa and from Africa to other continents have been complex. De Haas supplies a map demonstrating the extreme complexity of this movement of people.



**Figure 3-14. Map showing other migration routes from and within Africa (De Haas 2008).**

This section examines the migration routes from Libya to Italy. The central Mediterranean route from Libya to Italy has become the route with the highest proportion of irregular migrants of the three main routes from African to Europe. The majority of this trade takes place from towns and beaches along the Libyan coast to the island of Lampedusa and the Africa-facing southern coast of Sicily. Nonetheless, Reitano *et al* (2014) observe that recent efforts to limit migration such as restrictive immigration policies, have only resulted in a shift in migration routes as shown in the figure below, where migration embarkation points also emerged in Tunisia (Frenzen 2011). The capacity of those involved in moving migrants to rapidly alter their routes, and the ease with which globalisation makes this possible means that, without a substantial expansion of legal migration mechanisms, irregular migration is likely to persist as De Haas (2008) argues.



**Figure 3-15.** Map showing sea routes and distances from other non-Libyan points of embarkation (Tunisian/Algeria) to Lampedusa and Sicily in the preceding years of the Arab spring and during the Arab spring year (Source: FRONTEX 2011).

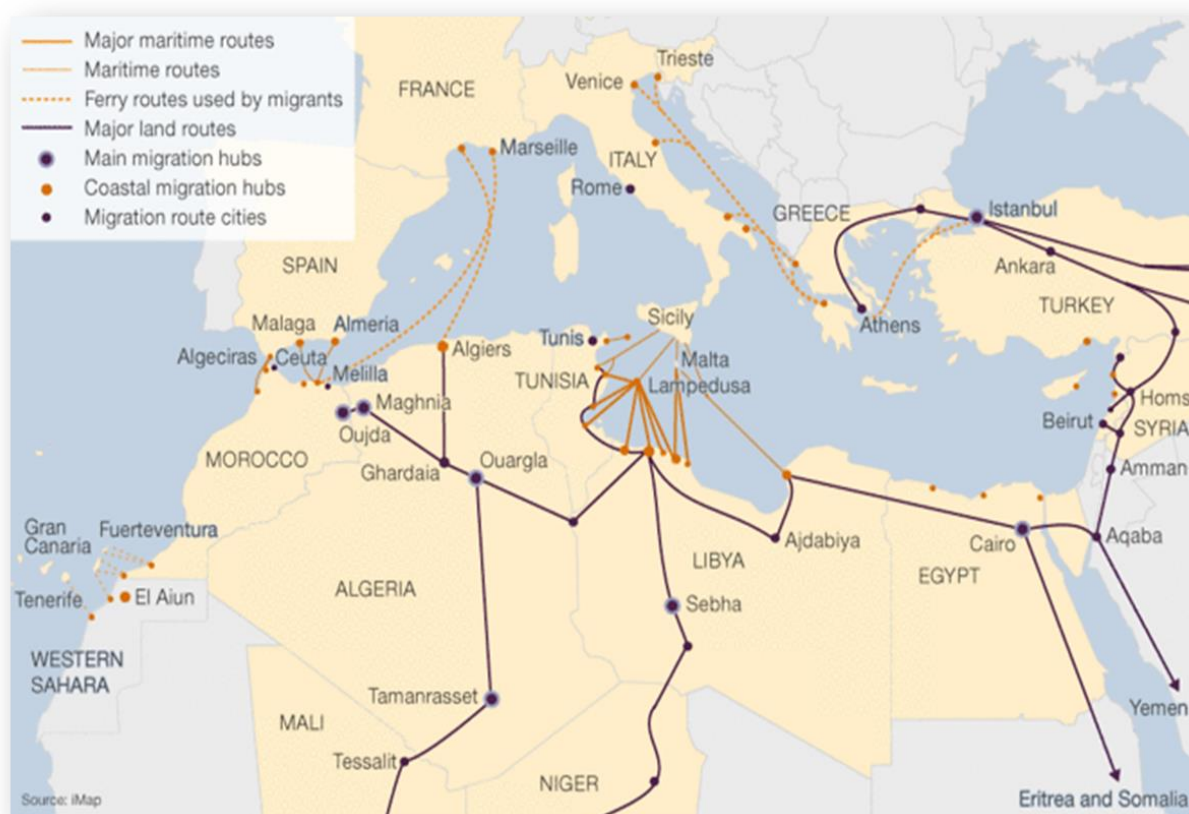
Recent media reports indicate changes in the routes and points of embarkation, as well as additional categories of migrants, notably larger numbers of Syrian and Afghan migrants travelling, and sometimes drowning, on the Western route from Turkey to Greece (see Park (2015), BBC (2015), BBC (2015), Sofia Globe (2016). An increase in irregular migration to Spain and Cyprus has also been recorded in 2017 (IOM DTM 2017).

Documentation and data collected indicate that North Africa has been established as the transit region for migrants from Africa to Europe particularly sub-Saharan migrants (Kohnert, 2007). A number of flows are organised through Libya. For instance, the number of people emigrating from Nigeria has risen, increasing the weight of West Africa in the pool of migrants using the Libya to Europe route. This is blamed on a number of factors such as the cost of the travel which appears

cheaper than other routes, deeper smuggling networks, the preconceived essence of travelling to Europe and most recently, the Boko Haram presence (Toaldo 2015:p2). Kinsley (2015) opines that the number of migrants exploring the maritime routes continually increases regardless of the weather conditions and the EU current decisions on rescue missions. Against the belief of European governments, the decision to curtail maritime rescue missions has raised serious concerns as it has become an unintended pull factor when examined in the light of the drownings of February 2015. Prior to this time, the Mare Nostrum Operation had been assessed to have contributed to the increase in the Mediterranean flows as affirmed by the British Foreign Office minister Lady Anelay (Kinsley 2015). While Farrell (2014) argues that the Mare Nostrum policy has only acted as a ‘magnet’ for irregular migrants which he referred to as the boat people, Toaldo (2015) points out that though it may be deemed politically impractical for EU states to apply an open border approach to all, “closed borders” would only act as a catalyst to the business of people smuggling.

It is a fact that migration routes overtime have evolved from an era when the migrants were mostly students, diplomats, highly educated individuals and high net worth business people from the southern Sahara who travelled by air with genuine legal documents (Ellis *et al* 2011), to the era of stricter visa regimes by Spain and Italy. While desperate North African migrants in search of jobs in the European Union who are affected by this development considered the straits between Spain and Morocco, migrants from West African countries as a result of economic crises looked towards North Africa. At that time and now, migration to Spain through the narrowest point of the Mediterranean -Strait of Gibraltar – and Canary Islands appear to be the major route. A spider web of routes sprung up over the years with hubs at strategic points in Mauritania, Senegal, Mali, and Niger, mostly as a reaction to migration policies and trends so much so that in 2011, three major routes was recorded (Ellis *et al* 2011):

- i. Canary Islands or Spanish mainland
- ii. Central Mediterranean
- iii. Eastern Mediterranean



**Figure 3-16. Western, Central and eastern routes (Source: BBC News 2014)**

There is a growing literature on the diversity of routes from Africa to Europe. However, Shelly (2014) asserts that no matter the number of routes and their origins, these routes constantly change and reorganise so as to effectively circumvent border authorities, contravening immigration regulations. Migrants who use these irregular migration routes are mainly from African countries such as Cameroon, Eritrea, Ethiopia, Ghana, Morocco, Niger, Nigeria, Senegal, Somalia, Sudan as well as migrants from Syria, Pakistan, Afghanistan and Iraq. With the diverse attempts to clamp down on the activities of people smuggling organisations and push-back policies implemented, the strategies and tactics of the smugglers have continually changed and so has the routes resulting in the variation and modification of migration routes (Massari2015). For example, the ISS and Global Initiative research show Moroccan migrants transiting via Libya and Algeria, Tunisian migrants - especially young persons - following this lead, they speculate the emergence of a route along the eastern Mediterranean. Most interesting is the discovery of Bangladeshi migrants being routed through Libya

according to a respondent, a representative of Addio-Pizzo, an anti-mafia NGO based in Palermo (Interview 26). This points to the fact that the Libyan point of embarkation in most cases, Zuwarah, has over the years and by virtue of intense existing smuggling market in the region, evolved into the most busy and active point of embarkation. In the light of the continuous social and political upheavals that exacerbate the egress of persons, it would suffice to say that even FRONTEX (2014) acknowledged these complexities associated with the metamorphosis of the routes in stating that;

The job is never finished however. The networks of human smugglers and traffickers stay abreast of FRONTEX operations; as soon as a route is identified and closed down by an EPN or FRONTEX sea operation, the facilitators will adjust either the route or their *modus operandi* to stay ahead of the detection net” (FRONTEX 2014).

This means that continuous research on the routes as they evolve is necessary hence; this research is not exhaustive on the routes employed at every given period. It primarily focuses on the routes relating to evidences from research data.

Aligning the research on the routes and their differentiations, findings from the FERMO PALESTINESE 1 case reveal that migrants from regions such as Syria, Egypt and Lebanon, among others, move towards locations where the services of smugglers could be available. Scholars such as Massari, De Has, Ellis *et al* and Aziz, Monzini and Pastore have endeavoured to chart the path of migration from the diverse locations where most migrants come from in Africa, particularly migrants from West Africa, the Sahel and sometimes the horn of Africa. However, this research examines another category of migrants i.e. migrants who travel to the region of embarkation from locations such as Syria, Lebanon, Damascus and Egypt as in the FERMO PALESTINESE 1 case. Witness testimonies reveal that majority of these migrants sought their own way from their various locations to the region of embarkation; some of them by air and some by land. Some made their move prior to making contact with the smuggler, and some driven simply by the desire to escape or thrive.



Moreover, findings from the FERMO PM MUHIDDIN case indicate a route through the Somali desert between Sudan and Libya where the 130 migrants whose testimonies are contained in the judicial proceeding, were kidnapped *en route* Tripoli - Libya for their embarkation to Europe. Statements by PEDROS Tesfit (one of the kidnapped migrants) revealed that the migrants were kidnapped by about 50 armed militia men believed to be Somalians and some Sudanese and forced into some vans and thereafter made to walk for 6 days before being transported to a house in the outskirts of Sabha. In Sabha, they were held and tortured until payments were extorted from their families. The migrants were held for about 15 days and thereafter transported to Tripoli after payments were received. Charting their paths, it can be deduced that the routes from wherever the migrants came first converged in Sabha and thereafter Tripoli and up to the shore where the migrants are pooled for embarkation. This deduction to a large extent agrees with the response of settled migrants interviewed in Palermo, who recounted how their journeys were organised and the routes they accessed in the process which typically corresponds with the locations and routes mentioned in the proceedings. Locations such as Agadez, Bargigad, Sabha and Tripoli noted in reports, occur repeatedly in responses, and witness testimonies; in some cases with the exception of Ghat. It is therefore likely that irregular migration towards Europe in the recent past has not only featured a significant increase in flows from North African shores, but also a resilient attitude on the part of the migrants in enhancing their own movement to the possible points of embarkation for the irregular maritime journey.

### *Modes of transportation of migrants*

In order not to be discovered, smugglers and migrants alike have sought diverse ways to transport or be transported to their destinations. Aziz, Monzini and Pastore (2015) note that along the land routes, the means of transportation are not always convenient but rather a necessary means of mobility such as 4x4 Pick-Ups vehicles, with the migrants organised in batches of 30 people at a time. The migrants are also reportedly conveyed in large trucks which may also be used simultaneously in carrying animals, merchandise, characterised with falls from

the truck or starvation and thirst resulting in death in some cases. Aziz, Monzini and Pastore (2015) add that these journeys are organised by desert people - the Tubu and Tuaregs. Daragahi in 2013, clarified that trucks which were previously sent out loaded with subsidised fuel, flour and sugar from Libya returned loaded with migrants who were ready to pay exorbitant fees to get them directly into Libya, in some cases to search for jobs or for the Mediterranean travels. The organisers of transportation may be accused of inhuman treatment but migrants at this stage rather submit to the notion of being treated as no more than mere commodities, with the aim of reaching their destination.

A number of transportation means were revealed in the FERMO PALESTINESE 1 case. Some of the witnesses revealed in their testimonies how they moved from city to city and went either by road (in a car) and by air. One of the witnesses AL M M stated;

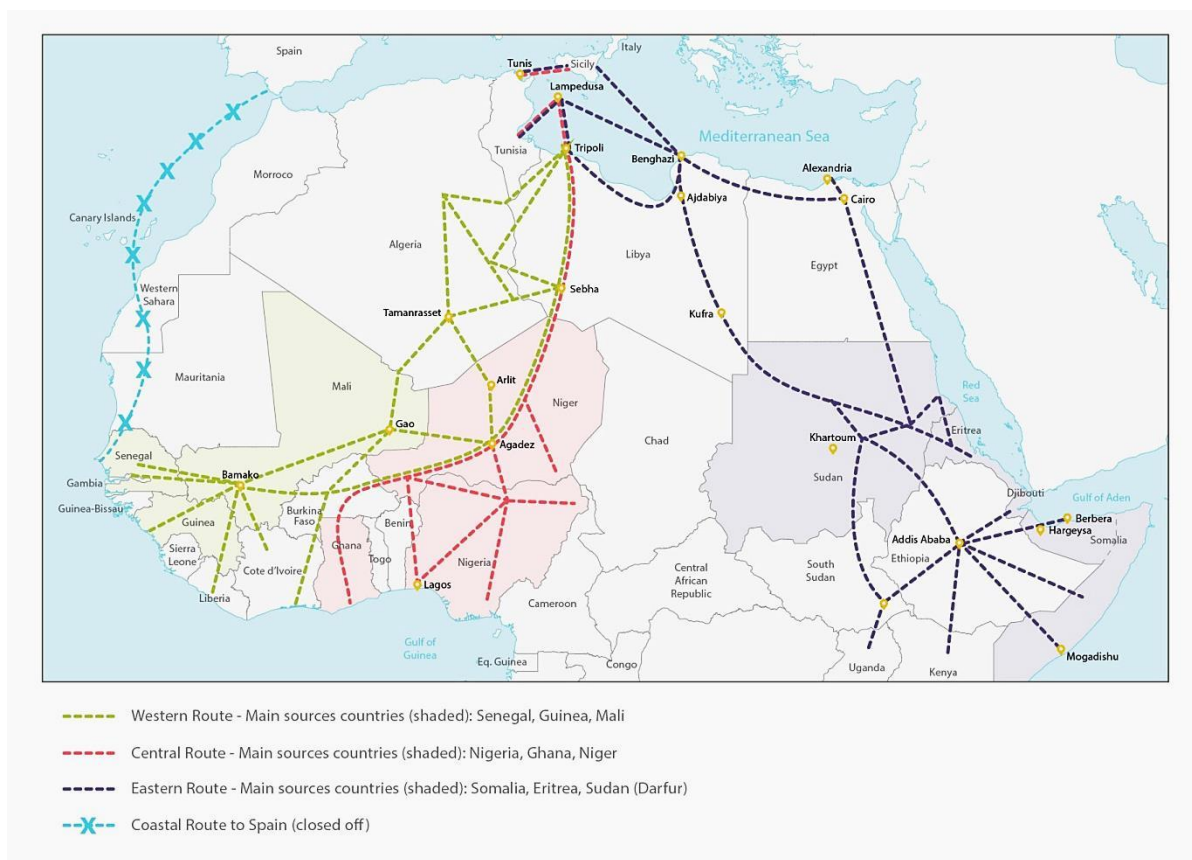
... I started from Syria and, passing from Oman and Egypt, arrived in Libya in the city of Tripoli, where I stayed for about five months, working as a house painter..."

(Statement of AL M M , Judicial reports, FERMO PALESTINESE 1 case)

While B R another witness, states, 'I was asked by him where we were in order to send someone with a car to pick us up...' (Statement of B R , Judicial reports, FERMO PALESTINESE 1 case). From these statements, it is perceived that in some instances, the migrants have been transported by car as indicated by the statement of B R

Equally, an interview respondent met in Palermo, recounted how he was transported from Sabha to Tripoli covered with blankets to disguise and make him look like goods and not a migrant (Interview 33). This migrant's statement revealed another means of transportation which in this case was a truck used in transporting good across the desert. The land route through which this migrant was transported and other land routes are presented in the map below:





**Figure 3-17. Land routes to Libya from East and West Africa (Source: Global Initiative Against Transnational Organised Crime (2014))**

Judicial proceedings also reveal that the migrants were transported from the farm house where the smuggled migrants were initially incarcerated to the point of embarkation in Libya by means of military trucks and further transported by means of smaller boats to the main vessel they were to be smuggled across the Mediterranean in (Judicial reports, FERMO PM Scafisca 2013). Also, indication from the FERMO PM Muhidin Judicial report, reveals that Eritrean migrants travelling by foot to Libya who were intercepted and kidnapped by smuggling/trafficking rings were conveyed by vans from one point of incarceration to another as they exploited them (Judicial reports, FERMO PM Muhidin, 2013) .

Conversely, Coluccello and Massey (2007) list some of the charges made as part of HARIG including ‘...association with a transnational criminal network of articulated cells operating on the Italian side in Crotone and other cities in North Africa in Libya and Egypt’ (Coluccello and Massey 2007:85). They detail criminal activities carried out by Egyptian and Sudanese networks in the transportation of

migrants by sea from Libya including the recruitment of persons from their countries, proposing packages to Libya and with the aid of Italian contacts, organising illegal transnational movement of migrants to Italy. Coluccello and Massey (2007) concur with Pastore that those involved in the trade work in loosely coupled and temporary networks. Their opinion is that according to the HARIG proceedings, the network could be classified as loose but sophisticated. This study considers a modification to this perspective based on evidence and data collected. This is analysed in detail in subsequent chapters.

Whilst Coluccello and Massey (2007) recognise the substantial threat to the security of the smuggled, Reitano *et al*'s (2014) recent report argues that the current shift in routes poses even more risk to those being transported. *The Economist* (2014), however, cites economic reliance on the trade as a reason for its survival: 'dismantling the networks of intermediaries, drivers, guides, migrant "welcome centres" and clandestine migration consultants would place the regional economy of Agadez under significant stress...' (The Economist 2014). The same could be said of the economies of Gao in Mali and Tamanrasset in southern Algeria. The information here suggests that since the alternatives for the migrants are limited amidst socio-political and geographical factors such as conflict in the Central Africa Republic, northern Nigeria, Mali, Somalia, South Sudan, Somalia; and desertification in the Sahel, the available trend which is irregular migration becomes more appealing, hence the volume of migration via the Mediterranean. Consequently, these migrants have no choice over how and when they are transported; they only hope that they arrive at a point where they may find help to either reach their initial destination or even be granted asylum

## Conclusion

The purpose of this chapter has been to provide specific detail about the nature and type of criminal activity occurring in the human trade from Libya to Italy and to focus on the specifics of the routes and to explore, from the perspective of criminality, why the central Mediterranean route has come to dominate this trade.

The chapter began by assessing the differences between people smuggling and human trafficking in order to justify the approach taken by this study to conflate these crimes into a single criminal phenomenon: the human trade. The Palermo Protocols are clear in their ambition to distinguish between people smuggling, where the victim is the sovereign state into which the irregular migrant is smuggled, and human trafficking where the victim is the trafficked migrant who is being exploited. This distinction is, perhaps surprisingly, not over-researched. There is scholarly debate, however, as to where consent and coercion of would-be migrants begins and ends (Bhabba & Zard 2006) and the definition of exploitation given the levels of violence and coercion perpetrated against the migrants (Batsykuva 2012).

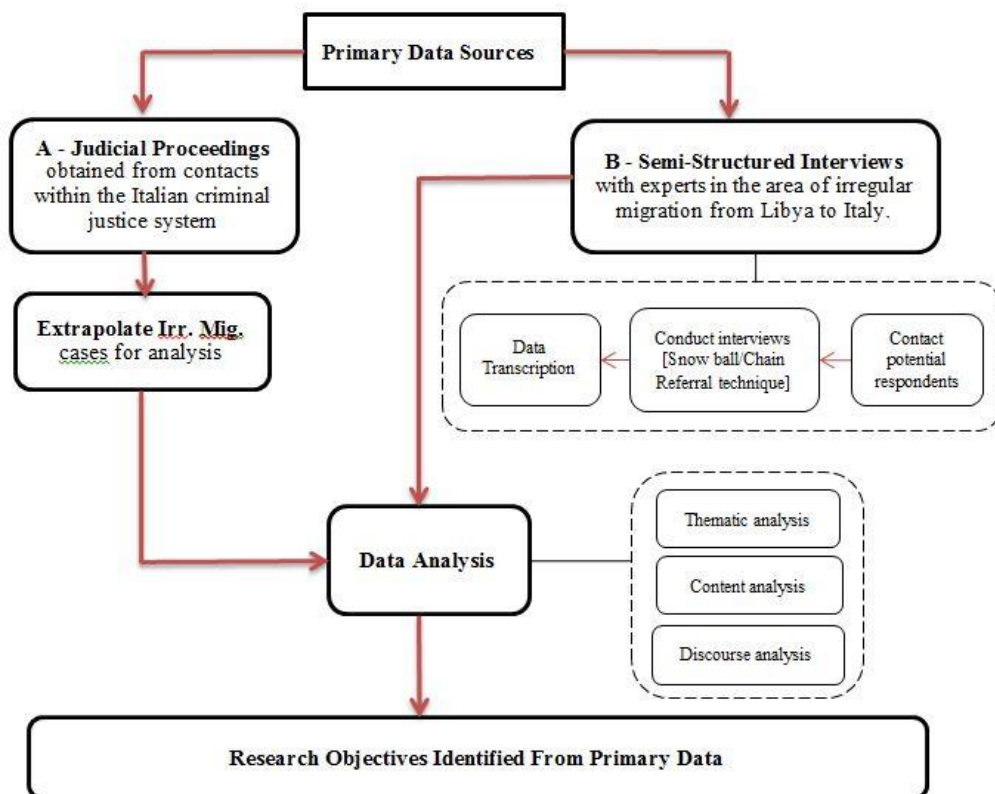
Other aspects of irregular migration stretching back from the Libyan ports to the land journey from West and East Africa (and sometimes beyond) include the way in which the movement of migrants is variously perceived by those involved in the transportation process as legal (which it formally is within, for example, ECOWAS countries) or morally/culturally justified 'assisted migration'. The chapter also explores the mix of motivations, the push factors that impel irregular migration from primarily economic motives to political motives and survival strategies, together with those individuals that are unequivocally victims of exploitation. The Arab Spring and the aftermath of the phenomenon is examined as one the significant push factors within the context of this research.

The study explicitly seeks to determine the nature of criminality in the human trade from Libya to Italy. It argues that the networks involved in moving these migrants are now, for the most part, specialised, scattered, unrestrained and structured. Whether the migrant is 'smuggled' or 'trafficked', there is criminality involved. The migrants also remain 'irregular', which is not crossing borders using the official immigration channels, whether they are being smuggled or trafficked. Seeking to differentiate between the motivations or status of the migrant would dilute the over-arching aim of the research. Hence, the study has chosen to employ a term that conflates the two crimes of smuggling and trafficking alluding to the commodification of these irregular migrants: the human trade.

The chapter concludes with an overview of the routes taken between Africa and Europe, explaining why the central Mediterranean route has become the dominant sea route to Europe from Africa. The way in which criminal networks retain the ability to shift routes in response to the counter-smuggling activities of the authorities, whether on a macro-level across North Africa, or a micro-level within Libya (see Fig. 4), further justifies the study's decision to emphasise the commodification of the irregular migrant. The nature of the activities in the human trade from Libya to Italy and the routes accessed indicates an evolved and unrestrained human trade that has been significantly fuelled by several socio-economic factors which this chapter has explored.

## Chapter 4 METHODOLOGY

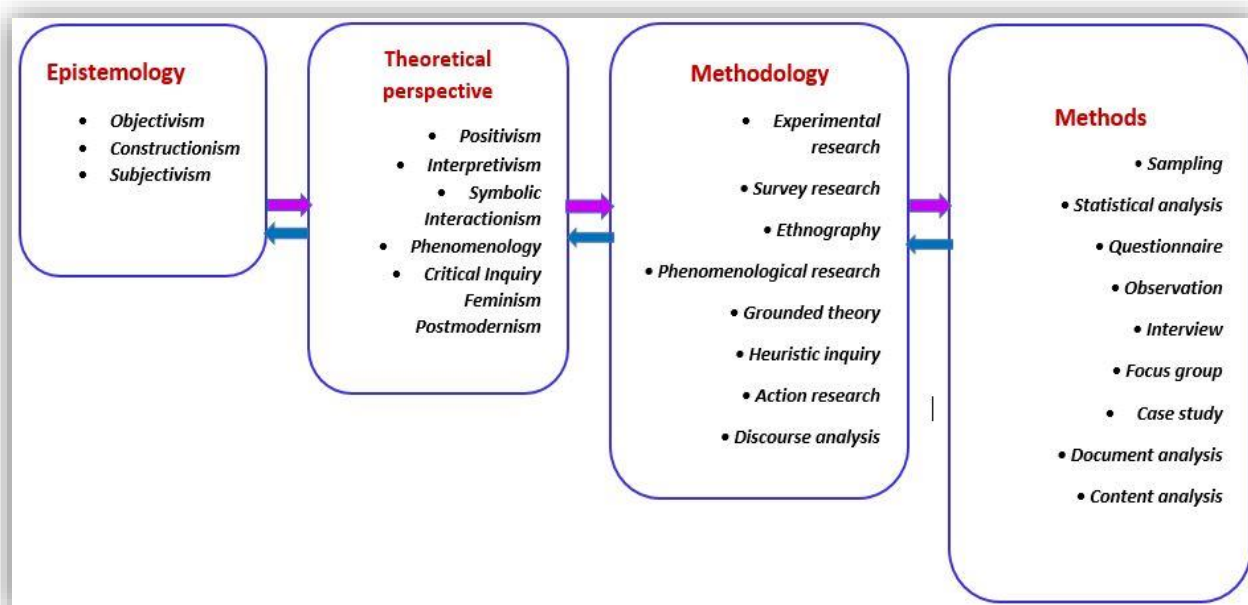
The methodology adopted for this research was chosen to maximise the insight into the nature of the criminal networks engaged in the human trade from Libya to Italy. This chapter explains the epistemology, theoretical perspectives, methodology and data gathering methods of the research. A flow chart of the processes which have been applied for this research is presented below.



**Figure 4-1. The methodology process used in this research**

The flow chart demonstrates how the objectives of the research are arrived at through the research method and methodological processes employed. The arrows in the flowchart point to the end product of the data collected and analysed which is the research objectives. The data and methods of data analysis served as a means to arriving at the research aim and objectives. The flow chart therefore points to this end product which is arrived at by triangulating the data (judicial proceedings and interviews) with secondary data to answer the research

questions. A more detailed presentation of the chosen theoretical perspectives of the chosen data gathering method and analysis are further presented in the figure below.



**Figure 4-2. The Four element of the research process and their relationship (adapted from Crotty 1998)**

Figure 4-2 is based on an approach to the research process formulated by Crotty. In the case of this research, a subjectivist stance is adopted whereby ‘meaning does not come out of an interplay between subject and object but is imposed on the object by the subject’ (Crotty 2003: 9). This position lends itself to an interpretivist theoretical perspective based on critical inquiry. A varied methodology is utilised that prioritises the discourse analysis of data which was gathered through interviews obtained through sampling techniques including snowballing, as well as document analysis of judicial proceedings of relevant cases prosecuted by the Italian criminal justice system. The rationales for these choices are discussed later in this chapter.

## *Research philosophy*

The research adopts a subjectivist view in its understanding of changing reality. The changing dynamics of migration from Libya to Italy has significantly influenced the perceptions of it. For instance, as Paoletti (2014) notes, the Arab Spring amplified the logic of criminalization and securitization that has long marked immigration debate in Italy and other places. Whilst amongst European politicians, talk of offering help to asylum seekers and refugees turned to stopping smugglers of persons as ‘merchants of death’ who seriously need to be stopped. It is clear that the issue of irregular migration from Libya to Italy has been interpreted by politicians from different standpoints and regarding different concerns (Hasse; Deutsche Welle 2013). Likewise, individual perception varies widely among the migrants themselves as to what is criminal or not. For example, in Siegel and De Bank’s (2010) study, unauthorised trans-border movement by the aid of human smugglers is perceived by the migrant as being ‘assisted’ by the smugglers rather than being a victim of a crime that contravenes international migration laws: the migrants considered the smugglers as ‘noble’ and not as ‘criminal’. To be helped to escape the crisis which could have taken their life was welcome help not exploitative crime.

It is evident, therefore, as constructivists argue, that reality is being socially constructed (Saunders, Lewis and Thornhill 2012). Hence in this study the factors steering the occurrence of phenomena and their analysis are analysed through a subjective lens. The aim is to understand ‘as what’ and ‘how’ the phenomena is perceived both in the departure and destination countries. The approach is to understand the difference between social actors in terms of their perceptions of the occurrences and circumstances surrounding them. Thus, for example, the research explores the understanding of the terms ‘organised crime’ and ‘irregular migration’ from both the migrant country perspective and the destination country perspective. Indications from interview transcripts and existing literature are that the understanding of organised crime varies from country to country, cultures and society.

In addition, this research takes an abductive approach in its data analysis, that is, it has engaged in a process whereby the collected data is used to explore irregular migration by identifying specific themes and patterns of behaviours, whilst endeavouring to locate a contextual framework. In this study, the migration behaviours identified from the first data collection were further tested through successive data collection. The perceived advantage of the abductive approach is that instead of moving from theory to data or vice versa, it ‘...begins with the observation of a surprising fact; it then works out a plausible theory of how this could have occurred’ (Saunders, Lewis and Thornhill 2012:147). This the study has sought to do as regards the structural organisation of the organised criminal networks involved in human trade between Africa to and Europe.

### *Qualitative methods*

The design of this research is qualitative, using data collection techniques such as interviews and data analysis procedures such as content analysis to generate non-numerical data. Saunders *et al.* (2012: 163) claim that majority of qualitative research uses the abductive approach in which ‘inductive inferences are developed and deductive ones are tested iteratively throughout the research’. Further they affirm that strategies used in this research, such as case study research, grounded theory, and ethnography, are commonly associated with the qualitative research design. The research particularly attempts a combination of case study and grounded theory methodological approach in which analysis starts in a deductive manner and concludes with an inductive approach involving data collection and data analysis. Triangulation is a key strategy which this research employs in ‘controlling bias and establishing valid propositions’ as stated by Mathison (1988:13). Evidence and data from judicial proceedings examined and interviews transcripts are corroborated and further triangulated with several secondary sources. This is used to enhance validity and reliability of the findings made.



## Case study

A case study refers to ‘...in-depth investigations of a single person, group, event or community. Typically, data are gathered from a variety of sources and by using several different methods (e.g. observations & interviews). The research may also continue for an extended period of time, so processes and developments can be studied as they happen (McLeod 2014:1). Yin (2009) defines case study in two parts; first as empirical inquiry which ‘...investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon are not clearly evident’ (Yin 2009:18) and secondly, as a technical inquiry relying on multiple sources of evidence. The case study of this thesis is human smuggling and trafficking from Libya to Italy through the central Mediterranean route. The reason for this choice is that it enhances in-depth investigation and allows the use of prior developed theoretical prepositions as a guide in data collection and analysis (Yin 2009). Consequently, this research employs the strategy of interviews and the collection of empirical evidence about human smuggling and trafficking. This case study however, concentrated on migratory routes from Libya to Italy and the transnational, as well as, local criminal organisations in Italy who are involved in the process.

The fieldwork was conducted in Southern Italy - Palermo, Castelvetro, Trapani and Rome. Given the geographical spread of irregular migration from Libya to Italy, this research chose to narrow the focus of the study to the human trade from Libya to Italy. The selection is based on the route with the highest volume of migration and interception in the Mediterranean (GIATOC 2014). Irregular arrivals to Europe by sea from Africa were 42,000 persons in 2014, rising to 170,000 in 2015 and 181,000 in 2016, then falling to 119,000 in 2017 (*Médecins sans Frontier* 2013; BBC News 2015; Sherwood, Smith, Davies, and Grant 2014; *Médecins sans Frontier* 2017; International Organisation for Migration, IOM 2017; Squires 2015). According to the IOM, migrants came from Nigeria, Bangladesh, Guinea, Ivory Coast and the Gambia (IOM 2017).

The research focus, then, is on organised criminal networks in Italy and their involvement with other transnational organised criminal networks in the human

trade from North Africa. The research adopts a grounded theory approach whereby data derived from the field are analysed through the research process to establish a theory that will best define the nature of criminality in the human trade, was used. This approach agrees with Strauss and Corbin's (1998) argument that existing theories can be elaborated and extended in the course of the data gathering process.

The sources of data for this study are two-fold:

- Selected judicial proceedings from the Italian courts. These consist of cases involving people smuggling or trafficking in human beings.
- 40 semi-structured interviews.

### *Judicial Proceedings*

As face-to-face contact could not be made with the smugglers and trafficking victims for ethical reasons, this study turned to the use of judicial proceedings as a means of ascertaining the truth about the human trade from Libya to Italy. Visits to Libya being precluded for ethical and risk reasons, the judicial proceedings were the most viable means by which the researcher could gather data relating to happenings at the point of embarkation of the migrants journey. Indication from the proceedings enabled a framework for the suppositions in this thesis.

In recent times, several investigations have been carried out by Italy's border police, the *Polizia di Frontiera* in collaboration with the Central Operations Service or *Servizio Centrale Operative* (The Local 2014). These investigations resembled those instigated in a country-wide operation called OPERATION HARIG in 2007 (David 2012) following a perceived significant shift from smuggling to exploitation (Coluccello and Massey 2007). Recent cases include the Abdalmen I, H Attosour and Muhidin/Ben Salam cases on so called 'Travel Agencies' involved in human smuggling activities and tortures, rapes, killings and exploitation of migrants

(Ferrara 2014). These recent cases and interviews reveal significant changes in the nature of the criminal networks from those detailed by previous scholars such as Coluccello and Massey (2007).

For this research, relevant judicial proceedings on irregular migration cases were looked at with a view to obtaining data not ordinarily accessible to the public. Based on investigations which have been conducted even up to 2015, a remarkable volume of documents has been produced. Judicial proceedings are, of course, confidential documents until they are published or reported. In the case of this research, the judicial proceedings used are authorised case files, released for the purpose of this research by the Italian criminal justice system. The cases were headed by an Italian judge in charge of the Mafia/human smuggling /irregular migration cases. There is, of course, the question of whether the ones released by the judge represent his own personal bias. This was minimised by first interviewing the judge regarding the aspects of the academic debate about irregular migration that needed elucidation. Thus the case files offered by the judge are in response to the questions posed by the researcher and the views obtained proffered evidence for an academic opinion.

The selected legal case files were chosen to elucidate the major themes identified during field interviews. These themes indicate the different aspects of the business of irregular migration in the form of human smuggling and trafficking across the Mediterranean.

Chosen for its identification of the 'actors' in the trade:

The FERMO PALESTINESE 1 case;

Chosen for the identification of the *modus operandi* of the smuggling organisations:

The FERMO PM MUHIDIN and FERMO PM SCAFISCA cases;

Chosen for the identification of the structural organisation of the smuggling groups and networks: the FERMO PM GLAUCO 1 and 2 cases.

The case files were in the Italian language and the researcher translated them to English.

The use of judicial proceedings for migration research is not totally unusual as Monzini, *et al* (2015) may have admitted that their study on the changing dynamics of cross-border human smuggling and trafficking of persons in the Mediterranean was supported by the impressive documentation from the Glauco operations, but the manner in which the findings in this study have been analysed is totally different and novel by the virtue of this SA/SCAN technique used. By the aid of the SA/SCAN techniques which this study has introduced into the study of irregular migration (further explained in later parts of this chapter), the GLAUCO files were used in reconstructing the smuggling process from the point of recruitment to disembarkation and further smuggling to final destination points. The files in the absence of direct contact with the victims and perpetrators the activities of the smugglers are examined, tracing along to uncover the assumed, unintended and professional actors; identify their visible and hidden *modus operandi*; as well as their structure or organisation. By the criteria of SCAN the testimonies in the OPERATION GLAUCO files were analysed to reveal the dynamics of the human trade from Libya to Italy.

The use of judicial proceedings for migration research needs some justification. It is often argued that judicial proceedings can be both credible and useful in getting to the truth. Some might however still argue that there is doubt about the validity or credibility of witness statements made in the course of a criminal trial and the findings of fact made by the judge and the judgment therein. There is no doubt that lawyers and indeed legal systems all over the world place considerable emphasis on witness testimonies. Most criminal and civil trials are determined on the basis of witness testimonies. The reasons for this are not farfetched. First, judicial proceedings are conducted under oath. This means that witnesses are sworn to tell nothing but the truth and risk imprisonment if they are discovered telling a lie in their testimonies. Also, the testimonies of witnesses are often subjected to cross-examination by opposition counsel and the judge is able to observe the demeanour of a witness and therefore more able to assess the veracity or otherwise of their testimony. It is therefore understood in judicial

proceedings that consistent statements of three or more witnesses in court have more evidential value than the opinions of a hundred legal experts on a particular fact.

Colwell, Hiscock, and Memon (2002), building on the works of Loftus and Ketcham, (1991) Cutler and Penrod (1995), and Sporer *et al.* (1996), assert that the criminal justice system expresses a high level of confidence on eyewitness testimony (also Memon *et al.*, 1998). Colwell, Hiscock, and Memon (2002) stress the credibility of witness testimonies as contained in a record of criminal or civil trial. In ascribing probative value to the testimony of a witness, the judge must have examined the coherence, consistency, specificity and independence of the testimony. Falsehood is eliminated from the testimony through cross examination by opposing counsel and observations by the judge. In other words, judicial proceedings have built-in process of filtering statements in order to arrive at truth.

Beyond these evidential arguments, there is also some research to support the credibility of judicial proceedings. Novo and Seijo (2010), having evaluated court archives of judicial judgements, assess the causal principles in determining the credibility of testimonies by judges. According to their analysis, the effect of any information in the court room is based on its reliability and validity. Reliability is ‘... influenced by factors such as: witness credibility, logical consistency of the evidence or the probability of the incident or the order of events; whereas validity relies on the relevance of a particular fragment of knowledge regarding the issue under judgement’ (Novo and Seijo, 2010:93). Their study concluded that the judges observed relied on forensic psychologists’ reports of testimonial credibility. Judges also assess the validity of evidences presented based on the fundamental motive of the accusation, the consistency of the evidence presented, and the elements relating to the criteria of reality all from a legal perspective (Novo and Seijo, 2010). The argument of this thesis takes a similar position, namely that consistency in the verbatim witness statements contained in the judicial proceedings can be taken as evidence of credibility.

Statement analysis was used on the transcripts from selected judicial proceeding. Then these were triangulated with interviews with professionals during fieldwork in Palermo and Rome.

The researcher agrees with the opinion of Hall and Wright (2008) on the use of content analysis in analysing judicial opinions. From their research they conclude that the components of content analysis which lies in legal realism; ‘...electing cases for study, coding cases to record consistent information about each one, establishing the reliability or replicability of the choices made during the coding, and analysing data’, contributes uniquely to legal research (Hall and Wright 2008:66). In analysing the judicial proceedings for this study, schema analysis and some classical content analysis type of coding was done but with a variation, owing to time limitation (Ryan and Bernard, 2000). Text analysis was introduced after the initial coding to interpret, deduce and confirm the indications from interview transcripts. These interview responses were organised according to the significant themes that emanated during the preparation of the semi-structured face-to-face interviews and after the first batch of interviews were conducted. The responses were collated and organised according to the themes. The deductions and concepts presented by the argument in the study is displayed by models in form of flow charts and other creatively inspired drawings that convey the researcher’s opinion.

Although many studies have made extensive use of content and discourse analysis there is no record of a similar work or statement analysis (SA) in studies relating to irregular migration. This is the first study to make use of statement analysis in analysing and corroborating interview responses and witness testimonies in criminal trials concerning irregular migration. Given that both interviews and judicial proceedings were used in this study, this research employed the use of statement analysis in corroborating the assertions, perspectives and indications from these data sources.

Statement analysis, which is also called the scientific content analysis (SCAN), is a tool used in analysing and determining the veracity in statements either written or spoken (for its key elements see Table 4 below). It is an investigative

form of discourse analysis which has the capability of revealing concealed or missing information (Adams 1996, McClish 2002, and Burke 2013). Statement analysis enables reading 'between the lines' and examining statement patterns to detect deception and ascertain the veracity of the statement. Its primary premise is that people do not lie, people tell the truth; most people want to tell the truth, though they may not always reveal everything (Fleming 2016). SCAN is a cross-cultural analysis which can be used to detect deception in the statement given (Lesce 1990) and works with criteria that are both objective and subjective (Nahari, Vrij and Fisher 2011). SCAN was created by a lieutenant in the Israeli Police Department, Avinoam Sapir. While working as a Polygraph Examiner he noticed a correlation between polygraph results and various features of written statements. From those observations he developed a technique for determining the veracity of a subject's verbal or written communication (Lesce 1990). Thus by taking forensic statements as a data source, this thesis has used SCAN to validate the credibility of the contents of the judicial proceedings examined (Barksdale 2006, 2013).

Although judicial records do not provide the statement cues of unreliability observed during the interviews (e.g. stuttering, high emotions, stalling for time, and hesitation - Fleming 2016), other criteria were used following SCAN in assessing the credibility and the suitability of the judicial proceedings. It was possible to note that the statements in the interrogations recorded in the proceedings were not rehearsed in that some of the question were follow up questions in reaction to the answers provided by the witnesses and as such could be categorised as unbiased given that the respondents were not all interviewed at the same time (Vrij 2005). In addition, the research concluded that all the statements were credible since no evidence was found in the judicial proceedings of any migrant/witness responding with a question or of witnesses using the wrong pronouns (e.g. we instead of I) (Nahari, Vrij and Fisher 2011). Also confirming credibility was the evidence of the conviction of the witness and the statement balance in terms of - what happened before the incident; what happened at the time of the event; and what happened after the event. This could be ascertained following the pattern of the narration of the witnesses. These were the features by which the judicial proceedings were analysed.

SCAN has been challenged in some quarters concerning its ability to distinguish between truthful and fabricated accounts, on the grounds of its lack of empirical support and scarce research on its accuracy (Bogaard *et al* 2016). It has also been criticised for the absence of a theoretical rationale as compared to the Criteria Based Content Analysis (CBCA) and Reality Monitoring (RM). However, this thesis follows Fleming's (2016) argument that in statement analysis, the norm is first determined then deductions are derived from that norm, which creates the difference between truthful statements and fabricated ones. As the Forensic Language Investigators (PVL) point out, SCAN is not a theory but a technique used not only for detecting deceptions, but also for "...obtaining information by making a series of observations. It has been proved to be a scientifically based method which produces consistent results" (PVL 2017:1). Additionally, it was noted by Bogaard *et al* (2016) to include two criteria which can enhance the possibility of diagnosing the veracity of the forensic statements. This implies that SCAN provided more scope for effective investigation of behavioural cues and statement analysis. Lesce (1990) offers additional support for SCAN, claiming that it is a versatile method because of its freedom from the constraints of the polygraph, which necessitates the attachment of a machine to the subject and their consent. With SCAN it is the written or recorded statement that is engaged with, not the person. Therefore though a person may master the act of lying as inferred by the augment of Bogaard *et al et al* (2016), the possibility of using the SCAN with judicial proceedings and not the person prosecuted or questioned on stand, erodes the question of inaccuracy of judgement (Bond and DePaulo 2006), making the use of this Credibility assessment tool practicable.

In the evaluation of the truthfulness of the statements recorded in the judicial proceedings, the research sought to follow, where possible, the criteria offered by Nahari *et al* (2012) and Bogaard *et al* (2016). The criteria offered as indications of veracity are:

- Denial of allegations which refers to possible statements that connotes denials such as '...did not...'



- Social introductions referring to whether or not ambiguity was reflected in the way the persons in the statement were introduced; were their specific names used?
- The structure of the statement which in truthful statement, are expected to be the 1<sup>st</sup> 20% describing activities, 2<sup>nd</sup> 50% describing actual events, the next 30% describing what happens thereafter.
- Evidence of the display of emotions, if any is described in the sentences of the witnesses.
- Objective and subjective time which refers to the duration of the event described versus the amount of time used in describing it. Events that lasted for long cannot just be described in mere 5 sentences.
- Use of the first person singular, past tense; and proper use of pronouns. Improper use of pronouns indicates a red flag which connotes features of deception.

Likewise, the study seeks to follow, where possible, the criteria offered as indications of deception. These are: a change in language; spontaneous corrections; lack of conviction or memory; out of sequence and extraneous matters; missing information.

Against these criteria, the testimonies contained in the judicial proceedings, were applied to see if their testimonies (which is used in this study as a primary data source) could be categorised as credible enough for a realistic analysis. The result of this exercise is presented in the table below. Also, a sample analysis of how this categorisation was applied on an actual statement of D T and questioning session of Bahta Alay two of the witnesses from the judicial Proceedings of FERMO PM Muhidin, is presented thereafter.

**Table 4-1. The SCAN criteria for examining the credibility of statement from judicial proceedings examined.**

| SCAN technique Criteria used         |                                   | Cues extracted from judicial proceeding to validate the rational for credibility of points from judicial proceedings examined.  |   |  |
|--------------------------------------|-----------------------------------|---|---|--|
| Criteria that indicate truthfulness: |                                   | FERMO Muhidin & FERMO Scafisca  | FERMO PALESTINESE   | FERMO GLAUCO 1   |
| 1                                    | Denial of allegations,            | No record of allegations being denied   | No allegations were denied  | No allegations were denied   |
| 2                                    | Social introductions              | The introductions were unambiguous as specific names were mentioned   | The introductions were unambiguous as specific names were mentioned   | The introductions were unambiguous as specific names were mentioned  |
| 3                                    | Structure of the statement        | the statements could be said to be balanced as the 20%/50%/30% ratio of credible sentence structure were well represented in the statements   | the statements could be said to be balanced as the 20%/50%/30% ratio of credible sentence structure were well represented in the statements                           | Not applicable in this case as he facts from other case were used in building the facts in this case   |
| 4                                    | Emotions                          | No clear emotions were reported being that this is a case of a written statement except emotions which were reactions of the other unnamed persons at the sight of their smuggler (reported in the FERMO PM MUHIDIN case) | No clear emotions were reported being that this is a case of a written statement.   | Not applicable in this case except assumed from the report of the witnesses.   |
| 5                                    | Objective and subjective time     | The objective and subjective time could be accessed as corresponding from the narratives in the statement. Specific times and duration of events were well indicated.   | The objective and subjective time could be accessed as corresponding from the narratives in the statement. Specific times and duration of events were well indicated. | The objective and subjective time could be accessed as corresponding from the narratives in the statement.   |
| 6                                    | First person singular, past tense | Statement complied with the first-person-singular-past format.  | Statement complied with the first-person-singular-past format.  | Since the statements were used in building the case, they were reported in the past  |
| 7                                    | Pronouns                          | There was notably commitment signals by the appropriate use of pronouns by the statements witness.  | There was notably commitment signals by the appropriate use of pronouns by the statements witness.  | Drawn together to build a fact, contents of the statements indicated that there was notably commitment signals by the appropriate use of pronouns by the statements witness. |
| Criteria that indicate deception:    |                                   |   |   |  |

|    |                                |   |   |   |
|----|--------------------------------|---|---|---|
|    |                                |   |   |   |
| 8  | Change in language             | there was notable consistency in the terminologies used   | there was notable consistency in the terminologies used   | not applicable in the case  |
| 9  | Spontaneous corrections        | not applicable in the case as material was type-written from oral statements by witness   | not applicable in the case as material was type-written from oral statements by witness   | not applicable in the case as material was type-written from oral statements by witness   |
| 10 | Lack of conviction or memory   | Asides one answer in the statement of Dawit Tekle (reported in the FERMO PM MUHIDIN case), which could be attributed to fear of wrongly confirming the identity of the smuggler there exist 99% conviction in the statements provided. Precise answers were provided. | There exist 99% conviction in the statements provided. Precise answers were provided.   | Precise answers were provided.  |
| 11 | Out of sequence and extraneous | Events in chronological order without irrelevant information  | Events in chronological order without irrelevant information  | Not applicable in this case   |
| 12 | Missing information            | It cannot be ascertained if there be any missing information as specific dates and times in a chronological manner was provided   | It cannot be ascertained if there be any missing information as specific dates and times in a chronological manner was provided. Statement were made with reflected mainly the <i>modus operandi</i> that was used by the smuggler to instil fear and compel obeisance from the migrants. | Facts from the statement; particular statement from the FERMO PM MUHIDIN were extracted to build case; hence the information in this context were selected to build the case. |

## Excerpts from the judicial Proceedings of FERMO PM Muhidin and FERMO PM Scafisca

Some materials have been removed from this thesis due to Third Party Copyright. Pages where material has been removed are clearly marked in the electronic version. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University.

*(Judicial reports, FERMO PM Muhidin)*

***The questioning excerpt here presented below shows that precise answers were provided indicating consistency and truthfulness.***

Some materials have been removed from this thesis due to Third Party Copyright. Pages where material has been removed are clearly marked in the electronic version. The unabridged version of the thesis can be viewed at the Lanchester Library, Coventry University.

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*(Judicial reports, FERMO PM Scafisca)*

The statement of the witnesses in each of the proceeding were carefully and independently examined with the intent of identifying these criteria in ascertaining the veracity of their claims and its appropriateness within the context of the analysis of this research. The self-replicability of these criteria in the statements indicated validity and reliability.

The main limitation of SCAN as a tool is the length of time needed to critically go through the data sources and examine them against the criteria used. Therefore, though all data sources were critically examined and analysed to deduce useful evidence and data, only indications from three of the judicial proceedings are presented in a table. At the very least, this process has suggested that statement analysis in the form of the SCAN can be used in deducing evidence and data for the research of irregular migration crimes.

Having applied the SCAN criteria to the judicial proceedings, this research concludes that the witness testimonies within them are credible. The statements also aligned with the evidence of the interviewees and subject experts. The plausibility of witness claims contained in judicial proceedings is supported by scholarly works such as Reitano *et al.* (2014), Monzini (2004) Flahaux and Hein de Hass (2016), Campana (2017) and authentic reports by the IOM, UNODC as well as reputable NGOs such as Amnesty International.

Although some scholars such as Massey and Coluccello (2007), Monzini, Aziz and Pastore (2015) and Monzini (2004) have used judicial proceedings in their analysis of irregular migration issues, this research differs significantly in the way it has employed this technique in that statement analysis increased the value of the evidence and data extracted and for the first time, the SCAN tool has been used to explore criminal networks involved in people smuggling and human trafficking cases.

It should be stressed that all the witnesses involved in these cases cited in the thesis are referred to by the pseudonyms given to them in the judicial proceeding and are in no way identifiable.

## *Interviews*

Besides the selected judicial proceedings from the Italian courts, the other primary source of data was 40 semi-structured interviews with those with close knowledge of people smuggling or trafficking in human beings.

The use of questionnaires was excluded as there were serious doubts as to the reliability of responses to questionnaires, owing to the prevalent fear of the Mafia in southern Italy. It was anticipated, however, that there might be some 'independent' respondents that wanted their stories to be heard, if only anonymously. Thus interviews were restricted to semi-structured face-to-face engagement with frontline officers in the units responsible for irregular migration cases in Italy. Interviews therefore were held with the border police, anti-trafficking organisations, scholars and researchers in the field, anti-Mafia organisations and non-governmental organisations. Also contacted were people who had been involved in interstate border activities, people who have seen these irregular migrants close-up and had first-hand information about the issues involved.

As a strategy to find out things that could not be observed directly, the study carried out two periods of semi-structured interviews. The first interviews were carried out in 2015 in Palermo and, Rome; the second were carried out in April 2016 in Sicily. The 40 interviews were semi-structured so as to allow the interviewer to probe beyond the

answers (May 2001). This type of interview not only allows the researcher to see things from the perspective of the respondents (Crotty 1998), but also gives freedom of expression to the respondents whilst allowing the focus of the study to dominate the discussion. For this study, topic guides were used in directing the questions to the appropriate person according to their specialty. The interview questions are attached in the appendix. The said interviews were developed according to the respondents and what was expected from them.

The interviews were recorded by means of a tape recorder or by notes when respondents were uncomfortable being recorded. The respondents were asked questions in English and French (the researcher is fluent in both languages). And for those who could only understand Italian, the services of an interpreter were employed. The recordings were transcribed and interviews in French were translated to English.

Regarding positionality, there was no evidence that a female interviewer impacted negatively on the largely male interviewees. The researcher was able to gain the trust of interviewees given that her explicit motivation was academic research. Language skill and a capacity to communicate effectively proved valuable at this stage. It is important to note that the interviews were conducted at the peak of the phenomenon at one of the major landing cities in southern Italy – Palermo in Sicily - and in Rome<sup>8</sup>. The events were current and all the interviewees were particularly engaged with the phenomenon and enthusiastic to be involved in the project.

There are presently no studies that relate the quality of work done as a researcher in the data collection process, to the gender of the researcher/interviewer – be it negative or positive, productive or non-productive (Fink 2000, Blom, A., & Korbmacher 2013, and Brunton-Smith *et al.* 2016). In essence, although there may be cases where the male respondent may be sensitive and uncomfortable that they are being interviewed by a female, it does not apply to the phenomenon being investigated. In this research the focus is not the gender of the interviewer as this will not in any way affect the results that will emanate from the exercise. It could be

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<sup>8</sup> these are significant locations which have to a reasonable extent, experienced the events of the influx of migrants of diverse categories



stated that the focus of the interviewees were on the subject being researched and not the person, gender-wise, who was making the inquiries.

40 respondents were interviewed in Palermo, Castelvetro, Gibelina in the Trapani Region, and Rome. Samples in qualitative research are usually purposive (Brikci 2007), because the findings from qualitative studies are targeted at providing clearer and in-depth understanding of the views of the respondents (Pope *et al.* 2000 and Thomas 2006). Respondents were selected for their professional knowledge and experience of human trafficking. A combination of purposive sampling methods was selected for carrying out interviews for this study (Patton 1990:182-183).

First, the snowballing technique was chosen as the sampling strategy, so that the recruitment of new respondents was done through referrals from earlier respondents (Neale, Allen and Coombes 2005). Its advantage was that it had a clear goal in mind of recruiting informed people (Punch 1998) and because the nature of the research topic meant that the participants were anticipated to be few and some of the population under investigation, hidden and difficult to trace (Browne 2005, May 2001). Further, the network of key informants on irregular migration, though small, was unfamiliar, so interviewees were very helpful in introductions to that group. As a publication by UNODC rightly points out, access to information on irregular migration is usually very difficult since smugglers are always reluctant to grant interviews (UNODC 2011).

Though snowballing increased the number of available interviewees, there were elements of the sampling process that could be called criterion sampling, in that the aim was always to meet the predetermined criterion of specialisation in irregular migration and organized crime among the respondents (Patton 1990). The information required could not be gathered from randomly selected persons.

While the sampling methods could be criticised as being biased should the respondents only suggest other respondents with a similar view as theirs, nevertheless no respondents were selected unless they had professional expertise. The sample size of 40 respondents was considered sufficient for this study, since data saturation already starts with a sample size of 8-10 in in-depth qualitative studies

(Marshal 1996). Data saturation in simple terms refers to when the collected data is considered enough to buttress the point of the analysis being carried out (Strauss and Corbin 2008, Faulkner and Trotter 2017)

The respondents interviewed in both field visits ranged from officers from the criminal justice system, such as Italian English speaking prosecutors of irregular migration cases, law enforcement officers in charge of the irregular migration section of the Italian police ( known as the *Squadra Mobile* or the *Flying Squad*), to migrant mediators, coordinators of migrant reception centres, medical practitioners dealing with victims of trafficking torture, anti-Mafia organisation representatives, international migrant organisation representatives, academics in the field of irregular migration and some independent respondents who could be classed as members of the local community that did not wish to be identified. For ethical reasons, neither migrants nor offenders being prosecuted for the crime of smuggling or irregular migration were included in the study.

The few members of the local community that were interviewed were only spoken to because they voluntarily offered to be interviewed to enable their ideas to be shared for general knowledge. Some of these respondents had previously been migrants who had experienced being victims of the criminal organisations being examined. These individuals revealed the ordeals they suffered in the course of their voyage to Europe. While their contributions might have been exaggerated, in large measure their views were corroborated from the professionals of the criminal justice system, and by the evidence offered in the judicial proceedings. In interviewing them, as with all other interviews, the entire process was guided by the concept of consent and confidentiality (Brikci 2007). No one was coerced into being interviewed. Rather a respondent participation information and a consent form was signed by every interviewee before the start of any interview. Further care was taken to ensure their safety through the anonymization of the interviews.

Data collected in these two field trips presented perspectives from respondents from different sectors of the society. In Tables 1 and 2 below are listed the respondents

from the first and second data collection trips. Table 3 below shows the employment sectors of the 21 respondents interviewed in the second part of the field study.<sup>9</sup>

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<sup>9</sup> A list of all the respondents and their pseudonyms is presented in Appendix 2.

Table 4-2. The respondents of the first field visit

| Italian Criminal justice system and legal system  | Academia  | Non-governmental organisation and Anti-Mafia organisation  | Governmental Institution/organisation   |
|---|---|--|---|
| <b>[C. F.] State prosecutor on Irregular migration Cases: Deputy Judge, Trabia and Palermo, Sicily.</b> | [M.M] Representatives from CISS - <i>Cooperazione Internazionale Sud Sud</i> , Palermo. | [E.C] Head of the Centro Astalli – Migrant reception centre Palermo, Sicily                      | Officers of the Costiere Guardiere Catania  |
| <b>Officer of the Italian Police (Italian Flying Squad), Palermo, Sicily.</b>                           | R. H. Representatives from CISS - <i>Cooperazione Internazionale Sud Sud</i> , Palermo. | [A.G.] CRESM (Centro di Ricerche Economiche e Sociali per il Meridione) Gibelina, Trapani region | [I. k.] Migrant mediator and Interpreter at The Commission (Commissione Territoriale per il Riconoscimento della Protezione Internazionale) Palermo, Sicily |
|   | [N.] Researcher with Border-line (e-mail correspondence)                                | Coordinator of MNSA – Migrant reception centre Castelvetro, Trapani region                       | [M. A.] Vice President of the Consulta de Culture, Palermo, Sicily, Palermo   |
|   |   | Representative of an Anti-Mafia organisation, Addio-Pizzo, Palermo, Sicily, Italy                | Office of the Nigerian Ambassador to Rome (phone and e-mail interview)  |
|   |   | Coordinator of the Casa San Francesco (a migrant reception centre and home) Palermo, Sicily      |   |
|   |   | [N. C.] Coordinator Anti-Mafia Centre, Castelvetro, Trapani, Italy                               |   |

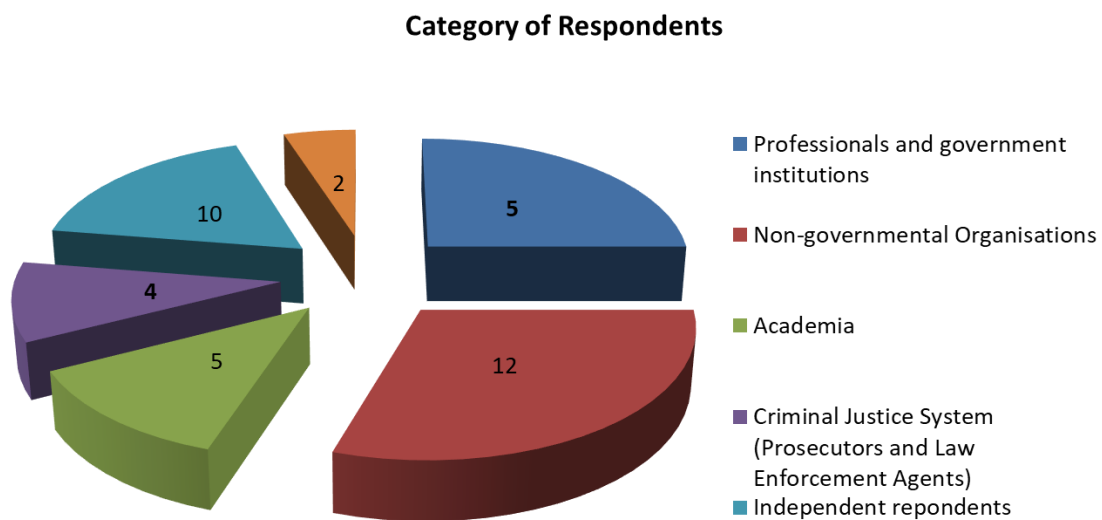
Table 4-3. Respondents of the second field visit

| RESPONDENTS  |  |   |  |   |   |
|--|--|---|--|---|---|
| <i>Criminal Justice System</i>   | <i>Non-governmental and International organisations</i>                      | <i>Anti-Mafia organisation</i>                    | <i>Academia</i>  | <i>Independent government officials</i>   | <i>Independent Respondents</i>                        |
| <b>C. F. Ministero della Giustizia (Palermo) (Anti-smuggling and irregular migration prosecutor/judge)</b> | International organisation for migration. (IOM) [2 representatives], Palermo | Representatives from Adio-Pizzo 1 [E.Z.], Palermo | Professor of International Immigration Law – Professor F. V.], Palermo | Migrant Mediator1 [L.B]   | Migrant 1 [PPt.I.A.], Palermo                         |
| <b>Head of Police - Squadra Mobile, Palermo.</b>   | Representatives from Santa Chiara, Palermo [V.V.], Palermo                   | Representatives from Adio-Pizzo 2 [L.N.], Palermo | Representative from CISS [R.], Palermo                                 | Migrant Mediator 2 [K.I.], Palermo  | Migrant 2 [PPt. O.O.], Balaro, Palermo                |
|  | Representatives from Multi-Volti, Palermo. [G. Z.], Palermo                  | Representatives from Adio-Pizzo 3 [F.V.], Palermo |  | Medical Practitioner handling smuggled migrant cases and torture victims. [G.C.], Palermo | Migrant 3 [PPt. A.I.], Rome                           |
|  | S.V. Representative Caritas Rome and Palermo.                                |   |  |   | Migrant 3 Anonymous Senegalese, [PPt. A.S] Palermo    |
|  | Representative from CESME [PPt.A.G.], Casterveltrano                         |   |  |   | Anonymous respondent, [PPt. Aa] Palermo               |
|  | Head of Associazione “Pellegrino Della Terra” [PPt. V.W.], Palermo           |   |  |   | Anonymous respondent, [PPt. Ab] Palermo               |
|  |  |   |  |   | Anonymous respondent, [PPt. Ac] Nigeria, West Africa. |

Table 4-4. The employment sectors of interviewees.

| <b>Law enforcement and Prosecutors (The criminal Justice system)</b>                             | <b>Academia</b>                                | <b>Non-governmental Organisations (11)</b>  | <b>Governmental Institutions and Anti-Mafia organisations</b>   | <b>Independent respondents</b>                                |
|--|--|---|---|---|
| <i>Deputy Judge (State Prosecutor) on Irregular migration Cases, Trabia, and Palermo, Sicily</i> | <i>Researchers from CISS, Palermo, Sicily.</i> | <i>Coordinator of Migrant reception centre – Centro Astalli, Palermo, Sicily.</i>   | <i>Coordinator of Migrant rights centre – Consulta delle Culture, Palermo, Sicily</i>   | <i>Regular settled migrants</i>                               |
| <i>Italian Flying Squad – Department in charge of irregular migration cases, Palermo, Sicily</i> | <i>Borderline Europe, Palermo, Sicily.</i>     | <i>Coordinator of Migrant reception centre – MNSA, Castel-Vultrano, Trapani, Sicily</i>   | <i>Migrant Mediators and representatives for the Commission - Commissione Territoriale per il Riconoscimento della Protezione Internazionale - Territorial commission for the International Protection and Recognition Palermo, Sicily.</i> | <i>Anonymous respondent that do not wish to be identified</i> |
|  |  | <i>Coordinator of Migrant reception centre - Casa San Francisco, Palermo, Sicily.</i>   | <i>Representative of Anti-Mafia Organisation, working for the Local Government in Palermo, Sicily.</i>  |   |
|  |  | <i>Coordinator of Migrant reception centre and social and economic development organisation – CRESM, Gibelina, Trapani, Sicily.</i> | <i>Representative of Anti-Mafia Organisation, Castelvetro, Trapani, Sicily</i>  |   |
|  |  | <i>Santa Chiara , Palermo</i>   |   |   |
|  |  | <i>CARITAS , Palermo and Rome</i>   |   |   |

|  |  |   |  |  |
|--|--|---|--|--|
|  |  | <b><i>Molti-Volti, Palermo</i></b>            |  |  |
|  |  | <b><i>Pellegrino Della Terra, Palermo</i></b> |  |  |
|  |  | <b><i>IOM, Palermo team.</i></b>              |  |  |



**Figure 4-3. Chart on The category of respondents interviewed on the field.**

In line with Miles and Huberman, this thesis has sought to break down the qualitative data analysis into ‘...data reduction, data display and drawing and verifying conclusions’ (1994 quoted in Punch 1998:203). It has used a mix of analytical procedures, such as analytic induction, including discourse analysis and documentary and textual analysis. The analytic induction has enabled the development of particular

concepts from data such as additional traits of criminal organisation that were deduced from examining their watered-down *modus operandi* or even the refined ones. The interrelationship of the concepts were traced and discourse analysis was used in examining language used, while documentary and textual analysis have focused on the social production of documents (Punch 1998). The reason for this choice is that analytic induction has aided in actualising the aim of this work in revising and reconstructing models which aid the interpretation of the means and methods of irregular migration from Libya to Italy. Discourse analysis has aided the analysis of the different perceptions of the phenomena, while documentary analysis has been applied in examining the judicial proceedings, investigating the circumstances surrounding their existence as well as their contents.

The interviews were conducted with the aid of topic guides developed by the researcher as specific themes both from secondary data and the primary data (judicial proceedings). These themes include: actors; *modus operandi*; structure of the criminal organisations; and the changes identified in the trends in criminality. Table 6 below shows one of the questions asked of the interviewees and how the answers were categorised or coded.



**Table 4-5. The first step in coding an interview transcript. In this sample: divergent notions of what makes smuggling criminal from the respondents' perspective**

| Point considered                          | Academia  |  | NGOs  | Criminal Justice System  | Law enforcement   | Government system (the M. Mediator)  |
|---|---|--|---|--|---|--|
| What makes the act of smuggling criminal? | <p>Smugglers were often seen by migrants as helpers</p> <p>The level of violence from the testimonies of migrants qualifies it criminal</p> <p>Make profit off the migrants</p> <p>The migrants don't seem to have other possibilities so they are vulnerable and resort to smuggling services.</p> | <p>Opinion of the EU, hence they created borders</p> <p>Not criminal for the respondent ; she is human and pro mobility (from the migrants perspective)</p> <p>The smugglers thinking more of profit by putting more than required in each boat (risking people's lives ); hence more deaths in the last 2 years</p> | <p>The vulnerability of the migrant is preyed on by criminal groups;</p> <p>Crimes the migrants is forced get involved with which therefore forces the migrant to be criminal such as selling of drugs</p> <p>Extortion and deceit by the smugglers</p> | <p>The crime is aiding and abating the illegal immigration and people , not</p> <p>These smugglers are criminals that must be stopped and possibly arrested.</p> | <p>Immigration has to be define by certain law; existing immigration law</p> <p>Therefore, Coming in without the right documentation makes it a felony; criminal.</p> <p>The smugglers are also involved in other criminal activities</p> | <p>It is a criminal act, because these criminal networks assist and encourage these travellers to risk their lives;</p> <p>the profit of this business are also used to fund wars, these networks also facilitate the marketing of the illegal products such as drugs;</p> <p>They help criminals or people who have criminal antecedents to evade the controls of the judicial police by passing them by sea;</p> <p>There is traffic of human beings in this business, hence, it can be considered criminal.</p> |

With selected colour codes this table presents varied views of what makes the act of smuggling criminal from the respondent's perspective. The responses represented in the table were colour coded according to the categorisation of the answers which were given by the respondents. For example, when asked what could be considered as what makes the act of smuggling criminal, the answers were surprisingly diverse. While some of the respondents did not consider it as criminal but only as a circumstantial act, some considered it a heinous crime at different levels. Indications from transcripts were corroborated with findings extracted from judicial proceeding on the different themes and triangulated with the debates in the secondary sources.

While the purple phrases depict that smuggling may not be considered criminal, the orange colour suggests that it is, because the act is driven by criminal organisation. The green phrases suggest that other resultant criminal outcomes of the act categorise it as criminal; black phrases suggest that the law labels it criminal; and red phrases suggest that the illegality in the documentation or any part of the process that aids illegality makes the act criminal.

This interview excerpt (see Table 6) is a sample of the coding done to extract from the interview transcripts the opinion of the professionals interviewed on the subject matter of the nature of criminality in the act of smuggling. It is the procedure applied to the rest of the questions posed to the respondents so as to understand their perspective on the different aspects of the phenomenon. These perspectives are corroborated with debates in existing literature on smuggling from the migrants view and that of the social actors

Finally, another type of data analysed in this study is documentary films such as Stefano Mencherini's 'Slaves', which examines new forms of exploitation and their routes with regards to illegally hired migrants in Italy (Mencherini 2013); and an Al Jazeera piece, 'The Nigerian Connection' by Von Einsiedel and Pare (2011), reported by Juliana Ruhfus. Additionally, data was collected from local Italian newspapers such as *'The Local'*.

In total, I believe that the methods adopted by this research offer valuable and, to an extent, unique insights into how criminal organisations have carried out human trade from Libya to Italy since 2011.

### *Research Challenges and Limitations*

This research faced several challenges. These included the inability of the researcher to reach some precluded regions during field study based on Coventry University's ethics' requirements. Consequently, information which was meant to be gathered from these locations was gleaned instead from UNODC reports, media reports and FRONTEX risk assessment quarterlies. There was also the challenge of reaching contacts given that not every responsible agent was ready to entertain interviews. In this case, the researcher had to rely solely on the snowballing technique to reach more respondents. Concurrently, given the increase of the humanitarian crisis at the time of the field study 2015 and 2016, some officials especially representatives of the UNCHR and the criminal justice system were dispersed to the field to attend to the humanitarian and criminal issues. They were therefore not available to be interviewed, thereby causing a reduction in the number of expected interviewees. There was also the

problem of language. The author's inability to speak the Italian language *fluently* was a draw back as some of the respondents needed interpreters for clarity. In some cases, the respondents were bilingual and could speak other languages like French which, fortunately the author is fluent in. The interviews were therefore conducted effectively in the English, Italian and French languages.

Time and distance to the diverse locations to be visited posed another challenge and this was to a large extent affected by the financial limitations of the researcher. In some cases therefore, phone interviews were conducted and recorded with a tape recorder. Also, consent forms were e-mailed to the respondents who had them duly signed and returned. The recorded interviews took a good amount of time to be effectively transcribed. However, these challenges notwithstanding, ultimately the relevant personnel were seen and interviewed. Some IOM officials, themselves respondents, offered the author IOM's latest reports which had more useful information on the subject of research. The researcher was also invited to witness migrants disembarking at the Palermo ports in 2016 during a field trip.

## **Chapter 5 THE ACTORS**

This is the first chapter based principally on primary evidence and data collected through the two core research methods: the analysis of relevant judicial proceedings cross-checked against semi-structured interviews with key expert respondents. The chapter will identify the various actors involved in the human trade between Libya and Italy. The chapter evidences the increasing specialisation of the actors involved in the human trade between Libya and Sicily in comparison with previous studies such as Coluccello and Massey (2007) and Pastore (2006) that indicated that those involved in the fluid and unstructured networks involved in the transport of irregular migrants in the 2000s adopted multiple concurrent functions. Increased specialisation is one evolving characteristic of the networks more recently involved in the movement of irregular migrants that this research exemplifies as specialised, scattered, unrestrained and structured.

Studies by the Institute for Security Studies (ISS) and the Global Initiative against Transnational Organised Crime (GIATOC) have argued that assumptions about the human trade from Libya to Italy and those involved are in most cases anecdotal. This limits the understanding of the broad range of criminal actors which transcend criminal networks to include community members (ISS and GIATOC 2016). The main judicial investigation from which the evidence and data that underpins the analysis of the actors and routes in this chapter is extrapolated is named the FERMO PALESTINESE 1 case. This was the case against ABIA, a pseudonym, in connection with the Libya to Italy boat landings of October 15 and November 3, 2013, tried in the tribunal of Agrigento. These judicial proceedings identify and highlight divergent organizational features of the phenomenon of Libya to Italy human trade. These are extrapolated from the statements to the criminal investigators by witnesses and victims, as well as transcripts of wiretaps of phone conversations between smugglers. Other cases used to obtain evidence and data include the FERMO PM MUHIDIN; the FERMO PM SCAFISCA case and the FERMO PM GLAUCO case. The identification of perpetrators/actors involved in the smuggling process is often controversial. This chapter will advance assessments of the actors - both recognised and overlooked – and the analysis of their participation and roles in the smuggling process.

This chapter is broken into three parts. The first part presents a summarised account of the FERMO PALESTINESE 1 case showing essential details of the case and the actors involved as part of emerging themes towards understanding the nature of criminality in the Libya to Italy human trade. The second part analyses the various actors in the human trade across the central Mediterranean in the context of human trade as an organised criminal activity, individually exploring the diverse actors that facilitate the trade. Finally, the chapter analyses, the different tasks and roles of the actors.

## THE FERMO PALESTINESE 1 CASE

This case arose out of an investigation conducted by the Italian authorities of a transnational criminal organization operating between Libya and Italy with the aim of enabling illegal immigration into Italian territory and other related offenses. The investigation was launched following the tragic sinking of a migrant boat on 3<sup>rd</sup> October 2013 off the island of Lampedusa in which 366 lives were lost. The case concerns migrant boat landings on 15<sup>th</sup> October and 3<sup>rd</sup> November 2013 on Lampedusa. The boat that landed on 15<sup>th</sup> October had on board 211 Syrian citizens and the boat that landed on 3<sup>rd</sup> November had on board 26 Palestinians, two Syrians and one Eritrean. The two boats were rescued by Italian Coast Guard and the migrants taken to Reception Centre at Lampedusa.

As the survivors of the 3<sup>rd</sup> November landing were being taken into the Reception Centre there was unrest amongst migrants already in the Centre, many of who had landed on 15<sup>th</sup> October, instigated by the identification of an individual named Abu Ibrahim, the leader of the group that was responsible for their transportation from Libya to Lampedusa. Upon further investigation, Abu Ibrahim was discovered to hold a passport issued by the Palestinian Authority identifying him as Abdalmenem Attour. Six Syrian migrants volunteered statements to the police. In their statements, they identified Abdalmenem Attour as the man they had known as Abu Ibrahim, a smuggler to whom they had each paid between US\$800-2000 for their journey from

Libya to Italy. They alleged that they individually met the defendant in Libya through the recommendations of friends and underworld contacts in Libya.

According to their statements, on contacting Abu Ibrahim through the telephone numbers given to them, the defendant arranged for their transport to Tripoli and then to a farm house, a collection center, at Sabratha located near Tripoli which was kept and maintained by the defendant.

The migrants were incarcerated in the farm house to wait for a boat. They also alleged in their separate statements that the house where they were kept was guarded by men armed with machine guns that stole their valuables and did not allow them to leave the house. Their statements detailed their movement from the collection centre to the place of embarkation and the role played by the defendant and the heavily armed men in ensuring that the migrants boarded the boat and complied with the cramped sitting arrangement dictated by the crew who took no consideration of the particular vulnerability of the migrants some of whom were children and pregnant women. The migrants were once more stripped of belongings including money, phones and travelling documents.

The identification of Abu Ibrahim as the leader of the smugglers and pilot of the boat was unanimous. Based on these statements Abu Ibrahim was charged with offences including conspiracy to engage in human trade; illegal transportation of migrants from Africa to Italy for a fee; and running a criminal organization.

The specific offences were association with other individuals identified to be involved in the crime of smuggling of migrants under Article C.P. 416, paras 1, 2, 3 and 6 and the possession of weapons in public under Article 4 L. 146/2006. This was aggravated by the fact that the crime was committed with the involvement of an organized criminal group engaged in criminal activities in more than one state, in Libya and Italy. He was also accused of criminal activities aimed at enabling illegal entry into the state of Italy in violation of immigration legislation.

Abu Ibrahim was accused of the incarceration of migrants in a house run by the accused under the guard of heavily armed men and the transportation of the migrants

by boat across the straits of Sicily to Lampedusa. Witness testimonies also indicate that unwilling migrants were forced by the threat of violence to embark the boat. Items recovered from the accused person included a mobile phone with the numbers allegedly used by the migrants to contact him; bank cards; international passports bearing the name of the defendant; '*carta di soggiorno*'; military cards and laissez-passer issued by the Libyan authorities with images of the accused. A personal organizer with various notes and numbers was also recovered and used as evidence against the defendant.

Abu Ibrahim was found guilty at the tribunal in Palermo. Applying the Italian legal principle of 'convergence of multiples', the similarity of discrete and separate witness statements, the tribunal found that the accused had played a major role in overseeing the surveillance of migrants at the collection center, participated actively and collaborated with others in arranging transportation of the migrants and directed operations at the point of embarkation. It was also the decision of the court that the accused belonged to and participated in the activities of a criminal organization engaged in the smuggling and trafficking of migrants from Libya to Italy. The defendant was accordingly convicted and sentenced to terms of imprisonment and fines for each of the counts of the charge against him. For the cumulative offences, the defendant was sentenced to a prison sentence of over twenty years and a fine that amounted to €6m.

The findings and decision of the Palermo tribunal in this case is significant for the development of jurisprudence on the human trade, as well as providing insights into the details of how the trade operates which is valuable both to scholarly research and law enforcement methodologies. While the trial of the defendant was held in Palermo, most of the acts that constitute the offences he was charged with took place either in North Africa or in international waters. As in all the cases that arose out of the GLAUCO Operation, there is a question of jurisdiction or territoriality. Specifically, according to Article 6 of the Criminal Code, for the lawful exercise of Italian jurisdiction, it is necessary that the act or omission that constitutes the criminal conduct takes place, in whole or in part in the territory of Italy. Jurisdiction will equally be established if the natural result of the conduct occurs in Italian territory. The court correctly assumed jurisdiction in this instance because the natural result of the

defendant's conduct, the entry into Italy of irregular migrants, occurred in Italy. This innovative application of Article 6, although not entirely new, is compliant with Article 5 of the United Nations Convention against Transnational Organized Crime (UNTOC). Article 5 UNTOC provides, *inter alia*

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

a. Criminal activities of the organized criminal group;

b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above described criminal aim...

(UNTOC 200, Article 5 sub section (a), i. ii)

Hence, the verdict domesticates UNCTOC into Italian law and makes it applicable in all cases involving organized criminal groups wherever they are based or operating from. It means also that Italian courts can now assume jurisdiction over a people smuggler operating out of Libya without that smuggler necessarily being found on Italian soil. All the actors in the chain, including the armed men, drivers, recruiters, boat owners etc. in Italy for example, are equally affected by this decision.



## *The Nature of Criminality in FERMO PALESTINESE 1*

The tribunal also found, based on investigation reports that the defendant belonged to and participated in the activities of a criminal organization. It was the conclusion of the court that

there clearly existed a criminal organization which takes “care” of the migrants in all the different phases of traffic, taking care of the transport to the place of concentration, their stay at the place pending the finding of a boat for the crossing; the basic needs, like food and water, guarding the place also with armed men... For these “services” in the end, the migrants pay an amount of between US\$1800-2000 (Judicial reports FERMO PALESTINESE 1)

The tribunal described the defendant's group as ‘a complex organization, and armed, systematically dedicated to the design, planning and carrying out clandestine transfer of migrants from Libya to Italy, to be made on the payment of a fee for each of the persons transported’ (Judicial Report, FERMO PALESTINESE 1).

The reasoning of the tribunal discloses the elements considered when assessing both the membership of an organized criminal group dedicated to the smuggling of migrants and the participation in a criminal conspiracy with the same purpose.

In order to be categorized as a criminal group, it is necessary that; (i) there is a bond between the members which is of a permanent character or, at least, stable and aimed to continue beyond the commission of specific criminal acts; (ii) to have undetermined criminal programme, and (iii) there needs to exist a certain level of organization that is adequate for pursuing its criminal objectives. In line with mainstream jurisprudence, there is no need for formal agreements. In line with previous jurisprudence organized criminal groups should act upon a well-structured plan dedicated to the smuggling of migrants in order to obtain a financial or other material benefit. In the FERMO PALESTINESE 1 case, this involved (i) concentration of migrants in hidden location in the Libyan city of departure; (ii) the availability of several and different means of transport to carry out the diverse phases of the travel; (iii) engagement of several men with specific roles (e.g. recruiters, drivers, ship crews, landlords) abiding by rigorous

codes of conduct; (iv) systematic exposure of the life and safety of migrants to serious risks given the conditions of the trip; (v) diverse and sophisticated means of communication; (vi) attempts to hide evidence and deceive the authorities and (vii) a structured methodology regarding payments etc.

The different phases of the criminal activity should be seen as part of a process, a single and indivisible criminal reality aimed at precluding the jurisdiction of the country of disembarkation. It is the intrinsic bond between the subject and the organized criminal group that prompts the qualitative leap from “involvement in an organized criminal group” to “participation in a criminal conspiracy”. The decision of the tribunal enhances the effectiveness of Article 5 UNTOC and makes it easier to prosecute all involved in the criminal activity (See GLAUCO Operation Case n. 10341/15 R.N. G.I.P. SHERLOC Case Law Database ID ITA013).

The focus of this chapter is to examine the set of actors involved in the irregular migration from Libya to Italy and their specialization. The number involved are significant including agents, foot soldiers, organizer, armed men/enforcers and the boat owners and captains. A visual illustration of the network - actors is presented below.

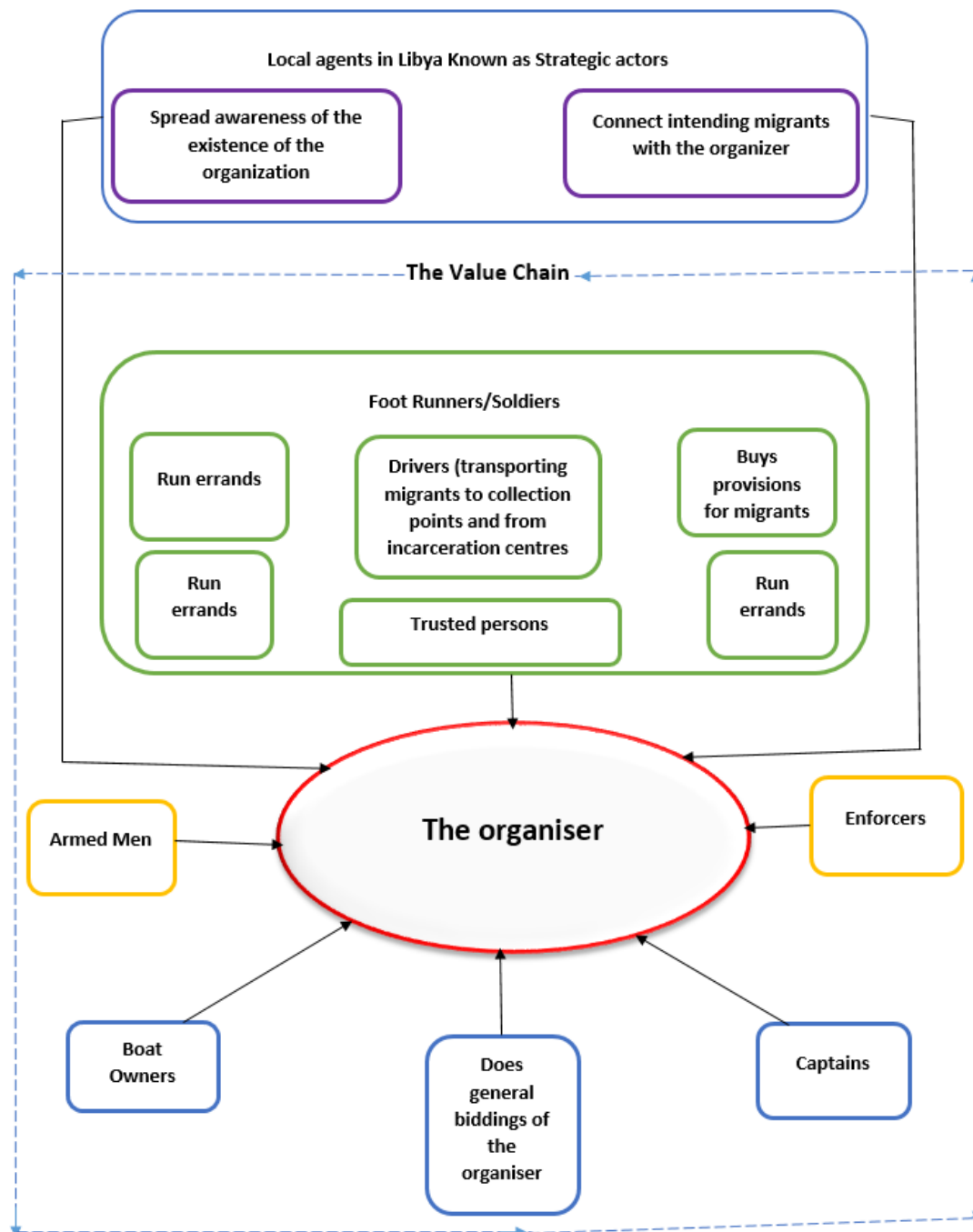


Figure 5-1. Network actors drawn from the FERMO Palestinese 1 case.

The network of actors in the FERMO Palestinesees 1 Case reflects the roles involved in the irregular migration from Libya to Italy from the land route to the point of embarkation according to specialization. Figure 5.1 highlights the organiser as the central focus of the network and value chain. The local agents or strategic actors which include the agents that spread awareness of the existence of the criminal organisation and connect interested migrants to the organiser. They have a direct contact with the

organiser. As their role ends the moment they have connected the migrant with the organiser, these actors are passive members of the network who may not be permanent. The value chain includes the foot runners, armed men, enforcers, boats owners, captains and agents that take their orders from the organiser. All these actors revert back to the organiser as shown by the arrows in the Figure 5. These actors are vital to the smooth running of the network.

All witness statements in this case acknowledge that the migrants were referred to the defendant by local agents in Libya. They were given the telephone numbers of the defendant by his agents who stood to benefit from the referral. Statements by B R and H H reveal that the process by which the would-be migrants were able to procure the numbers of the named smuggler Abu- Ibrahim in the FERMO PALESTINESE 1 case involved asking around. The court held that the statements of migrant witnesses proving that they were introduced to the defendant by friends with previous experiences, and those referrals leading to the consummation of their trip, is an indication that the group possesses the essential qualities of an organized criminal group. These local agents form part of the elaborate network that moves the criminal enterprise along. They are strategic actors. This point will be further elaborated in this chapter.

Other than the local agents who spread awareness of the existence of the organization and connect intending migrants with the organizer, there are also the foot runners. These run errands for the organizer and are part of the value chain. They consist mostly of drivers and other trusted persons who do the biddings of the organizer in order to achieve their goal of aiding illegal migration. They are the ones that buy provision for migrants while they are kept at the collection centre. They are also the ones sent to pick and bring migrants to the collection centre. B R and Gharsedin Hilmi in their statements, report how they and their fellow countrymen telephoned Abu-Ibrahim indicating their location and requesting to be picked up and taken to the collection centre at Zuwarah where they were to stay until the day of embarkation. These witnesses in the statements detailed that an emissary of Abu-Ibrahim was sent to pick them up from Zanzur where they realized that the migrants were being held hostage by armed men. (Judicial reports, the FERMO PALESTINESE 1 case,)

Based on the facts of this case, the organizer of the smuggling exercise can be taken to be the single most important actor in the organization of people smuggling from Africa. It is his operation and he runs it with the help of his accomplices. In this case, being a Palestinian did not impede the defendant's ability to run such an operation on Libyan territory with Libyan accomplices. The organizer makes the important decisions. He fixes the fees to be paid by each migrant. He ensures that they are safely brought to a collection centre owned or controlled by him. He ensures their safety while they are there. The organizer must also find suitable boats or ship and a captain to make the sea crossing. He ensures the movement of the migrants from the safe house to the embarkation point on the beach. To accomplish all these tasks, he must necessarily rely on his foot runners, body guards and other accomplices. Abdalmenem Attour, otherwise known as Abu Ibrahim was the organizer in this case. The witnesses testified to the fact of Abu Ibrahim being responsible for the emissaries sent, collection of monies paid for the journey, and the other members of the groups were identified by their demeanour as working for Abu Ibrahim (Judicial reports, the FERMO PALESTINESE 1 case, Statement of B R ).

Armed men are another set of key actors involved in the people smuggling enterprise. They act as both body guards for the organizer and enforcers of the wishes of the organizer. They are always armed with sub-machine guns either at the collection centre/safe house or at the embarkation point on the beach. They do the bidding of the organizer for the success of the operation and wellbeing of the organization. Most are Libyan citizens. According to B R , on arrival at the farm house, men armed with machine guns and clearly members of the organization, were stationed there and prevented some migrants from escaping. Witnesses also identified the same armed men on the beach on the day of departure (Judicial reports, the FERMO PALESTINESE 1 case). Such is the importance of these armed actors that they are never far from the organizer and see to the enforcement of his every command, like the dispossession of the migrants of all valuables as they board the ship. They also enforce the seating arrangements on the boat.

Boat owners and captains are another important set of actors in the process highlighted by the judicial reports. Piloting often barely seaworthy boats requires

some skill. Some of the discarded or converted fishing boats are often captained by off duty fishermen for a fee. Not being migrants themselves, they often return to Libya once their mission is accomplished. Sometimes, some of the migrants with any prior experience at sea, are put at the helm of the boats and as compensation, get to pay little or nothing for the crossing.

The next section will examine the specialization of the actors in the Libya to Italy human trade from Libya to Sicily and its various dimensions. It will effectively elaborate on the actors and their categories on which this chapter bases its argument.

## **Specialisation of the actors**

In reaction to the high demand for both regular and irregular transportation, those involved in the transportation process may operate alone or in networks with multi-national membership. The UK government describes organised crime as involving ‘individuals normally working with others, with the capacity and capability to commit serious crime on a continuing basis, which includes elements of planning, control and coordination, and benefits those involved...the motivation is often, but not always, financial gain’ (HM Government 2011).

To understand the nature of criminality involved in irregular migration from Libya to Italy, it is necessary to know who is involved in providing the assortment of services which facilitate the human trade. Based on primary and secondary research the actors may include: local gangs/groups; local businesses/entrepreneurs; artisanal operators; local residents; intermediaries; locally based opportunists; formerly trafficked and smuggled migrants; NGOs and shelter providers; state officials; professional smugglers and traffickers in the destination countries. Understanding the intricate web of actors in this illicit trade will give a better understanding of how they carry out their operations. The following classification is informed by analysis of the judicial proceedings that provide the fundamental evidence and data for this study.

## **Actors’ categories**

An Institute for security Studies and Global Initiative study concluded that a range of actors from diverse organised criminal groups and community members facilitate, support and profit from human trade (ISS & GIATOC 2016). In classifying these actors, this research has adopted a categorisation based on the level of involvement of the actors in the organisational process to determine their significance in the irregular migration process based on analysis of a set of prosecutions undertaken by the Italian authorities. These actors include: local gangs/groups which comprise local residents, locally based opportunists, local business entrepreneurs and artisanal operators.

### *Local residents*

The UNODC labels these set of actors as persons who live along the smuggling routes who have chosen to make money through any available means, often illegal, whilst aiding the smuggling of migrants along that route (UNODC 2011). These local residents assist in providing logistical support to the migrants and getting paid for their services. For the OECD (2015), local residents are people who find their means of livelihood within the key towns of smuggling routes. This means that it may be difficult to counter their smuggling practices due to their knowledge of the terrain. However, research findings suggest that these local residents go beyond people who live along the towns as suggested by OECD (2015). In FERMO PALESTINESE 1, the migrants were introduced to the organiser by local residents who knew about the smuggler and his smuggling operations. In other words, the smuggling organisation in that Libyan city was not ‘clandestine’ in the strict sense of the word. B R , a prominent witness in the FERMO PALESTINESE case, disclosed in his written statement how he learnt about Abu Ibrahim’s smuggling operation, as well as his contact details, through chance meetings with locals in Tripoli.

### *Locally based opportunists*

According to the UNODC, these sets of actors are ad hoc smugglers who aid smuggling along the travel routes. They take advantage of *à la carte* migrants who

cannot afford ‘the full-packet solution’ or a comprehensive portfolio of smuggling services (UNODC 2006). Such comprehensive packages include false documentation, accommodation, transportation and any other services that they may require in the course of the journey. INTERPOL (2016) and the Organized Crime and Corruption Reporting Project (OCCRP) refer to this category of actors as opportunistic low level facilitators who help migrant smuggling networks in managing smuggling activities along given routes, while the UK government (2011) refer to them as groups driven by profit. Reitano, Adal, and Shaw (2014) on the other hand, identify this category of actors as individuals whose services are in most cases limited to smuggling operations related to the geography of their own in their territory, notably desert crossing or sea crossing. This research however, refers to this group of people as ‘always at hand providers’ who operate along smuggling routes. They could meet the migrants at staging areas where migrants gather while waiting or planning their next move. Such staging areas include desert oases for land journeys and points of embarkation for sea journeys. This set of actors need not be part of any smuggling organisation, they may simply function as ad hoc providers and, as their name implies, they simply take advantage of the difficulties of the migrants at these locations. Being mostly natives of the transit country, they profit from their local knowledge of transit routes. Westcott (2016), gives the example of the *Tubu* people resident in several Sahelian countries, traditional suppliers of personal security, who opportunistically extend their services to passing migrants. In the FERMO PALESTINESE 1 case, those that provided information to migrants concerning Abu Ibrahim and his smuggling services are considered as locally based opportunists (Judicial Reports FERMO PALESTINESE 1, 2013). However, emphasizing the relevance of these locally based opportunists ISAB, currently working for a Palermo-based NGO Addio-Pizzo, states that there were departures every day, but he had to wait for a designated driver to come from Sabha to transport him to Sabha and onwards to Tripoli (Interview 33). This implies that the driver was a locally based opportunist that knew the routes and the safe times to travel these routes and made good use of this privilege; which is a clear case of the roles defining the actors.



### *Local business/entrepreneurs*

According to UNODC (2011), local business/entrepreneurs are individuals who use their business resources for smuggling migrants within or beyond their home territory. This category of actors is identified by EUROPOL (2016<sup>a</sup>) as persons who make substantial profits from people smuggling activities or crimes related to the aiding of migrant smuggling. EUROPOL (2016<sup>b</sup>) describes these actors as freelancers who provide their services to multiple networks at a time, and also identifies them as lower-level contacts of smuggling networks that could also be used as drivers, crew members and recruiting agents. Herman (2006) drawing on Salt and Stein, (1997) describes local business people as institutionalising the surreptitious transportation of irregular migrants often using vehicles otherwise used for other business activity. These entrepreneurs could be classified as institutionalised economic metaphors that assist migrants in their transportation as smugglers and illegal entrepreneurs. For example, one respondent identified professional transporters who used their personal vehicles such as Lorries and 4x4s to transport migrants, supplying the added value of local knowledge and corrupt relations with the local authorities. Facts from the FERMO PALESTINESE 1 indicate that these local business people are usually from the places where they offer their services. So, extrapolating from the evidence in FERMO PALESTINESE 1, many involved in that case were not formal members of the smuggling network, but rather local business people providing their services for money. This is evinced in the statement by B R ‘... I recognized, without doubt, the person named Abu Ibrahim, one of the leaders of the smuggling organization who, equipped with weapons and working with men of Libyan nationality...’ (Judicial Reports FERMO PALESTINESE 1, 2013).

A settled Nigerien migrant interviewed in Rome recounts that at the time of his travel, he was transported free of charge from his home town of Tawan to Agadez and was further escorted to Sabha by a friend whose main business had become transporting migrants. This friend did not consider himself to be part of a smuggling network; he simply took advantage of an opportunity that presented itself.

### *Artisanal operators*

This set of actors is identified by the UNODC as local smuggling groups whose activities can be described as 'artisanal' (UNODC 2006). Reitano, Adal and Shaw (2014) define these actors as people who work in artisanal activities such as nomads, fishermen, and immigrants who work in collaboration with corrupt officials and agents in the smuggling of migrants across international borders. They sell their services to desiring migrants at the well-known gathering points. Although their activities are perceived to be in the manner of family businesses, there are indications that these artisanal operators are often involved in smuggling activities. Speaking on irregular migration crimes, an Italian judge revealed that some of the offenders identified and apprehended were noted to have been formerly involved in other forms of criminal activities such as drug smuggling amongst others (Interview 1). These operators have diverted to people smuggling as it has been identified to be one of the most lucrative organised crime activity in the world triggered by the introduction of more rigorous immigration policies by the western world (Shelly 2014:2; Ellis 2011-UNODC). Although these set of actors have been noted by the UNODC as individuals that sell their services to desiring migrants, the incidence of migrants being intercepted, kidnapped and held against their will in the desert as recorded in the FERMO PM MUHIDIN case (account presented in the next chapter), cannot be said to be selling their services as their main aim of kidnapping and distorting the voyage of these migrants is to make unjustifiable profit off them with violence and force. It can therefore be argued that the evolution in the strategies of the transnational smuggling groups in recent times, has in a way erased the previous perception of actors in this category as they no longer conform to the description provided by the UNODC and Reitano, Adal, and Shaw (2014). Their operations have translated from nomadic artisanal activities to a business perceived to be more profitable given the trend in the recent past.

### *Market forces*

In analysing the significance of organised crime in the smuggling of Africans to Europe, the UNODC(2006 18) report identifies market forces as key drivers who engage in making optimal use of their investments and capabilities but could be observed to be

at the same time collaborating with professional criminals/smugglers. Micallef (2017) argues that the 'industrialisation' of the people smuggling trade has been greatly influenced by the collapse of law and order in destination countries such as Libya creating a conducive environment for the further exploitation of migrants. Individuals are converted into what Micallef (2017) refers to as '...vehicles for reverse-remittance...' because of the evolving strategies and techniques in the means of collection. This category of criminal actors might be described as professional smugglers and traffickers.

An Italian judge who prosecutes irregular migration and anti-Mafia cases referred to these market forces as establishments in the semblance of tour operators (Interview 1). The opinion of the judge may be premised on evidences from the several irregular migration cases he may have tried in the course of his duty as a judicial officer. Given that judicial evidences are perceived as tenable in cases where the verbal or media reports are weighed to have either exaggerated or less reported the weightiness of the situation, his submission about the initial perception of smuggling organization may be regarded as a defensible assessment. The implication is that professional smugglers use the façade of 'tourism' – tour operators or travel agents – to mask their smuggling activities. This tallies with Liempt's (2011) study on irregular migration by Kurdish women from Iraq that believed that the professional smugglers were indeed seen as assisting migration rather than criminals. Other settled migrants interviewed stated that they were put in touch with their smugglers by friends who had used their services in the past (interview 33). Hence, arguably these 'travel agencies' may not appear clandestine at first sight but underneath that façade of legal business, lies the clandestine activity of offering smuggling services.

Another respondent provides insight into the role of family and friends in the transportation process. Ellis *et al* (2011) points out that over half of Nigerian migrants receive financial support from their family. ISAM recounts at the time of his travel, how he was introduced to his smugglers by friends connected with individuals involved in moving people within Niger, smuggling people from smugglers connected to the smugglers by his friends who knew the smugglers. This is usually the first lap of the journey from sub-Saharan Africa. In fact, he claimed that he did not have to pay for his trip because his friends who were involved in the business of transporting intending

migrants from his place Tawan in Niger Republic to Agadez, and further down to Sabha, along the route, offered him transportation (Interview 35). This implicates families and friends of the migrants, making them actors in the process;

... I went to meet my friend in Agadez; I did not pay for my trip to Agadez because my friends drove [he would transport intending migrants]. I stayed a bit at Agadez with my friends and my friends escorted me to Sabha; so I did not have to pay too. At Sabha, I had my money to pay for the sea trip to Italy; I then met a friend who knew a Ghanaian who is a trafficker- he only knew him not as a friend but as per the type job this man – Ghanaian does for a living. He gave me the contact of this man so I contacted him to organise the journey from Sabha to Tripoli and from Tripoli to Italy.

Although UNODC (2011) states that local groups are primarily identified as those involved in the scouting and introduction of migrants to the *passeurs* who drive the immigration process, this research argues that the local groups are not the only ones involved in scouting and introduction, emphasising the pivotal role of friends and family. These actors are largely over-looked in the scholarly literature. This set of actors is referred to in this research as overlooked actors. A further group often overlooked is the irregular migrants, or former irregular migrants themselves. Their task as ‘fixers’ involves receiving newcomers and arranging lodging in houses or ghettos owned by professional *passeurs*. In actual sense, a majority of these ‘fixers’ are simply aspiring migrants who get involved in aiding the smuggling process to raise money to fund their own journeys. A number of the settled migrants interviewed confirmed that they had to work in a variety of jobs at different stages to make enough money to complete the payment for their trip. Yet, the research discovered that some migrants could effectively fund their entire journey from money made assisting those involved ‘professionally’ in the process. Money made by participating in the process can also be supplemented by criminal activity including stealing from migrants with whom they come into contact. Witness accounts from FERMO PALESTINESE 1 evidence that at the point of embarkation, the migrants had been robbed of all their possessions. Facts from the cases indicate that the migrants at the time of embarkation were rid of all their belongings and these were collected by the Libyan men that assisted the named head smuggler, Abu Ibrahim. (Judicial report, FERMO PALESTINESE 1, 2013).

In the Libyan context, a Senegalese migrant settled in Palermo further relates that migrants are usually grouped by scouts and fixers by nationality (Interview 36). This ties in with a further category of actors in the process, the *wasit*, or intermediary. These *wasits* are usually from the same country as the migrant, but have been resident in Libya for many years. *Wasits* may have once been irregular migrants who choose to stay in Libya to make money. The Libyan owners of the migrants' lodgings invariably have an 'eye', a *wasit* who acts as an intermediary between the Libyan and a discrete group of migrants from a particular country. The role of the *wasits* is explored in the FERMO SCAFISCA case (Judicial Report FERMO PM SCAFISCA case, 2013).

A further category of actor is the Chairman. According to Ellis *et al* (2011), these are semi-official leaders of nationalities often from ECOWAS countries. They are mostly former migrants, but established at a particular location for a long time. They abound both in prominent communities along migrant routes and in destination countries. Chairmen in some destination countries are elected and well respected by migrants as they are perceived as role models. They collect money from their fellow countrymen referred to by Ellis *et al* (2011) as '*droit de ghetto*' for 'services' such as advising migrants on the choice of *passeur*, managing contacts with local authorities and maintaining contacts with families of the migrants which can have the added benefit for the Chairmen of attracting new recruits. A Ghanaian chairman, now based in Palermo argues that his role was to help fellow countrymen, whilst failing to mention the financial benefits enjoyed by people in this position (Interview 10). Indeed, these Chairmen often fulfil dual roles as *wasits*. It seems that the honorary role of Chairman can often serve to mask the less honourable role of *wasit*.

At the other end of the range of the 'simple market forces' category are the *professional smugglers and traffickers in the destination countries*. These are clandestine actors involved in people smuggling networks and transnational criminal organizations. EUROPOL (2016<sup>a</sup>) refers to this set of actors as members of migrant smuggling networks involved in the coordination of activities along a specified route, managing activities locally by means of individual contacts, while traffickers in the destination countries in this context refers to members from the diaspora providing services such as arranging the hosting of migrants, providing employment and aiding the onward

transport of migrants (EUROPOL 2016<sup>a</sup>). The analytical framework by Gammeltoft-Hansen and Sørensen (2013) refers to the transporters and middlemen in the process as 'ground-level actors'. This research would include individuals resident in Italy involved in orchestrating escapes from the reception centres of Caltagirone, Marsala, Comiso, Potenza, Catania, and Mineo Catania; and the movement of migrants within Italy (Judicial report, FERMO PM GLAUCO case). These actors play a pivotal role in the process. They incorporate the services of smaller enterprises informally referred to as 'people pushers' that aid migrants' transportation along migration routes, circumventing legal barriers in search for work and residence permits, and also legal advice on how to navigate the system for asylum seekers.

The size and scale of irregular migration across the central migration from 11,749 in 2007 to 171,635 in 2017 suggests that the actors involved in this criminal activity are becoming more expert and productive. This study argues that this is partly the result of increasing specialisation. The evidence gathered by those investigating the FERMO PALESTINESE case, corroborated by accounts from interviews, provides a unique insight into how a multiplicity of scouts and middlemen facilitate the process. Witness 'A' travelled to Benghazi from Syria and was scouted and directed to the head smuggler, Abu Ibrahim, by Palestinian middlemen. (Judicial reports, FERMO PALESTINESE 1, pg. 20). Witness 'B' was directed to Abu Ibrahim with the help of his own countrymen (Judicial reports, FERMO PALESTINESE 1, pg. 10). Witness 'C' found about Abu Ibrahim from discussions with locals (Judicial reports, FERMO PALESTINESE 1, pg. 8).

Research indicates that there is usually a high price to transport a migrant across international borders. This, however, does not prevent the harsh treatment of migrants to ensure compliance. A coordinator from MNSA Migrant First Welcome Centre describes the instance of '60 people who were held in a room of 14 metres, without water and food awaiting their transport...' (Interview 7, 2015, MNSA Cord. reports).

### *State Officials, NGOs and Shelter Providers*

There have been a number of reports in the Italian and international media recently alleging varying degrees of involvement in the irregular migration process on the part of Italian state officials, NGOs and those working for NGOs and those involved in providing accommodation for irregular migration in Italy (La Stampa; Deutsche-Welle; Reuters; Law Breaking News; Libya-Herald; Arab-News). Scherer (2017a) reports some Italian lawmakers accusing NGOs of running a 'taxi service' for migrants arriving by sea. Casper (2017), however, adopts a humanitarian stance applauding these NGOs for saving many lives. Farrell (2017) writing in the Spectator implies that some Italian NGOs bend international rules, intervening to rescue migrants in distress and bring them to Italy even though they are rescued outside Italian territorial waters. Scherer (2017b) further reports Carmelo Zuccaro, former chief prosecutor of Catania, accusing NGOs of collaborating with smugglers to bring migrants to Italy, although she later admitted that she had no evidence to prove this assertion.

In keeping with their claim that migration has become a business, Gammeltoft-Hansen and Sørensen (2013) question the position of, for example, NGOs and those involved in running detention centres since they either directly or indirectly 'profit' from the process. In particular, the argument that the mare Nostrum operation encouraged more smuggling could logically be extended to the many NGOs from Italy and elsewhere involved in rescuing maritime migrants. NGOs interviewed as part of this research include Centro Astalli, Casa San Francesco, NMSA, *Consulta delle Culture*, Association *Pellegrino della Terra*, Santa Chiara and Caritas. Ostensibly, these organisations appear to be motivated by humanitarian concerns rather than seeking to profit financially, although evidently seeking funding is an intrinsic function of the majority of NGOs.

Shelly (2014) argues that given the number of actors in the smuggling process, there is always the potential for well-meaning individuals or organisations to unwittingly facilitate smuggling, whilst not being explicitly part of any criminal network. Indeed, one respondent, a director of the Centro Astalli, argues that far from being aimed at profit making, their activities are '...a moral slap to the institutions that cannot help

people' (Interview 4). This position is critiqued by a government official working for the Palermo municipality:

...the problem is that these social operators have no skills at all to manage this big situation due to economic problems because very often, the cooperative which I am managing, want to spend less money if possible...the cooperatives run these reception/welcome centres for economic reasons; they always aim at saving money, therefore, unskilled and untrained agents are used (Interview 27).

The motive here appears to have moved from saving lives to profit making. This revelation puts a question to mind as to what extent profit is prioritised in the services of NGOs. The FERMO PALESTINESE 1 did not involve any investigation of the role of NGOs, but many of the witnesses in that case were held at a reception centre partly managed by NGOs. One respondent, a social worker in the municipality, reports that the numbers of minors arriving in Palermo spiked in 2014 overwhelming the existing provision of reception centres (Interview 20). The same respondent was exasperated by the pressure brought to bear on social services by the migration crisis:

Palermo is made up of 800,000 citizens but there are only 40 social workers for both migrants and citizens from the local government, the others are paid from private cooperatives, NGOs, but it's the private sector. Very often the private sector wants money from the state. For Italy, particularly, the nation does not have money so they tell the local government, "...you have to get money from your citizen..." so in Palermo, people do not pay taxes and so Palermo local government has no money and they have only 40 social workers...this is where EU burden-sharing should come in so as to help Italy handle this crisis...imagine Austria planning to build a wall! Other EU counties have enough social workers – Germany... (Interview 26)

In the same context, although the EU denies allegations by Amnesty International that they 'turn a blind eye' to the catastrophic immigration crisis, these events are arguably,



the consequence of EU policies and the outsourcing of border controls to Libya (Barker 2014; Sturridge *et al* 2017; Riemer 2017; Harari 2018; Global Detention Project 2018; Amnesty International 2018; Badalič 2018 and European Commission 2019). Along the length of the migrant journeys there is considerable evidence from the scholarly literature of state officials, for example the police and coast guard, taking bribes to 'turn a blind eye', the abuse and torture of migrants at migration hotspots by the military and police, and the use of government facilities in collusion with smuggling and trafficking rings (Kingsley 2015; Flynn 2015, Research and Evidence Facility (REF) 2017). Rusev (2013) reports that consular staff are bribed to procure entry visas and leave to remain. One respondent states that he spent CFA10, 000 at eleven control posts on his journey (Interview 36). Also relevant is the near absence of rule of law characterised by lack of effective enforcement of extant laws in countries like Somalia, Libya and some parts of Niger and Mali. In Nigeria, for instance, it used to be possible for an individual to obtain and hold multiple travel passports bearing different names and dates of birth but with same photograph. This would not have been possible without the active connivance of men and officers of the department of immigration which has the responsibility to issue the passports. In recent debates on the Mediterranean crisis, John Fisher Burns of New York times argued that the government of that Libya opened the border for migrants to cross from North Africa, suggesting that there was actually a way out of the misery that the crisis in Libya had created (BBC Dateline 2017). The journey across land borders from West Africa to Libya stretches across multiple countries whose border agents look the other way giving migrants unhindered passage for a fee.

Mafu (2019) believes that the African Union, equally fails to protect African migrants, although it is the EU that faces the sharpest criticism. This research finds that the human rights of migrants have been violated under the guise of border protection and enforcing immigration policies. This is borne out by a number of incidents evidenced in the judicial proceedings<sup>10</sup>. The rival groups and government of Libya for instance, did not consider releasing or relocating the migrants nor their fate when air raids were decided upon. As previously mentioned, in a preceding chapter of this work, the

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<sup>10</sup> Examples include incidents mentioned in the judicial proceedings as evidence and data for this work as well as the media reports on migrant's shelter bombing in Libya and the slave trade reported by the BBC and Amnesty International (Amnesty International 2017, BBC 2017, Nebehay 2018 and Wintour 2019)

European states are found complicit by several authors and activist as regards the crisis and how their policies have encouraged it (Nigram, 1965, Hollis 2012 & 2016, Achilli 2016, Sturridge *et al* 2017, and Molenaar and van Damme 2017, Adler 2018, Welanders 2018, Guiraudon 2018, and Esteve 2018). Additionally, Italian officials at the transit points within Italian territories are also considered culpable in terms of their 'look the other way' attitude which let migrants move to various regions of Italy without being identified or documented (Barker 2014). Consequently, the business of human smuggling and trafficking, remains undetectable culminating in a complicated trade.

### ***On-site roles***

On-site roles in this context refer to specific support roles allocated to different persons by way of a division of labour. The roles discussed here are key roles that oil the human-trade business as shown in the network-actors diagram in the preceding section of this chapter. For the purpose of a more succinct breakdown, the analysis in this chapter aims to demonstrate how the actors in the process adjust to the trend. This research argues that the shift in response to the trends, occurs not only in the structural organisation of the criminal groups and networks or in the routes taken, but also in the roles undertaken by the actors. The specialisation of the actors shape the routes and the routes in turn shape the specialization. The roles undertaken by these actors follow the notion of the 3Cs - capability, capacity and convenience as argued by this study.

### ***The transporter***

Rusev (2013) refers to transportation as an integral part of the *modus operandi* of smuggling and trafficking of migrants across borders and in most cases is done via corrupt means to circumvent border controls and surveillance. Whether it be termed as transportation or movement, the fact remains that this aspect is the most expensive and crucial part in the trade (Triandafyllidou and Maroukis 2012, Massari 2015, Maungandize 2016, EUROPOL 2016, and Campana 2017). Consequently, the individual responsible for this task is essential to the process of irregular migration. The transporter refers to the drivers; those who take care of the transport to the place of concentration as well as the boat owners and captains that convey the migrants during the onward sea journeys. The FERMO PALESTINESE case indicates that

some clients were picked up from airports, bus stations and locations in the city to be taken to the designated place where they waited for their time of embarkation for the sea journey. These members ensure that the would-be migrants are discreetly transported to prevent any sort of identification. This information meshes with that provided by a settled migrant IMAB, a pseudonym, interviewed in Italy, of how he was transported and concealed as goods to prevent being spotted by the Tuaregs and the authorities during his desert journey from Gad to Sabha and then to Tripoli:

...a special transporter who came from Sabah was then sent to transport me to Sabha and thereafter Tripoli. *En-route*, I was covered with blankets to disguise me and make me look like goods and not a migrant.

(Interview 33)

This account of the *modus operandi* in tandem with evidence from the judicial proceedings (Judicial reports, FERMO PALESTINESE 1). The means of transportation in the desert is the 4x4 pick-up truck while dinghies and fishing boats are procured for the sea journeys. This means that an individual in possession of a resource such as the pick-up truck is well placed to financially profit from transporting migrants. The importance of a transporter cannot be over emphasised. Moreover, driving or sailing skills are equally as important as access to a means of transportation

### *Carers and caterers*

In the FERMO PALESTINESE case, the migrants were held in a farmhouse near Zuwarah or Sabratah. The migrants are guarded by armed individuals. Ostensibly charged with looking after the migrants the carers role is more to ensure compliance, making sure they do not abscond or use mobile phones to contact the outside world. As such they could be seen more as enforcers as carers. In terms of supplying food and drink, this is mainly restricted to the time spent waiting for the sea crossing, as migrants can use the eating houses that exist along the way during the land journey. In FERMO PALESTINESE the migrants describe being fed, albeit little and not often,

I saw ABIA during our stay in the cottage, at least once a day bringing us food. He was armed with a submachine gun and accompanied by other Libyan entities, which are also armed. I want to say that, the food that ABIA carried was a single piece of bread; sometimes, during our stay in this house, we tried to go out to buy something to eat but, we were watched over by armed men, led by Abu-Ibrahim, who denied us the permission...(Judicial reports, FERMO PALESTINESE 1 case, pg. 6)

### *The Guards*

The special task of the guards is to prevent escape. They ensure compliance through intimidation:

“...we tried to go out to buy something to eat but, we were watched over by armed men, led by Abu-Ibrahim, who denied us the permission...” (Judicial reports, FERMO PALESTINESE 1 case, pg. 6)

“...any of us that tried to oppose such conduct, was threatened with weapons pointed to his head...” (Judicial reports, FERMO PALESTINESE 1 case, pg. 7)

Based on the witness testimonies, the same individual who was identified as the controller of the trade was also spotted as part of the guards that restricted their movement. He and his cohorts were sighted at several times armed with submachine guns. Other evidences provided in the court room which implied that the person identified was in fact the same person that was responsible for the organisation of the irregular trip, caused the capsizing of the boat and fire out break on deck which in turn caused the death of numerous migrants. Personal effects recovered from the suspect were further evidence that he lied about his true identity and intention. Such items included his international passport showing nationality, electronic gadgets and

telephone set with which transactions calls were made, bank cards and note pad with details of transactions and agenda (Judicial reports, FERMO PALESTINESE 1 case, pg.23). These are strong indications of criminality laced with deception geared at thwarting investigation and apprehension.

### *Overlooked or Unintended Actors in the Trade.*

Freedman (2012) argues that EU policies rather than seeking to limit or stop irregular migration have resulted in increased insecurities which have forced migrants to take more dangerous routes. In the context of 'criminality', there is the question of whether only those directly involved in smuggling and/or trafficking, the organised criminal groups, should be seen as facilitating these activities, or whether entities less perceptibly involved, such as individual states and inter-governmental organisations such as the EU, should also be held responsible for the damaging effects of smuggling/trafficking.

To establish where criminality lies, it is important to clarify how this thesis understands 'criminality' and the distinction between structural and individual culpability. There have been debates over establishing a universally accepted definition of the criminal elements in the smuggling/trafficking from Africa to Europe via the Mediterranean. In the narrowest sense, a crime is any act or omission which is forbidden by the laws of a state and is punishable under the law. Woźniakowska-Fajst (2016: 1) defines crime as '...a certain identifiable form of conduct that can be defined by law and which is recognised as not conforming to the conventional behavioural model of a given culture'. Criminality, in effect, is identified the moment an offence is perceived by the legal authorities (Turk 1966). However, what constitutes a crime differs from country to country. Many scholars argue that crime is a complex, indefinable phenomenon that is subject to change across cultures; in other words it is socially constructed (Gilinskiy 2001; Peterson 1972; Hurwitz 1951). While murder, rape and stealing are acknowledged the world over and legislated upon as crimes, the same is not true of irregular migration. As shown in chapters 5 and 6, there are very many actors who are involved in the human trade from Africa to Europe via the Mediterranean Sea route and they use a variety of methods. This makes the task of determining the criminality involved complex. While impoverished African migrants and their community see no

criminality in any step they take to overcome the stiff requirements for legal migration to Europe (and in fact will do anything to assist them), their prospective European host country considers their attempt to circumvent immigration/visa rules a crime.

There is also contestation over the question of responsibility for irregular migration. A number of authors have written on the complicity of state actors in causing and aggravating the humanitarian crisis stemming from migration from Africa to Europe (Research and Evidence Facility 2017; Molenaar and van Damme 2017; Hollis 2016, Morvarid 2008). Some have apportioned blame to corrupt African governments that, they argue create the economic conditions that force migration (Research and Evidence Facility 2017; Molenaar and van Damme 2017).

However, the culpability of the EU and the member states and their level of complicity need more consideration. Could the EU member states and the EU as a supranational body have foreseen the migration flows that followed their immigration policies and if so, are they not vicariously liable? If we answer in the affirmative, can such liability be criminal via the notion of aiding and abetting a crime (UN Case File, 2007)? Or, are the European states non-complicit simply because they could not have foreseen the spike in irregular migration and the attendant humanitarian crisis as natural consequences of their policies restricting migration? This research indicates that EU policies have been formulated in such a way as to immorally curtail migration directly leading to the illegality involved in both smuggling and trafficking. Governments and states have a duty to make laws that promote morality not retard it. The EU and member states' various and varying responses to the activities of people smugglers and the upsurge in irregular migration will be examined against this backdrop vis-a-vis the criminality involved.

To understand the level of complicity of the European states in the irregular migration imbroglio, it is important to return to the origin states of the immigrants where restrictive visa policies of the EU member states in and outside the Schengen Agreement deny visas to the majority of applicants who are termed 'economic migrants' (Hollis 2012; Hollis 2016). Hollis also accuses European states of complicity in the destabilisation of parts of Africa and the Middle East, leading for instance, to the uprisings of the Arab Spring and the collapse of the Libyan government. It is argued that the uprisings in

Libya and Syria were manifestations of the sustained information war waged by the West, including the EU, against the governments of both states and supported by direct military intervention by the UK and France, as well as the US (Hollis 2012 & 2016). More important than this, however, is how the EU and its member states have responded to the spike in irregular migration. Since the Lampedusa tragedy of 2015, the EU's use of FRONTEX and changing policies over the rescue at sea of unsafe vessels has come under scrutiny. Prior to 2015, the European Border and Coast Guard Agency was actively involved in search and rescue operations along European coastal borders to rescue migrant boats and hand the migrants over to local European authorities for processing for asylum purposes. However, a political decision was made following the 2015 tragedy to abandon this approach in favour of a policy of containment under which, European states, particularly Italy, have implemented a series of measures aimed at closing off the migratory route through the Mediterranean with little care for its implication for those trapped within Libya's lawless borders (Amnesty International, 12 December, 2017). Under this policy, European states have resourced the Tripoli-based Government of National Accord to 'intercept boats leaving Libya and detain those intercepted in detention centres where they face appalling conditions' (Human Right Watch, 2019). EU policy makers justify this as a political and practical necessity to assert control over Europe's borders as well as a humanitarian imperative to prevent dangerous boat migrations organised by smugglers for financial gain. This EU migration cooperation with Libya is, without doubt, contributing to the extreme abuse of migrants detained in Libyan detention centres where they face inhuman and degrading conditions and the risk of torture, sexual violence, extortion and forced labour. Confirming the EU's knowledge of these conditions, EU migration commissioner, Dimitri Avramopoulos in November 2017, stated, 'we are all conscious of the appalling and degrading conditions in which some migrants are held in Libya'. Indeed, the EU provides support intended to ameliorate these conditions in detention. However, even though that support has had minimal impact on the situation, the EU continues to pursue a flawed strategy to empower the Libyan Coast Guard to intercept migrants and asylum seekers and take them back to Libya. Immigration detention in Libya is against international law not just because the centres mete out cruel, inhuman and degrading treatment, but also because such detentions are indefinite and not subject to judicial review. Amnesty International argues therefore that European governments have not just been fully aware of these abuses, by actively supporting

the Libyan authorities in stopping sea crossings and containing people in Libya, they are complicit in these abuses.

It would seem therefore that the EU was so focussed on curbing migrant smuggling through criminalisation and containment that it neglected its humanitarian and moral obligation to coordinate and undertake search and rescue operations in the Mediterranean (Baldwin-Edwards *et al*, 2018). FRONTEX tripled its efforts at securing the borders along the Mediterranean routes with less attention on protecting the human rights of migrants. It did this by obstructing migrants' basic rights to seek asylum by using force or threat of force to return migrants back across the EU's external borders. Is FRONTEX, and by extension the EU, complicit in the ill-treatment of migrants by its officers as suggested by Stephen Kessler, the head of its Advisory Forum or is it enough for the European Commission to be 'concerned about reports of the treatment of migrants' without redefining FRONTEX's rules of engagement (FRONTEX: World/Social Issues, August 6, 2019)? The disproportionate allocation of funds in EU's 2017 draft budget between FRONTEX - €283m - and the European Asylum Support Office (EASO) - €153m- is a clear indication of the policy direction of the EU (Segura 2016). Furthermore, EU member states are also frequently guilty of not applying international asylum law (Council of Europe n.d).

The EU's partnership with African states is increasingly based on the exchange of economic support, supposedly to raise living standards to diminish the need to migrate, but arguably also a quid pro quo for enhanced counter-migration securitisation policies. Jan Claudius Volkel argues that while the European Commission tried to keep the humanitarian aspect of the migration crisis on the agenda, the governments of certain member states including Italy, Hungary, Poland, Czech Republic and Slovakia stressed the need for increased securitisation. In December 2018, for example, the Italian government passed a new migration law. In particular, the law abolishes humanitarian protection for asylum applicants who do not meet refugee status. Further it withdraws social services from asylum seekers whose requests are pending; stipulates that people whose asylum process is being examined cannot obtain an identification document required if the asylum seeker needs to sign an employment contract; and extends from three to six months the period of time Italian authorities can detain new arrivals while their identities and nationalities are



being checked. Yet, it is exactly this focus on securitisation that is leading to the paradoxical result that the EU is failing in achieving either more security for itself or better safety for the immigrants.

Köhler (2017) commends the comprehensive EU crisis management strategy of applying short-term humanitarian actions and political, legal and development tools to tackle the underlying causes of migration and refugee crisis. However, other scholars are less impressed. Adler (2018) in her report on the EU Mediterranean crisis argues that the European migration policies are unfit for purpose. Her argument points to the fact that the EU policy exhibits a persistent 'screaming absence' with relation to a clear short-term and long-term plan on the management of irregular migration;

...the bottom line, as Italy knows too well, is that there is a screaming absence in EU policy when it comes to a coherent, united and functioning plan to deal with irregular migration in the short and medium term.

There is the underfunded and much derided long-term EU strategy for Africa - aimed at making life better over there so fewer people are tempted to make the risky journey over here. But as millions poured over EU borders back in 2015, the action that truly stemmed the flow was arguably nothing co-ordinated in Brussels, not even the shaky deal with Turkey (Adler 2018:5)

Rather, the issue of migration is often used by populist politicians in EU member states as a policy area intended to win support rather than find solutions to the underlying drivers of migration. The parties to which these politicians belong are becoming increasingly powerful, governing alone or in coalition in a significant number of EU states Adler (2018).

Similarly, Welander (2018), commenting on measures adopted by the European Council in June 2018, is concerned about the EU's ability to meet its obligations regarding migration under human rights law. Despite the EU seeking to emphasise unanimity in its approach to countering smuggling/trafficking, this ambition is

undermined by the disconnect in the discourse adopted by different member states (Neisser 2016).

The EU's comprehensive approach on migration seeks to address irregular migration from multiple perspectives: cooperation with partner countries; external border protection and tools to manage migration inside the EU (Köhler 2017). However it can be argued that in practice there is still a clear gap in humanitarian assistance and the range of tools at the EU's disposal is less extensive than they claim (Köhler 2017).

Henley (2018) argues that the EU's delayed response to the crisis exacerbated the both the numbers trying to cross the Mediterranean and the related drownings. Potentially, the distance between member states precludes a viable solution to irregular migration from Africa to Europe and the concomitant criminality. The key issues identified by Henley (2018), points to the absolute counter-immigration strategies employed by Italy's coalition government since 2018 signalling a definitive refusal by Italy to accept the majority of immigrants from Africa to Europe. This unilateral response runs contrary to the spirit of the Dublin Regulation that requires the state where a claimant first applies for asylum to handle the claim. Hungary had already signalled an intention to cease applying the Dublin Regulation. Burden sharing has also recently become an issue in Germany who initially operated an open border policy until it became overwhelmed with migrants. The overburdened states now demand an EU-wide solution, an idea that appears anathema to the other states such as Hungary, Poland, Czech Republic, Slovakia, France, Spain, and Austria. Guiraudon (2018) on the other hand, argues that part of the reason for the crisis is policy inertia and drift. The system in place is not suitable for handling the numbers wanting to enter Europe without documentation and the capacity of the smugglers/traffickers to transport these numbers (Guiraudon (2018)). This situation further empowers the smuggling rings in whose hands the fate of vulnerable fleeing migrants now lie.

In the long run, the situation today is that of misplaced priorities. Estevens (2018) argues that by concentrating on securitisation, the EU ignored its other humanitarian commitments, a position that might have short-term gains, but engender long-term challenges.

FRONTEX has become a different agency to that envisaged when it was established in 2004. Liaising with Tunisian naval forces and Libyan coast guards from various factions, FRONTEX vessels are now an elaborate part of a security operation often required to return vessels to the custody of these navies and coastguards irrespective of maritime danger or international humanitarian law. Experience shows that increased security on one route invariably prompts the smugglers/traffickers to develop new methods and new routes to service demand (Achilli 2016). The shift from managing borders including deterring and pursuing smugglers/traffickers has shifted to securing borders and preventing the arrival of migrants. Some of the steps suggested by Achilli (2016) include: 'granting humanitarian visas; creating humanitarian corridors between transit countries and Europe; the expansion of European countries' resettlement programmes; and the development of alternative legal routes for refugees – such as family reunification, university fellowships and scholarships, training programmes, private sponsorships, and labour mobility' (Achilli 2016:103). There is a call for an overhauling of the EU policy, seeing that it is clearly responsible for the crisis; especially the refugee crisis that swept through 2015 (Guiraudon 2018).

Human Rights Watch have suggested the EU's unwillingness to consider opening more legal migration channels and processing centres for refugees and asylum seekers portrays the EU as supporting and contributing to the crisis, making it responsible for the activities of smugglers and traffickers across the Mediterranean (Human Rights Watch 2019).

Meanwhile, the conditions for migrants in transit remain perilous. The slave trade in Libya as a result of the migrants' inability to access legal migration channels is classified as a crime against humanity (Mafu, 2019). The EU continues to negotiate with Libyan factions including the faction that controls the coast-guard, whilst FRONTEX works with them to 'push-back' migrants to Libya where they face an uncertain future, exploited for their labour or held in dangerous detention camps. International maritime law requires those rescued at sea to be returned to a port of safety. For good reasons, Libyan ports are not considered ports of safety. Moreover, Libya is still in a state of war. Migrants escaping this war situation are being pushed back into a war situation. The bombing of the detention centre at the beginning of 2019 (Wintour, 2019), highlights the dangers faced by migrants returned to Libya.

The EU, responding to the spike in irregular migration in 2015, has taken steps to prevent a similar crisis re-occurring. In so doing, mutual agreements to forge equitable partnerships have been replaced by hard power tactics (Hollis, 2016: 6). It is not to belittle the culpability of corrupt governments in the countries of origin; the exploitative methods of criminal smugglers and traffickers and the brutality and venality of Libyan factions to single out EU policies as key drivers of smuggling and trafficking from Africa to Europe. The way in which the EU migration policy has developed, notably its quasi-abandonment of the laws of the sea concerning rescue and return, as well as its relationship with governments and factions are potentially illegal under international (and domestic) humanitarian law, maritime law and refugee law. Likewise, securitisation policies have encouraged a, perhaps unexpected, but certainly foreseeable expansion of activities by organised smugglers and traffickers. This category of overlooked actors may not be visible on the illustrated network as presented in Fig. 5.1 but this does not mean they are not complicit. This category of overlooked actors may not be visible on the illustrated network as presented in Fig. 5.1 but they are complicit in one way or the other.

Furthermore, there is very limited material on what roles the religious organisations along the migration routes play in the smuggling process; whether they support or fight against the phenomenon. However, UNODC reports revealed that the determination and stamina to migrate observed in West African migrants, is strengthened by the support and blessings they get from the religious figures of their communities (UNODC 2011, Ellis *et al* 2011). Thus, the migrants rather choose the sufferings along migration routes over remaining poor, dying *en route*, or facing the consequences of bonds broken by their failure to comply with the requirement of rituals performed for them. However, amidst efforts to limit the scourge by some African leaders such as the Gambia government's programme to discourage migration in the Gambia youth with reference to the experiences of previous migrants (Luda di Cortemiglia *et al* 2018) were also recorded other community initiatives with the vision to reduce the desire to migrate in young people. In this vein, faith-based organisations were recorded to have organised initiatives towards skills acquisitions with the help of community-based organisations. The reports nonetheless, stated that the religious leader were still found wanting in their involvement in the activities and debates relating to human

smuggling (Luda di Cortemiglia *et al* 2018). In some cases, religious and ethnic networks are alleged to have been used along the Sudan and Libyan borders as risk-reduction strategies in the moment of migrants along the routes (Ayalew 2018).

## Conclusion

Findings from the judicial proceedings examined, mainly FERMO PALESTINESE 1, cross-checked with the semi-structured interviews conducted in the field, indicate that there are both intentional and unintentional actors facilitating irregular migration on the Libya to Italy route. The chapter endeavoured to categorise both these sets of actors. In so doing it becomes clear that the multi-tasking actors typical of the fluid and unstructured criminal networks of the 2000s have been replaced by a more nuanced and differentiated set of actors that play specialised roles. To this end, the chapter examines the complicity of actors often overlooked including the EU as a supra-national body and the role of individual member states. Though not shown on the 'actors in the network' illustration, their actions drive the trade, too often resulting in terrible outcomes.

The research extrapolates from the judicial proceedings a detailed understanding of the roles undertaken by individual actors within the networks. It uses the concept of the 3Cs - *capability, capacity and convenience* – to better understand how these actors fit into the transportation process. It becomes clear that the 'professional' smuggler is in the minority when it comes to facilitating the movement of irregular migrants both along the land routes and across the Mediterranean. Those involved along the land journey are both full-time local entrepreneurs and 'artisanal' operators who have moved into migrant corralling and/or transporting as a 'family business' and others who have other ways of making money but become involved when money-making opportunities arise. Whilst not necessarily full-time smugglers, these links, in the process, fulfil specific and specialised roles such as recruiters, transporters (lorry drivers and boat captains), carers, caterers and guards.

The way in which these actors treat the migrants that they accommodate, or transport can vary depending on their relationship with the smuggling process – intentional or unintentional. However, at critical junctures, in particular at the points of embarkation in Libya, evidence gathered by this study indicates that the actors involved are

becoming less restrained in the use of violence and coercion against migrants. This will be explored in the next chapter.

## Chapter 6 THE MODUS OPERANDI

This chapter will critically examine the irregular migration of persons across the Mediterranean as a pattern of organised criminal activity, focussing on the *modus operandi*, or the ‘way of operating’, employed by the criminal networks in the smuggling of persons.

Based on recorded deaths in the Mediterranean it can be concluded that irregular migration from Libya to Italy has become increasingly global (Den Boer, 2006, Monzini 2007, Koslowski, 2011, Boch and Chimenti, 2011, Cheng, 2013 Doornik, 2013 and *The Economist* 2016). Yet, as demonstrated by the findings in this study, migrants despite the challenges and threats to their lives continue to make the journey. Reflecting on the cause, some scholars argue that this voyage is a phenomenon understood in terms of the availability of people smuggling and trafficking services, the search for ‘greener pastures’, and escape from socio-political crises (Morehouse and Blomfield 2011, King and Debono 2013, Triandafyllidou and Dimitriadi 2013, Reitano, Adal and Shaw, 2014). Others see the causes of the phenomenon in terms of criminal practice based responding to existing national legislation and immigration policies (Provera 2015, Van Liempt 2016, Carrera and Guild 2016). When it comes to the prevailing mode of these irregular operations and the degree to which criminal activities are involved, scholars are less clear (UNODC 2011, UNODC 2006). The methods employed by the people smugglers in carrying out their operations are sufficiently diverse and complex to evade ready understanding or even prosecution. It is likely that, as Triandafyllidou and Dimitriadi (2013) say, that the ‘Arab Spring’ contributed to the geopolitical changes and the subsequent new migration flows, but what is less clear is the degree to which organised crime groups were actively involved in exploiting the situation and promoting the migration process which this study refers to as the ‘human-trade’.

This chapter addresses the second objective of this research, namely to compare the findings of this research with current explanations of the criminal elements in human-trade. It explores the *modus operandi* of the criminal activities involved in the Libya-Italy migration and examines the diverse strategies utilised by the smugglers. It

examines how smuggling operations are run; strategies adopted to ensure compliance from the migrants and at the same time circumventing regulations and defying investigation and the different roles and techniques employed. In supporting the main argument of this work which holds that the criminal organisation driving the human trade from Libya to have significantly changed, this chapter argues that their recent *modus operandi* are not only 'specialised' but also that the means used to recruit, corral and transport irregular migrants has become increasingly violent and unrestrained.

The analysis is drawn from the examination of judicial proceedings of irregular migration cases tried in Italian courts and analyses of interviews with irregular migration experts. These two data sources offer a unique insight into the complexity of the phenomenon and together offer substantiation to reduce potential bias from a single source. As noted in the previous chapter, the judicial proceedings examined are selected court cases from 2013 that cover different aspects of the phenomenon. The evidence presented in the court comes from witnesses statements by victims of the people smuggling as well as records of wiretaps of phone conversations between the smugglers.

In particular, this chapter employs evidence from:

The FERMO PM MUHIDIN case against Elmi Muhidin Mouhamud.

The FERMO PM SCAFISCA case.

Elsewhere in the chapter reference is made at times to the FERMO PALESTINESE 1 case and the FERMO PM GLAUCO case.

The two selected cases demonstrate the *modus operandi* of people traffickers and smugglers from Libya to Italy. The witness statements show how the different criminal groups carry out their activities and how the migrants were treated in the desert and on the sea journey. While FERMO PM MUHIDIN details the workings and techniques of the criminal groups across the Sahara desert, the FERMO PM SCAFISCA lays bare the techniques employed by those responsible for ferrying migrants across the sea



into Italy. Both cases arose from criminal investigations following the migrants' shipwreck of 3/10/2013 off the Italian island of Lampedusa when 366 lost their lives.

### **The FERMO PM MUHIDIN Case**

The survivors of the 3 October shipwreck, all of Eritrean origin, were housed at the Reception centre (CPA Lampedusa) pending completion of identification and processing of asylum applications. On 25/10/2013, there was an attempt by some of the survivors to lynch a Somali citizen at the centre who had also landed 03/10/2013 but in a different boat from that of the Eritreans. The Eritreans identified the Somali, Elmi Muhidin Mouhamud, as the leader of a group of armed men who had been responsible for their kidnap, torture and extortion while they travelled from Eritrea to Libya in an area between Sudan and Libya.

On the intervention of the police, eight of the Eritreans, through interpreters and in the presence of a lawyer, provided spontaneous verbal statements detailing the circumstances of their kidnap and the violence meted out to them by the suspect, and his accomplices. Specifically, their statements claimed that about 130 of the Eritreans were accosted in the desert by an armed band led by the suspect. Allegedly, they were forcibly taken to and locked up in a large house under the control of Muhidin and the band. The families of the migrants were ordered to pay a ransom of \$3300 for the release of each migrant. They were also tortured, starved and racially abused by their kidnappers. The women were also sexually abused and "offered as gifts" to Libyan men.

The statements revealed that their detention lasted for a period of two weeks after which they were transported to Tripoli and handed over to another criminal gang who arranged their trip across the sea into Italy. The trip only took place after their individual families had paid an average sum of \$3000 for each of the migrants into a bank account designated by their captors. The migrants were later made to pay individually a further fee ranging from \$1600-\$2000 US dollars to be ferried across the sea into Italy. It was their subsequent trip across the sea that resulted in the shipwreck of 3/10/2013.

The defendant, Elmi Muhidin Mouhamud in fact denied all the allegations, insisting that he was a simple migrant just like the others. Nevertheless, based on the statements given by the migrants, Elmi Muhidin Mouhamud was prosecuted, accused of:

- (1) Conspiracy and participation in criminal activities of a criminal group under Article 4L. 16 n.146
- (2) Kidnapping for ransom under Article 605 Penal Code of Italy
- (3) Trafficking in Persons (Article 601 Penal Code)
- (4) Sexual abuse (Aggravated) Article 609 *bis* Penal Code and
- (5) Facilitating smuggling under Article 12 L. paragraphs, 1 a, b, &d.

The contentious matters at the trial were the existence or otherwise of a criminal organization and whether or not the Italian courts had jurisdiction to try the accused person, bearing in mind that the migrants ship was intercepted on international waters. Some of the disputed legal questions included: Could the defendant be said to have participated in the activities of an organized criminal group? Could he be said to have conspired with elements of the group based in Libya and Italy? What is the relationship between *actus reus* and *mens rea* in the offence of procuring illegal entry?<sup>11</sup>

## LEGAL FINDINGS

The court found:

- (a) That the defendant was indeed a member of a “highly structured and transnational” organized criminal group based in Africa, acting with the purpose of obtaining a financial or other material benefits, and dedicated to the smuggling of migrants.

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<sup>11</sup> Guilty knowledge and wilfulness. A fundamental principle of Criminal Law is that a crime consists of both a mental and a physical element. *Mens rea*, a person's awareness of the fact that his or her conduct is criminal, is the mental element, and *Actus Reus*, the act itself, is the physical element.

(b) That the defendant directly managed an illegal detention centre in the Sahara Desert where, together with his unidentified collaborators, he subjected the migrants to violence and the women particularly were sexually abused.

(c) That the defendant and his group also organized the further transportation of the migrants from the Sahara Desert to Tripoli.

(d) The fact that these acts were done with intent to obtain financial or other material benefits; more than five people were smuggled; more than three people were involved in the criminal act and the life and safety of the migrants were endangered constitute aggravating circumstances.

It was also the finding of the court that the accused person showed no sign of remorse.

In adjudging the defendant a member of a criminal organization, the court considered the indispensability of the accused person to the activities of the organized criminal group as a crucial element in determining his level of involvement. The defendant and his gang were responsible for supplying a large number of migrants to the Libya based group. He was therefore somewhat indispensable to the activities of the criminal group. From the level of his involvement and indispensability can be inferred criminal conspiracy. In respect of the crime of procuring illegal entry, the court reasoned that that was the intendment or natural result of the defendant's actions. It ruled that the commission of the offence is independent of actually achieving the result intended. It is enough that the defendant did the things he was alleged to have done. In other words, the courts look at the *actus Reus* or conduct which is a constituent element of the crime, as opposed to the mental state of the defendant (*mens rea*).

### *Jurisdiction*

Under Article 6 of Italian Criminal Code, for the lawful exercise of jurisdiction, it is necessary that the action or omission that constitutes the offence takes place, wholly or in part, in the territory of Italy. Italian courts will equally assume jurisdiction if the natural result of the act or conduct occurs in Italian territory. In this case however, the transportation of the migrants from Tripoli to Italy was interrupted on international waters by the Search and Rescue operation of Italian authorities. In other words, the ship and migrants were intercepted before reaching Italian waters or territory, meaning that the natural result of the defendant's acts "ordinarily" did not occur in Italian

territory. It was the opinion of the court that this did not preclude Italian courts from assuming jurisdiction. The court reasoned that authorities are under national and international obligation to attempt to rescue the migrants from a potentially deadly situation. The authorities, in this sense, act under a state of necessity to prevent the death of the migrants. The jurisdiction of Italian courts is therefore not precluded on account of this intervention. This finding thus prevented an impunity gap in the prosecution of organized crimes and once again gave effect to Article 5 of United Nations Convention against Transnational Organized Crime (UNTOC).

### *Verdict*

The defendant was found guilty of criminal conspiracy for the purpose of smuggling migrants as well as procuring the illegal entry of migrants into Italy. He was accordingly given a maximum sentence of thirty (30) years imprisonment and ordered to pay reparation to the municipality of Lampedusa, Italy.

### *The FERMO SCAFISCA Case*

The case of FERMO SCAFISCA was about unmasking the person or persons that organized or led the sea crossing of 02/10/2013 which resulted in the shipwreck of 03/10/2013. At the time, the Lampedusa shipwreck was the worst of its kind and had necessitated the launch of Italy's search and rescue operation, otherwise known as Mare Nostrum. BENSALAM (alias BENSALAM KHALED) a Tunisian national born on 12/11/1978 was the sole defendant prosecuted for the shipwreck of 03/10/2013 off Lampedusa. He was, among other things, accused of belonging to and running a criminal organization engaged in procuring for profit, the illegal entry into Italy of about 250 foreign nationals, in violation of existing legislation on immigration.

In their spontaneous statements to the police and Coast Guard, the survivors narrated how the boat came to grief and what led to the loss of 366 lives that were on board. They went further to state that the boat was captained by two "white men" or subjects

of lighter complexion than the Eritreans, complexion typical of the people of Libya and Tunisia.

Following a survey of the survivors, the suspect was discovered to fit the above description exclusively. His complexion was lighter than that of every other person and he was also the only one of Tunisian origin. The rest were Eritreans. One other detail that led to the suspect away was the wound and bandage on his right arm. The injury was observed to be consistent with burns sustained in a fire, thus confirming his proximity to the area from where the fire started on the boat. Moreover, when interrogated, the suspect confessed that he captained a boat of migrants that landed earlier on 11/04/2013, which also recorded a lone Tunisian on board. His confession was proof that he had sea-going-experience. In summary, the witnesses or depositors were able to provide a reconstruction of the facts in a fair and consistent manner and were all agreed on: 1. The business underlying the tragic journey. 2. The arrangement for boarding in Libya. 3. The presence of only Eritreans or citizens of central Africa amongst the travellers. 4. The conduct of the boat by two Arabs or persons of lighter skin complexion than the Eritreans. 5. The presence of 500 or more travellers on the boat. 6. The voluntary stop of the boat for about one to two hours along the coast of Lampedusa while waiting for someone to come along and rescue them. 7. The why and how the fire was started on the boat and the stampede that followed and the consequences thereof. 8. Three of the witnesses positively identified the suspect as the person who captained the boat while being assisted by a younger fellow of the same tribe or nationality who presumably perished in the disaster. On the basis of this identification, the suspect was formally charged and tried in the law court for several offences including:

1. Conspiracy, participation in the activities of a criminal organization through the facilitation of illegal immigration (Articles 81 C.P; 110 C.P, paragraphs 3 a -e.)
2. Multiple murders and voluntary shipwreck (Articles Para. 40; 110, 428 Penal Code)
3. Associated offences (Para. 40, 81,110, 575,576n. 1, 61n. 2 C.P.)

## LEGAL FINDINGS

The court believed the evidence of the witnesses regarding the *modus operandi* of the criminal organization responsible for their transportation from Tripoli across the sea to Lampedusa. The witnesses had in their independent and spontaneous statements detailed their ordeals at the hands of their minders as they were kept at the collection centre and later moved to the embarkation point by the beach. They were made to pay between 1600 and 2000 US dollars as fee for their transportation to Italy. As soon as a ship had been found for their trip across the sea, they were shepherded to the beach from where they were put first, on a small boat and ferried to a bigger fishing vessel out on the sea for the trip across to Italy. It was at the point of embarkation that all their valuables, including clothes, telephones and laptops were forcibly taken away from them. Again, armed Libyan men with machine guns were on hand to ensure their compliance.

All the witnesses confirmed that the vessel was captained by two Arabs of skin fairer in complexion than that of the Eritreans and Ethiopians. These “white men” were not part of the travelling migrants but were the ones manning the boat. While the older of the two men was in his mid- thirties, the younger one's age was put as between 22 and 27 years. Bensalam Khaled, the defendant was identified as the older one and captain of the vessel, while the younger one died in the shipwreck. The court accepted the defendant's positive identification by the witnesses and also took into consideration the defendant's confession of a previous landing and the presence of burns on his body to conclude that he was indeed the captain of the vessel. It relied on the principle of “convergence of multiples” as the statements of the six witnesses were fair and consistent with the hypothesis of the investigation.

Having been identified as the “smuggler” who transported the migrants from Tripoli to Lampedusa, the defendant's conduct was held by the court to come under Article 12 of Legislative Decree 286/98 which penalizes people or migrant smugglers. The court noted the different stages of the smuggling operation including recruitment of migrants, payment of a fee, lodging at the collection center, dispossession of valuables and embarkation as proof of the existence of an organization dedicated to the smuggling of migrants into Italy. The defendant was deemed to have been a participant in the

activities of a criminal organization and was responsible for the last stage of the operation. This view of the court was further corroborated by the statement of a witness (Tekeste Tesfahiwet) who claimed to have seen the accused person consulting with the armed Libyans at the place of embarkation.

The witness statements also showed that the vessel was deliberately stopped a short distance before Lampedusa as it was the practice of the smugglers. The vessel at that point had no engine problem but was stopped deliberately to call for and wait for rescue by the authorities. While waiting, however, due to a lot of movement by the expectant passengers, the vessel tilted and began to take in water. In desperation, the defendant lit up a flare to attract more attention. The vessel accidentally caught fire in the process. The court held that this amounted to a voluntary shipwreck under Article 428 C.P. and convicted the defendant accordingly. He was also convicted for the murder of all persons lost in the shipwreck.

### *Verdict*

Bensalam Khaled was found guilty of conspiracy and participating in the activities of a criminal organization dedicated to procuring illegal entry of migrants into Italy. He was also convicted of voluntary shipwreck and multiple murders. He was sentenced to a prison term of eighteen (18) years in Italy.

Together, the two cases paint a picture of opportunistic desert criminal groups, who kidnap, torture and extort from the victims/migrants, and who pass the migrants on to other criminal groups in Tripoli for the onward journey; and of Libyan gangs who abuse the migrants while they house them and then when they transport them across the Mediterranean. These acts were carried out with amoral attitude to human life. In particular, the FERMO MUHIDIN case exposes how the migrants were forced against their will to follow the instructions of the criminal group made up of about 50 armed men, between Chad and Libya. According to one key Eritrean trial witness, D T , the 130 migrants were forced onto vans which conveyed them over 6 days to a house on the outskirts of Sebha, Libya. It would appear that some of the tribal militia of the desert, especially Tuaregs and Tebu, have taken advantage of migrants

crossing the region and have become involved in the human trade. The use of force is a recurring theme in the operations of the people smugglers from Libya to Italy. The desert armed gangs move in large groups which can easily overpower the migrant parties. A witness statement by K M spoke of 50 Somalis and Sudanese being kidnaped and forced at gun point en route Libya and thereafter held hostage in a house in the village Sebha. Even at the safe houses awaiting the trip across the sea, according to the FERMO PALESTINIAN 1 case, migrants are confined and guarded by armed men who restrict their movements. The statement of M M in that case spoke of how the migrants were led to a farmhouse near the town of Zuwarah where they were held for about 3 days and payments of about one thousand six hundred (1,600) dollars were made to Abu-Ibrahim for the direct trip to Europe.

According to the witnesses the only food that Abu-Ibrahim brought them during their stay was a piece of bread. He was armed with a submachine gun and accompanied by other armed Libyans.

Again, force and arms are used to keep the migrants in check even in the safe houses that the desert gangs and those who organize the sea crossings make use of. This is to ensure the payment of ransoms by their families. As the migrants understandably do not travel with cash, it follows that the only way these bandits could profit from their kidnap is to demand ransom money from their families. The case of MUHIDIN revealed how the kidnapping groups force the captured migrants to place telephone calls to their families and friends requesting that they pay the ransom demanded. They are given bank accounts specially designated by the kidnappers for this purpose. To ensure that the ransom is paid and paid quickly, the kidnappers routinely starve and torture the migrants. They are also put through other forms of dehumanizing experiences to hasten efforts by their families to pay the ransom. K M and D T (witnesses in the PM Munhidin case) spoke of redemption fees of about \$ 3,300 US for each migrant. Migrants were confined in a room for about 10-14 days until the monies requested were confirmed to have been credited by their families to the bank accounts the kidnappers provided



Force is also used by both desert gangs and the boat operators to dispossess the migrants of all valuables, such as telephones, money, clothes and accessories and identification documents. D T and K M , witnesses in the FERMO PM MUHIDIN case, spoke of being deprived of their belongings, detained in a house in the village of Sebha, beaten with a rubber and threatened by death until \$3,300 US dollars was paid by the families of the migrants.

Besides the evidence of force, it has long been believed that these criminal groups cannot possibly be thriving without connivance with state actors (see chapter 7 for a detailed discussion). According to a witness statement in the FERMO PM MUHIDIN case, migrants were moved from Tripoli to the embarkation point in a military van. This suggests collaboration with state security authorities or rogue elements within government military.

A further revelation concerning the *modus operandi* of the human smugglers from the judicial proceedings concerns the sea crossing strategy. We learn from SCAFISCA the method employed by the smugglers to attract rescuers once far out on the sea. Since most of the boats are ill suited for the perilous journey across the Mediterranean, those who captain the boats use a variety of means to attract rescuers before they sink or perish. As mentioned above in the case of the tragic shipwreck of 3/10/2013 off the coast of Lampedusa, when the boat was in danger of sinking, the captain sent out distress radio signals to attract the attention of the Italian Coast Guards and other sea going vessels nearby. It was also his decision to light up a blanket, sprinkling it with diesel, in order to use it as a visual indicator. It was this unfortunate act that set off a chain of reactions that led to the sinking of the boat and the loss of hundreds of lives. Concerning the access of people smugglers to available boat captains, BENSALAM KHALED in the FERMO SCAFISCA case was tried as the captain of the ship that sank on 03/10/2013. In the course of interrogation, he confessed to being also the captain of a boat that previously arrived 11/04/2013. It is on record that that previous arrival had a lone Tunisian survivor (BENSALAM is a Tunisian). It means therefore that Bensalam Khaled must have found his way out of Italy after that previous arrival and returned to Libya to again lead another sea crossing. He could have done this many more times before that of 03/10/2013 and there could be many more like him.

## ***Criminal strategies and tactics***

Research identifies the smuggling of persons as transnationally driven by transnational criminal networks in form of ad-hoc operations carried out in border towns for profits (Dimitriadi 2016). Criminal organisations are employing increasingly sophisticated methods (Interpol 2015), determined by the jobs/operations to be carried out and the profit expected. The organisation is therefore task-motivated in a form of “...set of links that attach and disengage depending on the *modus operandi* and monetary compensation offered” (Triandafyllidou and Maroukis 2012, Dimitriadi (2016:66). There is evidence too that characteristically, adjustments to tactics and charges are made according to changing institutional frameworks and protocols or that more professional networks and specialised groups emerge to handle the new scenarios (UNODC (2010).

Before analysing the evidence from this research concerning the roles and the strategies employed by the smuggling groups, it is important to highlight the three key elements identified concerning their sophisticated *modus operandi*. The judicial proceedings and the interviews revealed: the use of deception; the demand of inflated transportation costs; and use of operational success to advertise and recruit. It became apparent that the actors are inter-related. Using the FERMO PM MUHIDIN and FERMO PM SCAFISCA cases, it is possible to summarise in diagrammatic form the links between the actors and the roles they carry out.

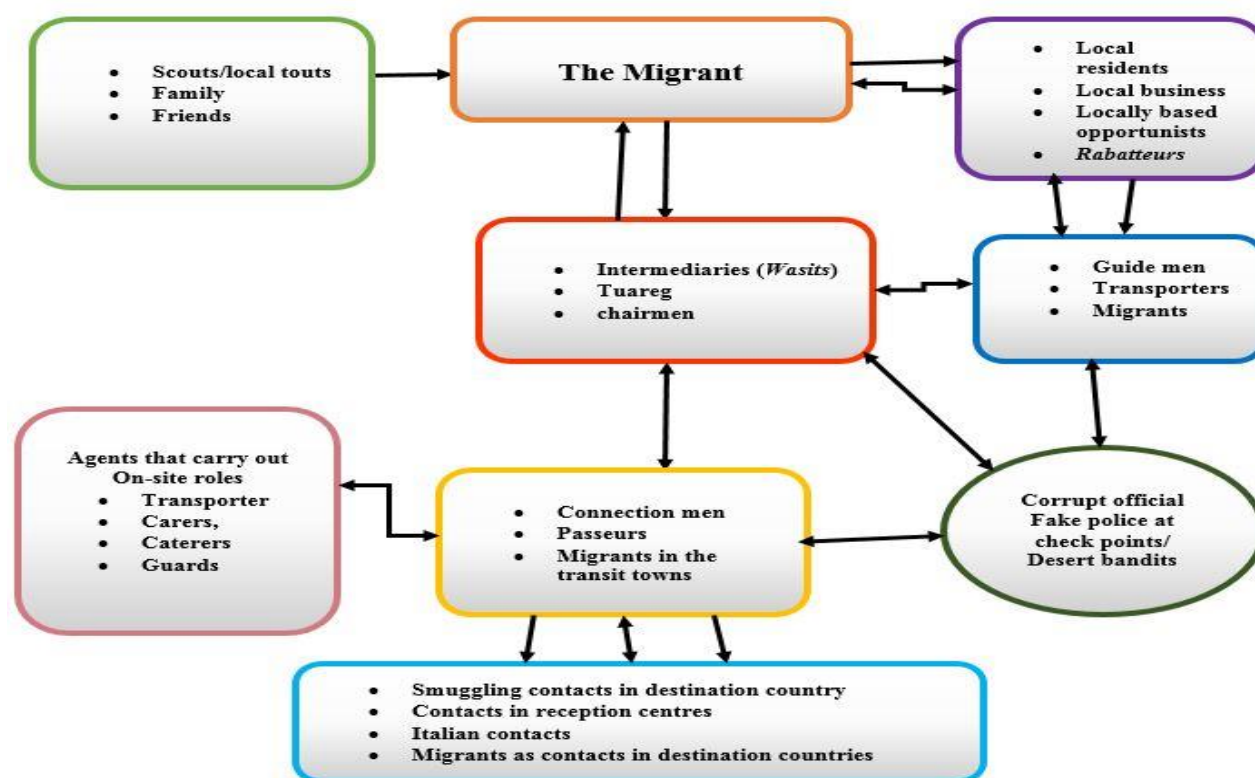


Figure 6-1. Role/Task motivated Smuggling Network Model (source: the author)

The diagram above illustrates the diverse actors found in the human trade from Libya to Italy. The arrows indicate the inter-relationship between the actors and flexibility of their roles.

## Key elements of migrant smuggling

### The Element of Deception

Research indicates that people smuggling from Libya to Italy often commence with would-be migrants being in contact with *passeurs* who organise migrant movement and transportation. Would-be migrants may be recruited or introduced to the *passeurs* by local gangs/groups using either scouts or posing as tour operators (UNODC 2006, Reitano, Adal, and Shaw 2014, INTERPOL 2016); or by locally based opportunist, local business/entrepreneurs; and in some cases by family members. The assumed

local travel agency or connection men quote prices for the prospective transportation of person according to the means and routes and a contract is drawn up. The findings from the FERMO PALESTINESE 1 case and the FERMO Scafisca case record witness testimonies on how inquiries were made by the migrants in search of organisations which organised clandestine travels. One of the migrants, J P , testified about how they contacted the accused (the smuggler) by phone and how they handed the demanded payment to the presumed head of the travel organisation (Judicial reports, FERMO PM Scafisca, 2013).<sup>12</sup> This finding raises questions regarding the sincerity of motives. Did the smuggling groups deliberately hide their criminality? It appears that most times these actors are perceived as sincere business persons offering foreign travel avenues. At this point the migrant may not perceive the smuggling agency or even the act of consulting the agent as criminal or illegal. This was the case of the Kurdish women who were observed to have perceived the smuggler as providing them immediate needed assistance. The smuggling agencies at this initial stage present themselves as ‘helpers’, ‘genuine business outlets providing needed services’ ‘meeting an essential need’. As an Italian judge who prosecutes irregular migration and anti-Mafia cases responded in an interview:

People request for the services of smugglers... they pay whatever kind of money they were requested to pay... the smuggler is seen as tour operators, that have travel agencies where people come to request for their services to travel. Trips are organised from Central Africa to the shore of the Mediterranean, which is the first part of the journey; from the shore of the Mediterranean to Sicily by boat, the second part; and from Sicily to final destination, which is the third part  
(Interview 1)

Given that judicial evidences are weighed, his submission may be regarded as a defensible assessment. The smuggling organisations present themselves as tour operators as means of masking the criminality involved. This corroborates the observation of Liempt (2011) who suggested that irregular migration was being

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<sup>12</sup> Testimony of J P

perceived as assisted migration. In the case of the Kurdish women and others, they may well be inclined to believe the legality of the operators since it was safer to embark on the perilous journeys than remain in their war-torn country of origin. In Sudan too hosting smugglers offer East Africans travel services for not less than one thousand Euros per migrant (Deutsche Welle 2015). Smugglers in places such as the Horn of Africa have been referred to as carriers or *mukhalis*, a word which means ‘...alternative migration experts who reduce the chance of getting caught’ (Van Liempt 2011:183). Smugglers then create an impression of being helpers and agencies who aid travellers in ensuring that their desired destination is achieved. The concept of deception in this context is two-sided, applied by both the smuggler and the smuggled, aiming to evade border checks and requirements.

Migrants’ testimonies from the FERMO PM SCAFISCA and FERMO PALESTINESE cases reflect the deception of the smuggling rings at their first meetings.

- (a) J P stated that he had previously contacted Ermiyas (the smuggler) before his arrival from Sudan, and he was received and transported to the collection centre by the said Ermiyas and other Libyans (supposedly members of the organisation). On arrival, a prior agreed money was given to Ermaiayas for the payment of the trip (Judicial reports, FERMO PM Scafisca, 2013).
- (b) Kiro Ali stated that he arrived in Libya from Syria and started making contacts to arrange a trip to Europe as a result of the instability which plagued Libya at the time. He was directed by Nasser, a Palestinian, who gave him the number of Abu-Ibrahim. His arrangement with Abu-Ibrahim indicated that he needed to get to the city of Tripoli by plane by 11.01.2013. On arrival, he found some men waiting for him at the airport, which led him to the home of Abu-Ibrahim, where he found other Palestinian men - also travellers. On his arrival, he paid the sum of two thousand (2,000) dollars for the trip. After which he and the rest of the other travellers were moved to another house owned by a Libyan where they stayed till the evening of their embarkation; November 2, 2013 (Judicial reports, FERMO PALESTINESE 1 case).
- (c) Gharsedin Hilmi who arrived from Syria was working in a company that dealt in air-conditioning equipment. He stated that he knew about the travel organisation from his colleague who supplied him with the phone number of the

Palestinian who was in charge of the business of organising the journeys. After contact was made, he was led along with other travellers, by the Palestinian to a cottage in Zuwarah where they stayed for while waiting for their travel. (Judicial reports, FERMO PALESTINESE 1 case,);

- (d) B R stated that he and three of his friends had got the number of a smuggler known to be responsible for organising clandestine travels, contacted him (the smuggler), and explained their need to him. According to the testimony, B 's location was enquired and a car was sent to pick them up and conveyed to a cottage where they stayed till the date of their embarkation. (Judicial reports, FERMO PALESTINESE 1 case, 2013).

The reception these four migrants (witnesses) received, such as being conveyed (picked up) from their different locations and assembled in the waiting place before the embarkation trip, gave no indication of the dehumanising treatment that was to follow. The initial show of favouritism was a façade and part of the deception which is prevalent at the initial stages of the human trade. This goes to show the extent the networks are willing to go to achieve their aim.

The consistency of the evidence provided by the testimonies of the witnesses is considered plausible. Consider these accounts given to police when questioned in the first welcome centres. They were recorded in the FERMO PALESTINESE case. Box 6.1 below presents excerpts from 3 testimonies in the FERMO PALESTINESE 1 case tried in Palermo.

**Box 6.1*****Excerpts from witness testimony – Judicial proceeding of the FERMO Palestinese 1 case at the court of Palermo.***

I personally telephoned Abu-Ibrahim, explaining our needs and I was asked by him where we were in order to send someone with a car to be picked up. The man sent by Abu-Ibrahim, led me and the other three of my countrymen, in a cottage near Zuwarah, where we stayed for three days... (pg. 8)

In conversations with some of my countrymen, I became aware of the opportunity to reach Italy... (pg.10)

...I contacted Abu-Ibrahim, the latter informed me that, in order to organize my departure for Italy, there was the need for me to reach near the city of Tripoli; so I boarded a plane on 11.01.2013. Arriving in Tripoli, I found some men waiting for me at the airport, who then led me to the home of Abu-Ibrahim, where I found other men of Palestinian nationality... (pg. 20)

**6-1. Testimonies from the FERMO PALESTINESE 1 case**

These testimonies in Box 1 not only depict the guise of sincere business agencies but also the cordial treatment the migrants are made to believe they will be given for the services they are about to pay for, as also reflected in the testimonies of witness in the FERMO PM SCAFISCA case. It equally reflects the roles of local informants (scouts), business and transporters as members and facilitators of the smuggling process as illustrated in the Role/Task Motivated People smuggling Network Model in Fig. 1.

The same deception is illustrated in a journalist report that the sought after 'King-Pin of people smuggling Germany' had overwhelmed his victims with his deceptive charm (Perry and Agius 2015). The report details that based on the preconceived notion that the European immigration procedure would automatically grant children (an unaccompanied child) asylum, parents allow their children to be picked up from refugee centres such as in Ethiopia when the offer is made by the human smugglers to transport them for free to Europe. Unfortunately, the moment these children are taken, the families are billed about 3,600 USD for their journey to the Mediterranean and across the Mediterranean. They are held in one of numerous warehouses until

payment is made (Perry and Agius 2015). These smugglers/traffickers fail to exhibit any sense of morality in the way the fate of the children are handled

Examining the above responses, this study argues that *Deception* is a key element of the *modus operandi*. This enables the smuggler to effectively begin the process of the smuggling activity, with would-be migrants attracted by the presumptions that they are being assisted to achieving their goal of escape to safety.

### *Inflated Transportation Costs*

The second key element identified from the roles and task undertaken by the organisers, connection men and *passeurs* is the aspect of inflated transportation costs. Testimonies of migrants in the FERMO PM MUHIDIN reveal large sums extorted from migrants and migrants' families after being kidnapped and in the FERMO PM SCAFISCA case large sums demanded as payment for organising travel from migrants. The monies extorted was recorded to be as much as 3,300 USD (Judicial report, FERMO PM MUHIDIN), while the monies demanded as payment were in the neighbourhood of 1,600 USD. Often, in the case of trafficked migrants such as Nigerian girls who are often trafficked for sexual exploitation, payment could be made not only by the sending families or local sponsors, but also from abroad. This is because the contemporary smuggling and trafficking network through which these actors organise their enterprise, enables them to advertise their 'wares' to prospective customers abroad in the trafficking – for exploitation - trade. As an investment to their business, they decide to sponsor the transportation of their victims across the borders. This additional means of recruitment by the trafficking rings, particularly in the case of sex exploitation, was highlighted in a discussion with International Organisation for Immigration (IOM) representatives in Palermo. The IOM representatives detailed various instances where they had to deal with sensitive cases, such as with victims found to be at the mercy of the investor from abroad who may have decided to take off the bill of transporting the victim and thereafter resume another regime of exploitation. The representatives explained that:



Sponsors from the destination countries are contacted and they make a promise to “to help the girls/victims”. Most of these girls come from a culture that the children are expected to take care of their parents instead of the other way round...the payment is the same be it minor or adult. Also the migrants are usually told they will board a plane and would finally find out that they would actually have to go through the desert and then take the boat... (Interview 19)

...as for the other girls who could not pay, after being forced to suffer violence of various kinds including that of carnal knowledge, they were given the opportunity to speak to this Aziz, an Eritrean man who lives in Tripoli and that is part of ' criminal organization of Ermies Abdelrazak...we embark clandestinely for Europe, this man following requests arranged to pay the ransom of girls with no money, and the same once arrived in Tripoli in debt ...(Judicial reports, FERMO PM MUHIDIN case, Pg. 12)

In view of the response and the testimony quoted, transportation costs demanded by the smugglers are often beyond what regular migrants from an average background can offer. This inability to meet the demanded fees ushers the migrant into an epoch of exploitative experiences by which the smuggler ensures that the migrant either works to earn his/her freedom or makes arrangements for more funds to be transferred to the smuggler by the means of local banking system known as *Awhala*. Journalist reports by Perry and Agius (2015) reveal children (mostly unaccompanied children) being held in warehouses until their devastated parents are able to pay the inflated transportation prices of about 3,600 USD per child. Though these children are voluntarily given to the smugglers, they have been deceived that their transportation would be free, and end up as hostages or live-automated teller machines (ATM) for the exploitation of their parents. This situation is in line with the ‘voluntary victims’ of Aziz, Monzini, and Pastore (2015) which are reflected in four ways; hostage holding of migrants, coercion to get on the unseaworthy boats, arrest by questionable officials, and unlawful detention or forced into exploitative labour. Literature further reveals that there is usually a contract between the smuggler and the smuggled which often times

entails the smuggled paying the smuggler ridiculously high prices to transport him/her across international borders. The evidence of the inflated prices paid for the movement by migrants from Libya to Italy such as €1000 is found in the majority of the interviews conducted. Despite these payments, the would-be migrant still undergoes a series of dehumanising treatments which the smuggler perceives will ensure complete compliance from the would-be migrant and enable their further exploitation. An instance is the evidence reported by the MNSA Migrant First Welcome Centre coordinator of ‘...60 people who were held in a room of 14 metres, without water and food awaiting their transport...’ (Interview 7, 2015, MNSA Cord. reports).

Meshing their response with the above quote from a witness’ testimony demonstrates that this *modus operandi* of inflated transportation costs as means of taking advantage of financially incapable would-be migrants is a lucrative means of investment for organisers of crime (see Shelly 2014, OECD 2015, UN 2011).

### *‘Operational Success’ to market and recruit*

Another relatively new revived element is the advertisement and recruitment by virtue of successful operations. Findings suggest that formerly trafficked migrants often advertise the business to other willing applicants who perceive that the business answers their quest. This same pattern is also replicated for migrants who have already arrived in transit countries such as Italy who desire to proceed to other European countries. Migrants are observed to be lured by perceived better lives of luxury lived by successful returnees or counterparts yet in the diaspora, as well as success stories relayed through social networking. These success stories and the luxury life style displayed by a few successful returnees act as a push factor, building in the hearts of desiring migrants, the hope of success. An implication of this is the possibility of the returnee migrants unintentionally facilitating the smuggling practice by the hope their stories and life give to desiring migrants, who then request for tutelage on how to go about the process.

There is also the possibility of the returnee migrants *deliberately* luring other migrants by these stories, especially when there is gain for them - probably if promised by the

smuggler. Siegel and De Blank (2010) trace this *modus operandi* down in the case of the Nigerian women to the 1980s, when the demand for African girls in Europe increased. It is established by field study findings that majority of West African irregular migrants are lured by the perceived success of the attempts of their counterparts who in turn send them pictures or tales of their Eldorado lives (Browne 2015; Banulescu-Bogdan and Fratzke 2015, and Elliott (2015). Kuschminder, De Bresser & Siegel (2015) raise another point, stating that network connections in the form of family and friends in destination countries have been observed to play a crucial role in determining destination choice for both desiring migrants. Information passed on from former migrants and particularly in destination countries has been observed to be more valued and trusted by the desiring migrant. This is prevalent in the Nigerian case of young girls being trafficked for prostitution. This pull factor is a function of the social inequalities emphasized by mass media and social networking and the ideas on migration routes and imaginative ideals they offer of Europe (Elliot 2015). It is worthy of note that gender influences which networks are approached both in the country of origin and at the destination countries. Female migrants often lack access to the resources that would enable them to migrate (Ahmad 2008). Yet those women who do migrate are overrepresented and disproportionately abused sexually and in other ways. Networks which have female leads and members like the Nigerian trafficking rings are attractive to women (Siegel and De Blank 2010). This is explored in other parts of the thesis see interviews 28, 30, 19, 37). There is equally evidence of trafficked women joining the networks involved in their trafficking (Browne 2015; Banulescu-Bogdan and Fratzke 2015; and Elliott 2015). Further research indicates that women in some instances, for example women migrants from the Horn of Africa, perceive their smugglers less as criminals and more as facilitators (Liempt 2011).

There is also evidence that this form of advertisement is carried out not only by the returnee migrants, but also by desiring migrants' families in the destination country. A migrant mediator and Interpreter with the *Commissione Territoriale per il Riconoscimento della Protezione Internazionale*, Parlemo, stated:

...il ya aussi des familles étrangères vivantes en Europe qui adèrent à ce réseau criminel en recommandant leur parent de passer par cette

voie maritime pour se soustraire aux barrières existantes contre l'immigration clandestine (Interview 8).

...there are also foreign families in Europe who helped this criminal network by recommending their parent to go through the sea to avoid the existing barriers against illegal immigration

This migrant mediator's view is based on his experience and various encounters working with the Territorial Commission for International Protection and Recognition, in Palermo where thousands of arriving migrants are attended to. The smugglers seem to have had assistance in increasing their demand ratings by the roles played by families and friends of desiring migrants in advertising the successes, possibilities and assurance of hope of travel. The same arguments are made by Browne (2015); Banulescu-Bogdan and Fratzke (2015), Elliott (2015) and Kuschminder, De Bresser & Siegel (2015).

Settled migrants interviewed disclosed that they got connected through their friends who had in the past utilised the services of the same smuggling rings. This indicates that former migrants provided unintended assistance to these implied travel agencies who may not appear clandestine *ab initio* given the way they present themselves. Respondents claimed:

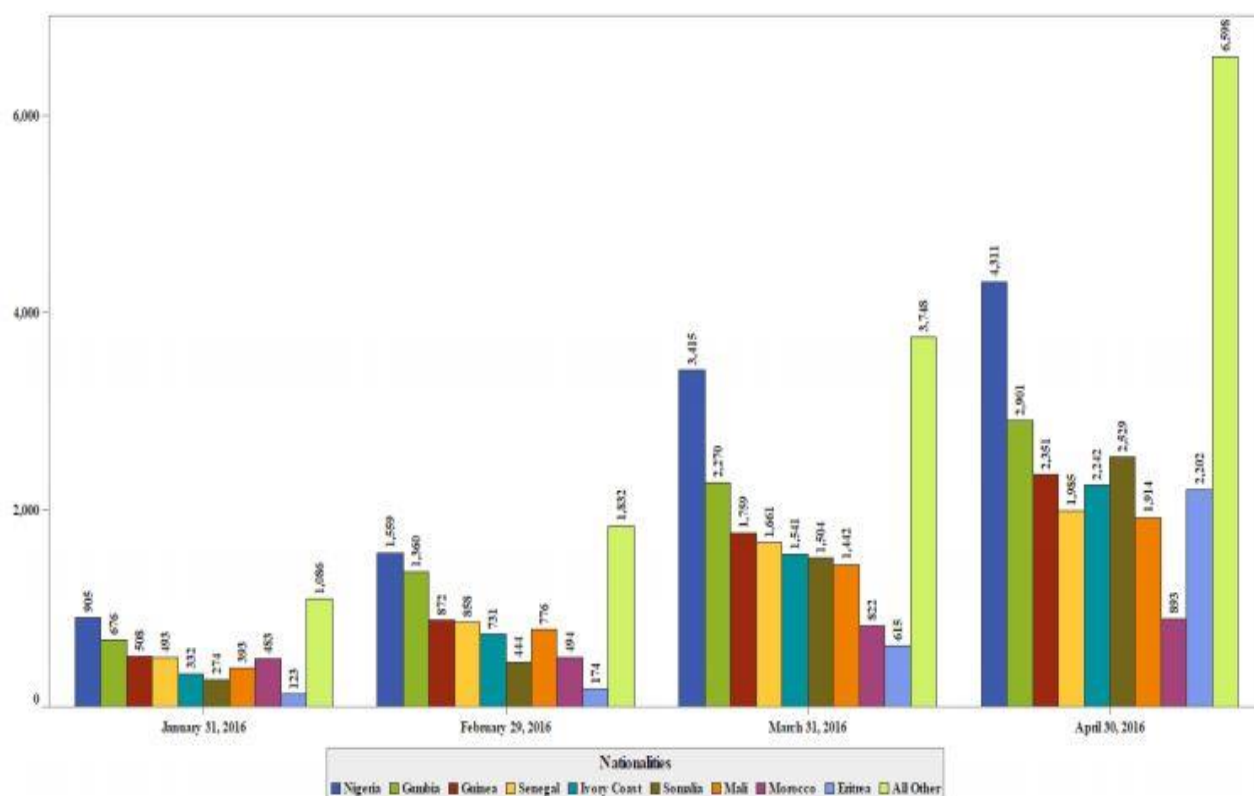
I was introduced to the smugglers by a friend who had also used the smugglers. An address was given to me on how to locate the smugglers...I was treated differently because I was of the same ethnicity with the smugglers (Hausa). The smugglers work as a local travel agency...I met with the main boss named Yusuf. Because of the cultural bias, I was catered for in the 4 days I stayed in Niger, waiting to be transported (Interview 33).

I left my place Tawan in Niger ... I went to meet up my friend in Agadez; I did not pay for my trip to Agadez because my friends drove [he would transport intending migrants]. I stayed a bit at Agadez with my friends and my friends escorted me to Sabaha; so

I did not have to pay too. At Sabaha, I had my money to pay for the sea trip to Italy; I then met a friend who knew a Ghanaian who is a trafficker- he only knew him not as a friend but as per the type job this man – Ghanaian does for a living. He gave me the contact of this man so I contacted him to organise the journey from Sabha to Tripoli and from Tripoli to Italy... (Interview 35)

A striking observation which emerged from research findings is the issue of migrants' continuous contact with smugglers even after arrival. An interviewee during the field study pointed out that the migrants call the connection men at their arrival in Italy. This gives the connection men as well as the smuggling groups the credibility that enhances their business which indicates for new clientele that they can deliver (Interview 33). This implies that the fact that no one dies during the crossing and their clients arrive safely makes their business successful; getting them more customers and referrals. Another point worthy of note was the level to which the element of ethnicity and religion affected how a prospective migrant was treated in the comments of Interview 35. Moreover, examining the increase of Nigerian migrants (especially women, see the fig. below; IOM 2016) who have arrived Italy in recent times; the statistics show that there seems to be a rejuvenation of this modus operandi. An International Organisation for Migration (IOM) representative in Palermo who was in charge of the group that were assigned to attending to the Palermo arrivals at the time of the data collection (2016) comments:

The traffickers have their groups and have their connections in form of a network. For instance, if I (as a trafficker) needs a girl, I know who to call that will get the girl for me...so if I am in Nigeria for instance (as a young girl), and my dream is to go to Italy, all I have to do is contact a friend in Italy and she will contact another friend who will contact a madam and arrangements will be made. (Interview 37)



**Figure 6-2. Arrivals by Nationality (as presented by IOM, 2016)**

In the graph above, Nigerian arrivals are represented in cobalt blue which clearly shows a significant increase.

In the view of the representative as indicated in the above response (interview 37), the contact the desiring migrant has in the destination country influences the smuggling process of the migrant regardless of whether the migrant has the funds for the trip or not. Regrettably, the other side to this sort of connection is where the migrant makes little or no payment towards her transportation. Then the migrant remains trapped continuous exploitation and debt bondage.

The evidence is that stories of migrants, mostly through social networking, indirectly assist the smuggler. This *modus operandi* of “advertising operational success” has not been sufficiently recognised.

### *Task Motivated Roles and Strategies*

Indications from data collected reveal that besides cases of kidnap, the connectors and agents of the smuggling group/network at the outset appear pleasant but their disposition and demeanour assume a different appearance the moment the connection has been made and the would-be migrants are at their mercy. This point marks the commencement of the strategies employed by these smugglers of violence. Although the respondent in Interview 33 (above), relays how well he was treated at the commencement of the trip, at some point of the journey he experienced exploitation. It is evident that regardless of the acquaintance with the network *ab initio*, the goal and expected outcomes of the smuggling group and process takes priority. There is an increasing use of violence by smugglers in recent times in the form of extortion, torture, firearms, abuse, kidnap, coercion, sexual abuse of female migrants all to enforce compliance. This continuum of most prominent tactics which have been extracted from migrant testimonies/accounts and judicial materials are discussed as aspects of the *modus operandi* that reflect the nature of criminality in the process – as an organised criminal activity.

### *Emergence of violent tactics*

The use of force is a recurring theme in the operations of the people smugglers from Libya to Italy. Sanchez (2017) points out violence as part of the risks inherent to clandestine journeys. Certainly, smuggling groups operating in the desert and from Libya across the sea to Italy use violence and coercion. The armed gangs in the desert are always armed and move in large groups to overpower the migrants. Statement made by one of the witnesses, K M , indicates that migrants were often waylaid, abducted and forcefully compelled to do the biddings of the smugglers;

... along with 50 other Somalis and Sudanese after stopping me and my traveling companions, they forced us, under the threat of firearms, to go into some vans and was thereafter conducted forcefully in small groups into a house located in the village of Sebha where we were being locked up in a large room ... (Judicial reports, FERMO PM MUMHIDIN case, Statement of K M )

At the point of boarding boats for the sea crossing, there is also the use of force. The FERMO PM SCAFISCA case reveals that migrants are compelled under the threat of force to squeeze onto the boat so as many people as possible can be accommodated for the trip. This included pregnant women and children. Force is also used to dispossess them of all valuables and identification documents. The migrants are not even spared at the safe houses whilst awaiting the trip across the sea. We learn from the FERMO PALESTINESE 1 case, how the migrants are confined to a house near Tripoli and guarded by armed men who restrict their movements and generally keep order in the place. One of the witnesses, M M testified that they were not even allowed to go out to buy food but were given a mere piece of bread to last 3 days. (Judicial report, the FERMO PALESTINESE 1 case, Statement of M M )

Witness statements speak of dehumanising treatment meted on the migrants prior to their embarkation, such as being deprived of food and deprived of liberty of movement (Judicial reports, FERMO PALESTINESE 1 Pg. 6); also deprived, by the use of threat, their luggage and personal belongings (money and travelling documents) (Judicial reports, FERMO PALESTINESE 1, Pg. 9); subjected to sexual abuse (particularly the young women – some virgins and underage) and subjected to torture with beating with sharp objects and having poured on them dangerous substances (Judicial reports, FERMO PM MUHIDIN case Pg. 14)

Examining the *modus-operandi* and the evolving tactics employed by these smuggling groups, the participants interviewed were asked to share their experiences. They disclosed that violence was one of the strategies and that it had been modified by the smugglers to suit the changes brought about by changes in immigration policies and restrictive measures employed by the receiving state (destination countries). Interview transcripts indicate that in recent years there has been evidence of a change in the degree of violence towards migrants. This research agrees with Shelly (2014), Davila (2015) and Sanchez (2017) that violence is used to force migrants to comply with the smugglers' set terms and conditions. Interview transcripts also revealed that beatings and torture were meted out to migrants to force them to relinquish all their funds *en route* in the desert. These violent acts are often instigated when migrants refuse to



continue with a journey. In the bid to force them to travel, the smuggling groups turn to violence. In the opinion of Cappello *et al* (2015:6), the new crime strategies employed by smuggler in recent times such as the increased violence strategy, distorts in this context, the preconceived distinction between trafficked persons and smuggled persons. Consequently, smuggled migrants are converted to victims. Empirical findings further indicate that some migrants, who have *ab initio* subscribed for the services of smugglers, are abandoned in the desert to their fate or even killed to extort money. There are cases of the slashing of the throats of migrants that decided to swallow their monies as a means of hiding it from the smugglers and shooting migrants who had hidden their monies in their anus (Interview 34). About 95% of the respondents from the field study affirmed the consistent use of violence by the criminal groups in ensuring compliance. A settled migrant in the Ballaro area of Palermo who earnestly wanted his experience to be heard, stated:

Once you are taken to the sea, you cannot go back. So in cases as such, violence is used in forcing the migrants unto the boat. Refusal can lead to the migrant's death. Even in detention centres, migrants are severely tortured...I was once turned upside down and tied to a stick and my feet battered with big sticks. I was then released and asked to run with the same feet.  
(Interview 34)

The head of Police in Palermo states, based on his encounters during his job, that there had been a significant increase in the use of violence, particularly in the case of trafficked girls; most especially, the percentage from Nigeria who are usually raped and exploited *en route* even before they arrive in Libya. (Interview 18). To this end Fulvio Vassalo, a professor of international law in Palermo, added that the women are greatly violated and abused in Libya even prior to their arrival in Italy (Interview 28). According to him, at their arrival, the women are given to the criminal groups to continue the prostitution which they had been forced into in Libya [in Libya, there are little or no human rights]. Eventually, the women on arrival are enslaved. Research findings indicate that they are mostly held within a facility. However, there are media reports on enslaved Nigerian prostitutes that have escaped their bosses (Gillian 2011).

The above comments of respondents depict the degree of violence meted on migrants *en route*, particularly poor and vulnerable ones. Roth (2011) detects a correlation between gender and abuse with women more likely to be subjected to physical and sexual abuse (Roth 2011; Schrover 2008). The vulnerability of women is greatly exploited by smuggling and trafficking cartel; echoing the notion of victimhood as explained by Schrover (2008), women and children are often found easily exploited. On many occasions in the criminal cases reviewed for this study, the victimisation of women, particularly their sexual exploitation, is relevant. This abuse of women could be said to have been used as a form of violence against female migrants by the smugglers.

The cruelty of the smugglers raises questions as to why there is still an increase in the migrant flows. Toaldo (2015) identifies the migrants who patronise these smuggling networks regardless of the *en route* experiences as ‘survival migrants’.

Professor Fulvio Vassallo further argues that incidents of violence are more likely in the transit countries such as Libya, which is confirmed by settled migrants interviewed in Palermo. Doubts may be cast about stories of violence at sea and it may be that, as has been often observed, migrants do not always tell everything concerning their ordeals to law enforcement agents based on cultural reasons and in some cases, because of the possibility of future clientele. This observation equates with Hamood’s (2006) concerns about the challenges encountered in getting credible information from migrants by means of interview. It may be possible that some of the migrants still subscribe to the same group for the transportation of their loved ones after they have arrived their destinations (see also Karagueuzian and Verdier-Chouchane 2014). There are however exceptions as regards testimonies of witnesses during trials in the court of law. This is because, as Ingulli argues in his analysis about witness credibility ‘...witnesses are required to testify under oath, or some equivalent solemn affirmation; opposing counsel has an opportunity to cross examine the witnesses; and the jury is able to observe the witnesses’ demeanour on the stand as an aid in determining their credibility’ (Ingulli 1986:145). In this context, the opinion of Novo and Seijo (2010) on the concept of Judicial Judgement-Making and Legal Criteria of Testimonial Credibility could be accessed to often guide the outcome of the testimonies made. Consequently, a witness’s testimony is considered as evidence drawing on the factors

aligned in Ingulli's argument. An additional fact will include the opinion that the witness has first-hand knowledge of the issues in the case and there is often consistency in the recounting of incidents or events. Although it may be argued that some witnesses may falsify their testimony for reasons of emotional or personal interest, there are also other means of determining the credibility of witnesses such as challenging the credibility for bias or employing the psychiatric approach as suggested by Juviler (1960).

Using the forensic statement analysis tool (a technique used in analysing the accuracy of statements made) in analysing the findings from the selected judicial proceedings examined for this study, the authenticity of the witness testimonies contained in the proceedings could be assessed as valid considering the consistency in the verbatim statement on which also judgements are given (Flemming 2011). The principle on which this method of analysis is based is that people do not lie, and though no records of the body language and stress on the part of the witnesses (which is often associated with speaking lies) the statement of the witness is considered tenable for the judgement of the court regarding the people smuggling and irregular migration crimes being tried (McClish 2017). However, while statement analysis may seem the new trend in content analysis, the debate on the validity of the Undeutsch hypothesis and Criteria Based Content Analysis (CBCA) and other forms of statement analysis, on the other hand, remain (Novo and Seijo (2010, Amado, Roma *et al* 2011, Arce and Fariña 2015, Amado *et al* 2016).

It can be deduced from the testimonies that a high degree of violence was meted out to the migrants. The degree and progression of violence described by the testimonies above imply that extreme violence is continually used by the smugglers until their desired results are achieved. The criminal use of violence contradicts Jespersen (2015) that the recent people smugglings could be termed as less violent than human trafficking as passengers are not coerced into travelling and violence not used so as not to draw attention to their activities by also providing good conditions for passengers, providing basic needs of the migrants such as mattresses and other comforts on board, so as to maintain a positive reputation and ensure probable future businesses. This study contradicts Jespersen, as the majority of respondents interviewed, and judicial proceedings reveal the increase in the use of violence to

ensure compliance and extortion of money. Evidence reveals that majority of the witnesses were coerced, kidnaped in most cases tortured and imprisoned before their embarkation and during their voyage.

Violence and neglect of human rights and changes in the vessels used in transporting the migrants to avoid being detected by sea patrol has become the primary strategy employed by the people smugglers in recent times. Interviews conducted at the *Centro Astalli* in Palermo - a migrant reception centre - indicate that migrants are being forced into boats against their will at the Libyan point of embarkation. The coordinator of the centre spoke of received migrants who told of smugglers who drove them with guns to board the boats and at the same time compelling them and their relatives to pay more than the agreed fares (interview 4). This claim was confirmed by interview with the people smuggling unit of the Italian Flying Squad (Police). Equally, while the FERMO PM MUHIDIN case proceedings corroborates the assertions on the use of violence in abducting migrants into incarceration, the FERMO PALESTINESE 1 proceedings corroborates the use of violence in compelling the migrants to board and change boats against their will;

...afraid because the cottage, composed of many rooms, there were many people waiting departure. Also, there were many men of the organization, carrying machine guns, watching us on sight. For this reason, I tried to get out and go away not wanting to continue on the journey to Europe, but I was prevented by gunmen... (Judicial reports, FERMO PALESTINESE 1, pg. 8)

...we underwent continuous maltreatment, especially during the step of transshipment from a smaller boat to the largest; specifically, each of us, located on the bigger boat, then used for the trip, was forced to take up minimal space, so the organizers were able to pick up more people. The ill-treatment which was faced by all passengers, men, women, some pregnant, and children, who were taken by force from the small

boat and placed in the smallest spaces between the people already... (Judicial reports, FERMO PALESTINESE 1, pg. 14)

Given the multiple affirmations regarding this aspect of *modus operandi* in the Libya to Italy human trade, there are therefore strong indications that the use of violence as a compelling tool, is a strong element of the *modus operandi* employed in the phenomenon which also depicts the nature of criminality. Evidence and data show that the use of this strategy has greatly increase more than what was previously the case.

### *Overcrowding of boats*

This strategy consists of taking on board the conveying boats, numbers exceeding their capacity. This strategy which overtime have resulted in hundreds of deaths is also violence against the migrants. Witnesses during trials of irregular migration offences in Palermo, Italy stated that they were badly treated during their transfer from the smaller boat to the bigger vessels and forced to take up only very minimal space to make room for more people to be taken aboard (Judicial reports, *Tribunale di Palermo, Sentenza contro I. H. Attour Abdalmenem* 2014). The FERMO PALESTINESE and FERMO SCAFISCA cases and the *Sentenza – Judgement*, reveal that even pregnant women and children were not exempt from this inhumane treatment of ‘squeezing for more’; in fact, the children were forcefully taken and used to fill up the small spaces. The boats were loaded beyond capacity with no concern for human life and the risk of overturning or sinking. Literature identifies this tactic as common among professional smugglers (UNODC 2015, ETH 2016). Kohnert (2007) regards these tactics as neglect of basic safety precautions, while Horwood (2015) points out that majority of the deaths on the high seas since 2011 have been recorded as a result overcrowded vessels. Last and Spijkerboer (2010) note additional risks of “unauthorised travel” such as boats running out of fuel or even drifting for weeks, exposing passengers to dehydration, starvation, and hypothermia and sun stroke.

Another risk associated with the overcrowding of boats, occurs during the transfer of the migrants when intercepted by rescue operations. Some boats have been reported

to have capsized during this process of transfer as a result of the excitement of the migrants. Indications from field study findings suggest that the recurrent sea calamities that have characterised the Mediterranean journeys particularly in recent times are culminating effects of the criminal *modus operandi* employed by the smugglers. The aftermath can be seen in the photo below showing migrants seen on a capsizing boat before a rescue operation by Italian navy ships "Bettica" and "Bergamini" (unseen) off the coast of Libya. The picture was released by the Italian Marina Militare on May 25, 2016. Marina Militare/Handout via REUTERS (Scherer 2016).

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**Figure 6-3. One of the many Mediterranean disasters (Scherer 2016 REUTERS)**

The analysis presented above concerning the boat disaster mentioned in the FERMO PM SCAFISCA case, was based on the provision in Italian law for the punishment of intentional sinking of vessels (art. 428 cp) and negligence (art. 449 cp). Issues discussed as evidence included: a filmed documentation of the activities of the firefighters as they endeavoured to arrest the fire on deck; the size of the boat in comparison to the number of persons that was conveyed - using un-seaworthy boat (a small boat the size of 25 meters) to convey about 500 migrants, without the possibility of movement which resulted in the disaster that records only 153 survivors. The transcript records:

Q: What were the conditions inside the boat? How were you prepared?

A: We were more than five hundred people about twenty children aged from a few months up to seven years. We were all crammed, with no possibility of any movement (FERMO PM SCAFISCA, Judicial reports pg. 12).

In such overcrowded situation as was described, there is every possibility of serious danger, especially in the case of fire. Again, this is a clear case of the unrestrained nature of the *modus operandi* employed by the human trade networks. This explains the preventive act of making the migrants pick representatives (directed by the smugglers) who alone were allowed to move, to ask questions of about what was going on during the journey as recorded in proceedings of the FERMO PM SCAFISCA case.

### *The 'stranded scene' tactic*

Another identified tactic in the recent migrant smuggling across the Mediterranean is the purposeful staging of a stranded scene with the motive of taking advantage of the rescue operation. The smugglers, in the process of determining to be spotted at sea, carry out actions such as the burning of a blanket to attract attention though often causing fire on deck and making migrants to move to one side of the boat and producing the overturning of the boat. In the FERMO PM SCAFISCA case, the boat stopped close to Lampedusa for about 2 hours, but the witnesses attested that there was no known problem with the boat or the engine. Rather it appeared that the smugglers were waiting for the rescue operations to come. Judicial proceedings revealed that the singular act of lighting a blanket resulted in the fire on the deck that caused the panic and subsequent overturning and sinking of the boat. The use of unseaworthy boats which could stop at any time on the seas is one of the new tactics which the smugglers use. This new strategy is reflected in the news of migrant 'ghost ships' on the Mediterranean, for example using old freighters (Coleman 2015). UNODC (2011) speaks of mostly fishing vessels taken out of service as unseaworthy and unable to complete a single journey (UNODC 2011:29). Schemm and Becatoros (2015) reveal that the vessels used in ferrying hundreds of Syrian families across the Mediterranean *en route* Europe were scrapyard bound cargo ships bought over the internet. In this context, the Italian rescue mission (*mare Nostrum*) and the European

rescue mission (the Triton - in recent times) are taken advantage of. Coleman (2015) reports that in the same manner the cargo ships 'Blue Sky M' and 'Ezadeen' were abandoned on the sea and set at auto pilot towards the Italian Islands. This tactic meshes with the assertions of the witnesses regarding the use of small boats before being transferred to bigger ones (Judicial reports, FERMO PM SCAFISCA cases and FERMO PALESTINESE 1 case). On the other hand, *the Guardian* reported a case of the arrest by the Italian police of a smuggler who admitted to a new tactics to outsmart the naval forces, namely: 'of putting only a few passengers aboard a small boat in a bid to land undetected on Italian shores' (*The Guardian* 2015). As yet, there is not much evidence to support this new tactic thus, further research is needed.

### *The hostage holding tactic*

This is when migrants are detained as hostages over a certain period of time. In the FERMO MUHIDIN case, the migrants interviewed show that they never met or sought the help of the armed band to get to Tripoli, but were forced against their will to follow the instructions of the criminal group. The testimony of D T , one of the Eritrean survivors and a key witness in the trial of MUHIDIN, reveals that he and 130 of his countrymen on their way to Libya by foot, met the smuggler for the first time in the desert between Chad and Libya. The fifty strong militia (the smugglers cum abductors), threatened them with firearms, forced them to get onto some vans with which they were conveyed to Sabha after 6 days of travel (Judicial reports, FERMO MUHIDIN case).

From the statement of the witness, migrants are held in confinement, and while in detention, the smugglers are then able to demand inflated fees that were not originally agreed and threaten to kill them if they fail to comply. As the migrants are unable to pay, the bandits demand the payment of ransom by their families. In the MUHIDIN case, kidnapping groups forced the captured migrants to place telephone calls to their families and friends requesting that they pay the ransom. Based on the account in the FERMO PM MUHIDIN case, the main purpose of the abduction and detention was to exploit the migrants' belongings and funds. One of the witnesses in the FERMO MUHIDIN case stated that he and the fellow travellers/migrants were severely beaten



with batons and were deprived of all their belongings and held in a confined space. He added that the other part of the room was occupied by sixty abducted Somalians. In incarceration, he and his mates were compelled to call their families to pay a ransom of \$ 3,300 USD in exchange for their lives. (Judicial reports, FERMO PM MUHIDIN case Pg. 11). Another witness K M , stated that he and his mates were confined for about 14 days, being subjected to all forms of torture and depravation; beaten with sticks, electrocuted, sexually abused to the point of death all in the bid to compel them to pay what they demanded (Judicial reports, FERMO PM MUHIDIN case Pg. 11).

...once they hit me with a stick on the knee and for 6 days I could not walk. one day in particular, after having water was thrown on me and flooded the floor, electrical wires were on the water causing us to undergo an electric shock that lasted till the lights were turned off...I remember in particular that the only one who was not touched was a child of about four years and that my kidnappers were using women as objects, in fact every day took some girl in my ...sexually abused her Once one of these girls did not return ...she was a friend of mine and was called Youhana...After my father did pay the ransom and I was delivered along with 13 other of my compatriots...put in a van we were taken to Tripoli. (Judicial reports, FERMO PM Muhidin case Pg. 9)

This strategy transcends both the people smuggling and trafficking rings. Field study conducted in Sicily and Rome showed that this strategy is also used for trafficking victims controlled by sex exploitation trafficking rings. A Caritas representative interviewed gave a very good encapsulation in her account of the ordeal Nigerian girls trafficked for the business of prostitution mostly go through during their voyage;

The time of travel from Africa to Libya could be 2 or more weeks and from Libya to Italy, the same. The time of voyage depends on the trafficking rings and the means taken. At Libya they are put in prison and there after put in a prostitution house where they have to work day and night. They do not see the faces of their customers because they wear masks.

These girls have to continue to work to pay for their remaining journey. The girls however do not get paid directly for their toil, but at arrival in Italy, they are told they paid about 80,000 euros to get them there and the girls are thus indebted and have to pay up before they are free. Unfortunately, they never finish this payment their debts just keep increasing.

(Interview 22)

The statements and testimonies presented relate that the migrants were held against their will and tortured. Kidnap and continuous hostage holding is one *modus operandi* that enables the smugglers to make more money. According to the testimony of the witnesses, they were only released to continue on their journey or further transported only when the inflated price the smugglers demanded had been paid. This strategy is relatively new as there are little or no scholarly publications detailing this aspect of the waiting time prior to embarkation. The account by UNODC (2011:26) simply details how migrants are held in safe house and some maltreated during the waiting period to maintain order and secrecy. The analysis presented in this report is void of extortion for which the migrants in the FERMO Muhindin case, FERMO PALESTINESE and FERMO SCAFISCA case were detained. While Spina (2016) describes this tactic as commodifying of human beings, Cara (2015) compares the tactic of intimidation of victims as a Mafioso behaviour. This could mean that the criminal networks (which will be discussed in the next chapter), exhibit attributes of a hierarchical structure in their organisation (Malk 2016, Tahir 2016, IGAD 2016, Human Right Watch, 2016).

Research has shown that there is usually a contract between the smuggler and the smuggled which entails the smuggled paying the smuggler a high price to transport him/her across international borders. The evidence of the inflated prices paid for the movement by migrants from Libya to Italy such as €1000 or more, depending on the route and means, is recurrent through majority of the interviews conducted and data collected. The reports are validated by witness' statements in the judicial proceedings:

The Somali along with his men robbed and forced us to call our families to pay a ransom of \$ 3,300 US threatening to kill us, I did not have a phone so before I could call my dad, I had been severely beaten with a rubber water pipe, they gave me their phone and made me instruct my family by phone to pay \$ 3300 to a contact M, located Israel... (Judicial reports, FERMO PM MUHIDIN case Pg. 9)

In the majority of the cases these payments are never completely paid up in the source country and are expected to be paid up at arrival at the destination country; this lands them into debt bondage (Davidson 2013). In the course of the field study conducted for this research, the author met with the President of the *Pelegrino de la Terra* an NGO in Palermo, founded by a Nigerian in 1996, engaged in assisting, and taking away from slavery trafficked migrants forced into prostitution and all forms of sexual exploitation, and providing them with better alternatives. This respondent confirmed that some smuggled migrants or their families take a loan to pay the bill and clear the debt imposed on them by the expenses claimed by the smuggler (Interview 23)<sup>13</sup>. A typical example is the picture of Chinese migration that involves a patch work of loans from family and friends to finance the journey as the smuggler will most times demand full payment proposed as the cost of the service he is rendering (Davidson 2013). Given that the migrants may not still be able to pay all the debt, the family remains indebted to the smuggler and the migrant vulnerable to forced labour as well as those who organised their movement (Davidson 2013). Consequently, the migrant at this point is forced into a contract with the smuggler with a blurred difference between being trafficked and smuggled, thereby resulting in a situation where a migrant that has been smuggled across international borders ends up being coerced into labour exploitation (Kyle & Koslowski, 2011, Davidson, 2013). This implies that the smuggled migrant at this stage is translated from a client to a victim of trafficking blurring the line between the two phenomena.

Research shows that at this point, their enslavement begins; these victims are found in the sex industry, massage parlours, domestic servitude and agricultural work

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<sup>13</sup> Interview with the Head of *Peligrin della Terra* in Palermo, Italy.

(UNODC, 2013). Finnegan (2008) in his report on the predicaments of most of the victims of trafficking from Chisinau, Moldova shows that most people pay actually to be smuggled but the criminal network which they patronise ends up trafficking them (Finnegan 2008). These victims, even when they reach their destinations end up in cycles of violence, exploitation and abuse (Bhabha 2005). If assessed in this manner, it could be argued that the migrants who have been translated into victims may be absolved of the crime of irregular migration and not be criminalised based on the gruesome experiences which they have encountered in the smuggling process.

In Tamura's (2010) opinion, the treatment of the smuggled migrant during transit or at arrival depends on how much he is able to afford for the whole process as well as the mode of payment. However, the experiences detailed in the statement and testimonies of migrants and witnesses contained in the judicial proceedings examined for this chapter – the FERMO PM MUHIDIN and FERMO PM SCAFISCA cases, contradict this assertion. The proceedings present detailed verbatim testimonies of the travails of migrants (before, during and after their journey) who on their own accord subscribed for the services of the smugglers and were in no way coerced to contact the smugglers. For the migrants escaping any form of political or social crises, they may have been driven by the quest for safety, but the decision to employ the services of a smuggling organisation would be entirely theirs. In the same vein, given that most migrants end up becoming victims at some point of the smuggling process by means of debt bondage, coercion and exploitation, the UNODC's (2013) assumption of the routine which indicates that the business transaction between the smuggled and the smugglers ends upon arrival in the destination country is contested particularly in cases where the migrant has no legal gratification for remaining in the immediate country of arrival. This study suggests that given the criminal intentions of the smugglers which weighs heavily on profit making, the financial capacity of the migrants in recent times makes no difference to the sort of treatment the migrants receive during the period of voyage or even on arrival. A majority of migrants are still being coerced into further exploitation with the threat of revealing their illegal status [this is most rampant with migrants exploited for labour and sex].

### *The Unaccompanied-voyage tactic*

The unaccompanied voyage is where the smuggler decides not to travel with the migrants but rather send them off on their own with whatever they perceive they may need for the journey; for example, a compass, torch light and gallon of petrol for the motor. Because rescue ships have in recent times become faster in their response to distress call, smugglers may risk being apprehended, hence they perceive that staying back, and sending the fleet of dinghies and fishing vessels unaccompanied is less risky. The danger of this strategy, however, is that the unseaworthy boats used, barely survive the short trip the migrants have to do before they are rescued. A settled migrant interviewed in Palermo recounted how the migrants had to navigate the boats in which they came:

...the sea journey from Libya to Lampedusa took 2 days. The boat was surprisingly steered by a volunteer migrant as we were left just with the boat with no one to navigate [this is because the smugglers have stopped travelling with the migrants]. The smugglers only showed us our travel boat and sent us off on our own... (Interview 33)

In the same vein, the opinion of an IOM representative interviewed in Palermo confirms this use of unaccompanied voyages in the Libya-to-Italy human trade. In her opinion,

...the smuggling business in Libya is now a low cost business with the influx of cheap rubber boats from China...all they need to provide to the migrants is a compass, a mobile phone to call the Italian rescue team and just as much petrol to take them off the coast of Libya. (Interview 37)

This strategy is relatively new and major development in the human trade business.

## *Forced confinement*

From the FERMO PM MUHIDIN and FERMO PM SCAFISCA cases, it is apparent that both the desert bandits and those who organize the sea crossings make use of safe houses or collection centers to confine the migrants pending the payment of the ransoms or the finding of a suitable boat for the sea crossings. Again, force and arms are used to keep the migrants in check even in these houses. Another consistent method employed by the people smugglers in the Mediterranean is dispossession of the migrants of all valuables, often accomplished with the use of threat or force. A witness in FERMO PM MUNHIDIN case stated;

...the Somalian along with his men robbed and forced us to call our families to pay a ransom of \$ 3,300 US threatening to kill us, I was devoid of phone and before I call my dad have been severely beaten with a rubber...(Judicial report, FERMO PM MUHIDIN case).

In the FERMO PM MUHIDIN case, another witness K M , reported of his ordeal after their abduction to a house located in the village of Sabha, where they were locked up in large rooms and deprived of their belongings, and their cell phones were used in calling their family members to demand for their ransom.

Field findings corroborate this tactic which has in recent times led to the discussion about migrants' transformation from "voluntary clients" into victims. The deprivation of liberty was identified by Aziz, Monzini, and Pastore (2015. Pg. 42), in their research on the changing dynamics of border crossings and validates the responses of respondents and witnesses to this modus operandi. The table below presents a comparison of the experiences of the migrants concerning deprivation of liberty employed by the smugglers as indicated in the literature and from the primary sources, both interviews and judicial proceedings. While this tactic is identified to a high degree in the testimonies of migrants presented in the judicial proceeding (X), the responses from interview participants (Y) did not reflect some of these experiences. This is owing to the fact that unsettled smuggled migrants could not be contacted due to ethical restrictions. From the table, it can be seen that two points (12 and 13) are identified as not being listed in the experiences identified in the literature which indicates the

evolution of the *modus operandi* of the migrant smugglers aimed principally at increasing the profit of the trade.

**Table 6-1. A comparison of the experiences of the migrants concerning deprivation of liberty employed by the smugglers as indicated in the literature and from the primary sources**

|   | Experiences identified in the literature                                | Analogous experiences identified in the judicial reports | Validation of the Analogous experiences identified in the literature and judicial reports by interview respondents |
|---|---|--|--|
| 1   | Forced to get into the boats  | X  | Y  |
| 2   | forced to change boats during the navigation                            | X  |  |
| 3   | initially negotiated conditions change during the trip                  | X  | Y  |
| 4   | consent loses its validity  | X  |  |
| 5   | migrants are treated like goods on board                                | X  | Y  |
| 6   | locked in the hold of the ship  | X  |  |
| 7   | food and water are often distributed in insufficient quantities         | X  |  |
| 8   | poor hygiene and lack of space in safe houses,                          | X  |  |
| 9   | Crossings are performed in dangerous weather                            | X  | Y  |
| 10  | migrants are often deliberately endangered to attract rescue operations | X  | Y  |
| 11  | abandonment of the boat or ship at sea without crew                     | X  | Y(self-navigation)   |
| Additional experiences identified from findings |   |  |  |
| 12  | Hostage holding   | X  | Y  |
| 13  | Deprivation of liberty  | X  | Y  |



### *Other aspects of the modus operandi*

A compendium of actions and activities carried out by the smugglers reveals the level of criminality of the offenders and members of irregular migration. These are discussed based on evidence provided in the judicial proceedings selected for analysis in this study.

### *Method of organisation of trips*

The evidence of the activities of the connection men, organisers and *passeurs* reveals that the Libya to Italy trips are organised in stages. It commences with would be migrants making contacts with the connection men through phone calls or as in recent times, WhatsApp or even Facebook. These migrants are sometimes also being referred and connected by scouts that work for the smuggling organisations that pose as travel agencies or tour operators (see Interview 1, page 4). As with a settled migrant interviewed (Interview 33), he was informed of the possibility of travel by friends who had in the past used the services of the recommended smuggler. Similarly, the judicial proceedings contain evidence of would-be migrants contacting the smugglers via phone calls (Judicial reports, The FERMO PALESTINESE 1 Case, pages 6-21). This information is validated by records of wire taps of calls made between the smugglers as regards the arrangements of travel and the payments to be made; discussions cover what gains are to be made and the arrangement of how monies are to be paid as well as the desired final destination of the migrant (see Box 6.2 and 6.3.)

#### ***Box 6.2***

*Conversation 15.11.2013, starting at 11:47, prog nr.380, 393,285,690,899 to SAL.M, from TES:*

**“TES calls from Australia and informs SAL.M that he sent money to SAMUEL to help a relative named HENOK GEREZGIHER, but did not get any news, because SAMUEL would not answer the phone. TES, informs that the boy is 15 years and is a survivor of the sinking, was transferred from Lampedusa to Sicily and needed the said money right away.**

SAL.M reassures TES that he would go personally to talk to SAMUEL.  
TES informs that the number of the guy is: 00393339996008...”

**6-2. Excerpts drawn from Judicial reports, FERMO GLAUCO 1**

**Box 6.3.**

***Conversation of 11.06.2013, 12:41 hours, prog nr. 1480 393 291 927 862 on the user used by WOLDU WEL between Samuel and Daniel:***

"Samuel speaks by phone WOLDU with Daniel. Daniel tells Samuel to report to WOLDU to be able to send money to Ibrahim. Subsequently, he requests that the three girls (guests of the same in Canicatti) can find accommodation in Agrigento only for one night, and then leave the next morning for Rome.

Samuel asks: "They already have the money?"

Daniel: "no, must arrive. How much do you get paid?"

Samuel replied: "100 Euros, i.e. 50 and 50 for the journey for me."

**6-3. Excerpts drawn from Judicial reports, FERMO GLAUCO 1**

All names used in the transcripts are pseudonyms. The migrants are further detained either to enable more extortion while the transportation means is organised or exploited during this waiting period. There is evidence to suggest that at this stage of the journey, the consent of the migrants do not count as they remain at the mercy of the transportation organisers. The criminality at this stage is related to the extortion and illicit means of money transfer that sustains the business.

***Assistance given to migrants to escape from reception centres***

Studies have established that the criminal associations in the recent past have ventured into organising escape from reception centres in concealed locations while they wait for onward travel (Massey and Colucello 2007). Judicial proceedings record cases tried on offences such as the organising of escape from reception centres, so as to enable the migrants to procure illegal entry into the territory of another State to which they were not citizens or had other evidence of residence.

**Box 6.4.**

***Conversation of 10.14.2013, 17:47 hours, prog nr. 100, 393 291 927 862 with TES and a young man looking for help to escape from the reception center:***

TES talks to MAED (Eritrean).

The man tells TES that he was at Caltagirone and had gotten his number from a man TEM. The same tells him that he was with some Italian and that the number he was calling was theirs.

TES replied that will prompt MAEDIN immediately and tells him to ask him. "

Conversation of 10.14.2013, 18:22 hours, prog nr.110, 393,291,927,862 in use on the user TES between predicted and a young man:

TES talks to MAED; He communicates these to be at the entrance of Caltagirone, in a building where they are housed;

TES, that he is in Agrigento and know the location of Caltagirone.

MAED says that a man (without specifying who) told him that he would help him.

***6-4. Excerpts drawn from Judicial reports, FERMO GLAUCO 1***

Examining the conversation in Box 6.4, there is strong evidence that the transportation was illicit and contravens laws that govern hosting centres as well as laws of the state. It also indicates criminality. This is suggested because the tone of the conversation in Box 6.4, implies that an escape from one of the reception centres in Caltagirone was being organised. The client seems to have been well informed prior to arrival on who to call and what to request for or even informed at the reception centres by strategically positioned moles. The contact made in this excerpt is a means of enabling an arrangement to organise an escape for the man who was requesting help from TES. The judicial proceedings from FERMO Glauco 1 imply that this assistance was received and could have been gotten from any means possible both from the criminal network and from ordinary citizens, for example offering use of their mobile phones, as indicated in the excerpt in Box 6.2. It is however possible that help from regular people or citizens may be driven by empathy, but the aid rendered by members of the criminal network is tactics of their *modus operandi*.

***Payment methods used and gains***

The findings suggest that the journey across the desert through the central Mediterranean is costly in the sense that large sums of money are demanded of the

migrants. To support this submission, some of the respondents recount the sums money they had to pay for the journey which happens at several posts during the journey:

The trafficker demanded of me 1, 200 dollars, I accepted because I had the money. I paid him and the journey started...  
(Interview 35)

I paid about 150 -300euros to get to Libya, apart from the one I paid at the different post 10,000cfa. There were about 11 post before we got to Libya...  
(Interview 36)

The payment issue is complicated because several of the migrants had already paid for the trip before they travelled. A Syrian migrant once confessed to the police that he had to deposit a certain required sum of money to an agent – [a guarantee office] in the form of a guarantee prior to the travel. At this stage, any migrant who pays, is given a pin-code. On arrival the migrant is to call and give the pin code to the smuggler who organises his crossing. The smuggler is to use the pin code to claim his money from the agency. Although judicial proceedings examined in this work report large sums of money paid by the migrants for the journeys, they cannot be confirmed for they are not documented or recorded in any credible source.

Payment methods employed by the smuggling rings include hand-to-hand, *Awhala*, Western Union Transfer. Findings indicate that about 90% percent of the transactions are done by the *Awhala* system because even the police and law enforcement agencies find it hard to track the payments. A law enforcement officer of the *Squadra Mobile* of Palermo, Sicily interviewed explained that *Awhala* payment method could be transacted from anywhere by anyone. For instance, someone in Nigeria can make a payment in Israel for a migrant leaving Nigeria. And the money could have been made to a shop owner who could disguise the money flowing through his account as solely from his business; hence, this means of payment has developed into a means of money laundering. It is a disturbing fact that although phone tapings can detect that a transaction was made, the detail of the transaction cannot be known given the

anonymous nature of this mode of payment. This further fuel the criminality in this business as laying hold of solid facts such as financial transactions - where there is no witness - for which offenders could be prosecuted remains insurmountable.

As the most commonly used modes of payment in recent times such as the hand-to-hand, western Union, Money Gram and the *Awhala* system do not clearly show the proper details of transaction made, these methods of payments have consequently been taken advantage of. Although the majority of respondents attested to the challenge of detection of these payment means, an Italian prosecutor's assessment of the problem was:

...the most used is the Awhala because it is the most difficult to track...is basically impossible to track; we construct the Awhala only through interceptions, but if they don't talk about it you cannot track it because we don't have any direct exchange of money. So this system defies investigation...yes you can track Western Union transaction but the money disappears the moment it is done, so evidence may be revealed of the transaction, but you do not find the money. It is not like a bank account; they receive the money and take it away. Majority of documents they present for this sort of transaction, are usually fake. (Interview 17)

### *Measures taken to evade police checks*

The use of falsified documents and falsified modes of qualification, such as fake marriages or marriage of convenience, are also ways by which migrants, aided by smugglers, attempt to evade police checks *en route* and at borders.

Findings from field study indicate that for migrants who decide to use regular routes such as by air – going through border controls - in getting to Europe from their country of origin, the act of falsification of a document starts with an invitation letter which is offered to the officials so as to procure a visa or allowed passage. A migrant centre mediator in pointing out this issue of deception, pointed out the practice of families

recommending their relatives/families to the smuggling criminal network to enable them travel across the Mediterranean, avoiding existing barriers or outwitting set restrictive measures (Interview 8). The idea was that reference was given by families not only for travel across legal borders but also to enable contact with smugglers and easy assisted passages. Hence not all irregular migrants who come from Libya to Italy have to come by sea as generally assumed. This point was strongly argued by a migrant centre coordinator in explaining the different categories of migrants they received and catered for:

...80% of the migrants that arrive in Italy arrive with regular documents, only 11% percent of them arrive with the boat. But the media force the news... ah yeah, but in Italy statistics there is a statistician book made by Caritas that show that 11%percent only arrive by the boat and a lot of people arrive with the aeroplane... (Interview 4)

Scholars hold that this initiative of using falsified documents is driven by the immigration policies and legal restrictive border hurdles of various developed states (Kolsowski, 2011, Bhabha 2005, Dwyer, 2011) as well as the restricted available immigration opportunities which in turn makes them vulnerable to diverse forms of exploitation (Dwyer 2011, Davidson 2013, Beate 2009 Koslowski 2011). Media reports on UK's clamp down on the abuse of student visas suggests that the student visa system for the UK for instance, was being abused by the use of fake documents in acquiring them (see Paton 2014). This is an instance of not merely evading police check but a means of circumventing immigration authorities. A typical example is the Sadiq (2010) analogy of *now you see them...now you don't*, in explaining the use of falsified documents in circumventing immigration authorities. Consequently, the fact that documents are what identify migrants makes it difficult to know when even smugglers are posing as migrants and when victims of trafficking are smuggled across borders.

A researcher interviewed in the field contributed that '...the legal migration channels are not proportionate to the need of the economic system or the demand to migrate' (Interview 2). She emphasised the importance of understanding that the business of smuggling should be analysed by considering the economic system which

necessitates these migrants having to move. Her perception is that the economic causes that drive these migrants to migrate will provide a better understanding on how to manage the phenomenon. This argument throws light on the concept of smugglers across the Mediterranean preying on the demand for cheap labour being that some criminal groups have also been observed to generate the demand for their services. Although this researcher emphasises the need to analyse the phenomenon considering the economic system, it is important to note that in recent times and other factors such as politics and social and psychological issues propel migration.

In the majority of cases, difficulties in visa procurement remain the major reason why migrants resort to the services of smugglers despite the dreadful nature of the route chosen. A respondent from field study stated that:

*...compte tenu de la difficulté pour l'obtention du visa et des politiques de la lutte contre l'immigration clandestine, ils font recours à des voies illégales et prennent donc la voie de la mer méditerranée*

(Interview 8)

...given the difficulty visa procurement and the fight against illegal immigration, they resort to illegal channels and therefore take towards the Mediterranean Sea (Interview 8; translated by author)

The participant offers the reason of inaccessibility to visa as an impetus for the use of falsified documents. Evidence of the use of falsified passports which results from the use of same passport for different travellers is detailed in the judicial proceedings FERMO PM GLAUCO. Intercepted telephone calls reveal arrangements to resell passports previously used to another traveller in a different location. Names on the passport are taken on by each new client and the passports are returned after the client's arrival at destination (Judicial reports, FERMO PM GLAUCO, pg. 77). The successes of these transactions call to question the nature and means of verification by the border controls. The long period in which these transactions were conducted without detection according the tracking reeks of jeopardy on the side of responsible authorities who let incidents of such magnitude slip pass them (Sadiq 2011).

Increasingly false marriages or marriage of convenience have become another mode of falsified document or falsified personality by which irregular migrants have attempted to evade the authorities (EUROPOL 2009, UNODC 2010, EUROPOL 2013, and EUROPOL-INTERPOL 2016). Judicial proceedings present evidence of a phone conversation 18.01.2014 to organise marriage of convenience as a *modus operandi* employed by the smuggler to enable unauthorized migrants (Judicial reports FERMO PM GLAUCO case). The women who subscribed to this service were to be married from Saudi Arabia, Ethiopia and Sudan and were to be brought to Italy on grounds of family reunifications. The inclusion of this approach reflects the diverse dimensions to the falsification of document as a measure to evade police or instituted authorities by smugglers.

This issue of recommendation and show of efficiency based on previous successes by the smugglers was evidenced in a conversation between two key organisers John Mahray Ermies and Ghermay Ermias intercepted by the police through wiretapping recorded in the FERMO GLAUCO 1 case. The content of their conversation reveals the technique of destroying any technology used with the aim of evading detection by the police such as throwing away used phones in the sea so as to remain anonymous. Clearly, were it not for the wiretapping the phone would never have been traced to the smugglers or even their victims.

**Box 6.5.**

***Conversation 31.10.2013 13:52:55 hours prog 245: conversations between JHN and ERMs in Tigrinya***

*ERMs added,*

*"I understand that to destroy the phone is not good. However, a call from the MEZREA (place of incarceration or farmhouse where the migrants are usually collected prior to their embarkation) to the city may reveal our anonymity to the police. All that has happened is the will of God. At 02 o'clock at night (he speaks of the sinking of the 03 October this) they called me and told me that they were already come ready to throw the satellite phone in the sea and it was all ok.*

**6-5. Excerpts drawn from Judicial reports, FERMO GLAUCO 1**

Besides the use of falsified documents, *disruptive behaviour to distract police from checks* also amount to means of evading police checks. Judicial proceedings



evidence this tactic of smugglers which was obtained by wiretaps about an arrangement to meet perhaps a new would-be migrant to collect money, as presented in the box below.

**Box 6.6**

*Conversation of 01.19.2014, 11:30 am, prog nr.236, 393,898,524,836 between ABK between predicted and ATWN:*

SHE discusses with ATWN:

ATWN tells SHE that he realized that the police were nearby.

NUREDIN says he pretended to talk on the phone to avoid arousing suspicion.

(Judicial reports FERMO PM GLAUCO, pg. 65)

**6-6. Excerpts drawn from Judicial reports, FERMO GLAUCO 1**

Notice the behaviour of NUREDIN in the box above, it is suggestive that though not at a police check point he was able to divert the attention of the police from him as he was probably not in a right position and could have been questioned by the patrolling police if found idle. This all amounts to measures taken to evade police checks.

Based on analysis made in the foregoing sections of this work it can be deduced that the actors in the irregular migration from Libya to Italy are both diverse yet there exists a confluence of roles at different stages according to the operation at hand. The next section presents a comparison of the different role per actors aimed at identifying this convergence.

***The evolving roles of the actors and the modus operandi***

Monzini, and Pastore (2015) have identified the different roles carried out by the actors in the business of migrant smuggling. The findings present a clear identification of the mix actors that carry out these roles. This presentation reflected the flexibility and the complex nature of these actors which in turn influences a complex continuum of strategies, nurturing the criminality in the practice. The table below elucidates specific actors based on the task carried out by the actor based on empirical findings of this study.

**Table 6-2. Table showing comparison of the different actor roles classification and specialisation**

| <b><i>A comparison of the different actor roles classification in 2002 as Presented by Monzini, and Pastore (2015) and specialisations in recent trends as observed by this study</i></b> |  |  |
|---|--|--|
| <b>Roles presented by investigations of 2002</b>  | <b>Task identified</b>   | <b>Observation/identification from recent findings</b>                                   |
| skilled intermediaries  | Collect clients from countries of origin                                     | Local scouts; friends; (Interview transcript)  |
| local intermediaries  | Maintain connections with migrants from their nationality                    | Passeurs;<br>Chairmen;<br>Locally based opportunists ;<br>Tuareg (desert nomads)         |
| persons in charge of the management of migrants   | Manages the migrants during waiting time, embarkation and accommodation      | Carers; caterers; guards;<br>Chairmen;<br><i>Wasits</i> (intermediaries per nationality) |
| intermediaries in charge of finding the boats   | Providing means of transportation in form of dinghies and other sea vessels. | Transporters;<br>Passeurs;<br>Connection men<br>Local scouts;                            |
| experts for the maritime passage  | In charge of loading and managing the transport vessels                      | Passeurs; recruited migrants   |
| transporters  |  | Passeurs; recruited migrants; Tuareg (desert nomads)                                     |

## Conclusion

The over-arching argument advanced by this thesis is that the nature of the criminality involved in the human trade between Libya and Italy has significantly changed and that the criminal networks involved are now, for the most part, specialised, scattered, unrestrained and structured. Extrapolating from the judicial proceedings, notably the FERMO PM MUHIDIN case, cross-checked against the evidence and data gathered from the semi-structured interviews, this chapter specifically analyses the way in which actors at particular junctures of the migrant journey operate, their *modus operandi*, has evolved, becoming increasingly exploitative, coercive and violent.

The evolution of the *modus operandi* employed by the criminal networks involved in the transportation of irregular migrants is the most dramatic and disturbing change to the nature of the criminality involved in the human trade which is assessed by this study as highly unrestrained. Some of these unrestrained strategies range from violence to forced confinements, stranded scenes on the sea, unaccompanied voyages, hostage holding tactics both on land and sea, and to methods of evading checks by the authorities.

## **Chapter 7 THE EVOLUTION OF THE LIBYA TO ITALY HUMAN TRADE**

On Wednesday the 13th of April, 2016, there was a disembarkation of about 980 migrants who had just arrived from Libya to the port of Palermo, Sicily, Italy. The author of this thesis witnessed this disembarkation, which included 138 minors, two babies and many pregnant women. This was just one arrival that day with more scheduled to arrive. Such arrivals are constant and growing. This, is in part, due to the recent political upheavals in north and central Africa and the acclaimed 'Arab Spring' of 2011. These upheavals have displaced large numbers of citizens in the affected countries and swelled the refugee population. Consequently, this situation has in turn led to an extraordinary increase in the number of those refugees seeking to migrate to Europe. Since European countries have restricted the numbers they are prepared to accept, there has been created a criminal market. Criminal organisations operating out of Africa have created a burgeoning enterprise out of the misery of migrants.

An 823% increase in the flow of migrants into Italy was recorded in the first four months of 2014 over the same period of 2013. There were 25,650 arrivals into Sicily, Puglia and Calabria in 660 landings making it the highest number of arrivals in the preceding five years except for the months of the 'Arab spring' of 2011 (FRONTEX 2017). It is estimated that an average of four hundred thousand irregular migrants enter Europe through this route annually. On the other hand, 2016 has since been declared as the deadliest year for refugees crossing to Europe via central Mediterranean. In the first eight months of 2016, two hundred and eighty-one thousand, seven hundred and forty (281,740) migrants successfully crossed the Mediterranean into Europe while a total of four thousand, one hundred and seventy six (4,176) have died or gone missing for the same period.

The focus of this chapter is to examine the link between the evolution of these irregular migration flows by sea and the structure of the criminal networks. The analysis draws on both interviews and the judicial proceedings such as the 'FERMO PM GLAUCO'

cases<sup>14</sup>, to establish the nature of that link. The argument here is that despite the fact that the networks in this human trade may reveal multi-various attributes in detail, they remain scattered, which is one thing they have in common. Using the FERMO GLAUCO cases this chapter examines the structure of the transnational criminal groups and networks involved in the organised crime of irregular maritime crossing in the last 7 years with the aim of analysing the characteristics that demonstrates their differences in detail. In the light of the existing known models for organised crime (Arsovka 2014), it examines the organisational structure of their operations and the distinctive features of the networks in terms of their capabilities. The chapter offers a clearer understanding of what enables transnational criminal organisations operating in and out of Africa to adjust their structure and network to the evolving migration trends.

## The evidence from judicial proceedings

### The 'FERMO PM GLAUCO 1' Case

This is one of the four cases that arose out of the investigation carried out by the Italian police and courts following the events of October 3, 2013 off the coast of Lampedusa, Italy. At about 07.15 a.m. the Italian coast guard was alerted to a shipwreck involving migrants near the south coast of the island of Lampedusa, in an area called 'Tabaccara'. The Flying Squad of Agrigento who also attended the scene of the wreck took statements from survivors who reported that the boat had 500 migrants on board. Almost all of them were Eritreans, who had sailed from Misurata in Libya the previous night. During the journey 366 people lost their lives.

The complex and comprehensive investigation into the activities of the people smugglers involved came to be known as the GLAUCO OPERATION. It involved extensive interviews with survivors, surveillance and telephone tapping of persons of interest. The investigation unmasked a complex web of criminal conspiracy involving

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<sup>14</sup> Provisions of Decree of Detention P.M., (FERMO PM GLAUCO 1) Art. 384 Code of Civil Procedure, Prosecutor's office, Court of Palermo, District Anti-Mafia, 2013; and Decree of FERMO Disposed by P.M. (FERMO PM GLAUCO 2) - art. 384 p. p.p. Prosecutor's office at the Court of Palermo District Anti-Mafia Directorate N. 1874/2015

a transnational network of criminal groups traversing the Sahara Desert across the Mediterranean into Italy, Western Europe and the Nordic countries. It also revealed the cooperation of several suspects in organising, procuring and enabling the illegal entry, transit and or stay of migrants in Italy for profitable purposes.

The investigation led to nine persons being prosecuted in the court of Palermo. They were accused of crimes committed in more than one state, participating in an organised criminal group; conspiracy to commit serious crime, participation in criminal activities of an organised criminal group; organising, directing, aiding, abetting, facilitating or counselling the commission of a crime involving an organised criminal group and smuggling of migrants (this includes enabling illegal entry, procuring a fraudulent travel or identity document; enabling illegal stay violating existing legislation on immigration; the possession of arms; organising the transport of migrants within the Italian territory – receiving the migrants or orchestrating escapes from reception centres in order to procure illegal entry into another state.

The accused were: Wold, Tesfahiweit, [specifically accused on four counts]; Weldemicael, Samuel [on three counts]; Sales, Mohammed [on three counts]; Afwerke, Yared; Mells, Matywos [on four counts]; Abdadt, Shamshedin [on two counts]; Atta, Wehabrebi Nuredin [on three counts]; Mahray, John; and Ghermay, Ermies. These suspects were alleged to have endangered the lives and safety of the migrants in the process of carrying out their enterprise, including acts of dehumanising treatment towards the migrants and extortion for profit. These persons were identified as connected and members of particular people smuggling group both on a temporal and permanent basis so as to enable them to succeed in their smuggling escapades. Their techniques and the strategies are analysed in chapter six of this work.

The facts (as gleaned by the judicial and police investigators from statements of survivors of the shipwreck, surveillance and telephone tapping) demonstrate how the criminal organisation was led, the roles of the members, their violence and extortion in handling the migrants, their transportation methods, and their police avoidance techniques for onward travel through Europe.

Ghermay Ermies of Ethiopia, Mouhamud Elmi Muhidin of Somalia and Mahray John of Eritrea were the leaders of the organised criminal group engaged in the smuggling of migrants from Libya to Italy. Most migrants were contacted by Ghermay Ermies or themselves contacted Ghermay for the latter to procure their entry into Italy illegally by sea. Ghermay Ermies was based in Tripoli, Libya. Mahray John was based in Sudan and was a major recruiter and organiser of migrants from Eritrea, Sudan and neighbouring countries. It was part of his duties to organise caravans of migrants from central Africa to the coast of the Maghreb and liaise with Elmi Muhidin and his group for their passage through the Sahara onwards to Ghermay Ermies in Tripoli. He was paid for his services in advance.

Mouhamud Elmi Muhidin who was the subject of a separate criminal proceeding (FERMO PM MUHIDIN) was identified on 25/10/2023 as the leader of an armed group responsible for the kidnap or abduction of about 130 migrants, mostly of Eritrean origin, in the Sahara Desert in July 2013. These migrants who were travelling from their home countries to Libya (for the purpose of immigrating to Italy), were taken under the threat of force by Elmi Muhidin and his gang.

The migrants were locked up in a farmhouse in Sheba under the control of Muhidin. During their detention, they were violently assaulted until their families paid a 3300 US dollars ransom per migrant, as demanded by the gang. Such payments were made by way of electronic money transfers through banks or Western Union/ Money gram in the name or codes supplied by Muhidin and his associates. Other payments were made by the families of migrants to representatives of the abductors both in Eritrea and other parts of the world. They were tortured, their women raped and some of them killed while they waited for their families to come up with the ransom money.

The migrants were later, through various means, transported to Tripoli where they were handed over to Ghermay Ermies. Ghermay Ermies, in turn, put them in a house (collection centre) where they were later joined by no less than 600 other migrants. They were each dispossessed of personal belongings and made to pay a fee of 1600 euros for the trip across the Mediterranean into Italy. Again, the payments were made by relations of the migrants from various parts of the world in the manner specified by Ghermay Ermies.

While at the house, the migrants were not allowed to go outside for any reason whatsoever. They were fed sparingly on a diet that consisted of just bread and water for the duration of their stay. Some of the women amongst them were also sexually abused and prostituted for money. The migrants were kept at the collection centre for upwards of one month as Ghermay Ermies and his associates made arrangements for the trip across the sea into Italy. First, they had to find the appropriate ship and a captain and also reach understandings with the police and maritime security operatives to ensure that their illicit enterprise was unhindered. The migrants were later transported to the embarkation point at the beach where they were ferried by small boats out into the sea and then put on a larger boat for the sea journey across the Mediterranean. Even at this stage, migrants were dispossessed of all personal money and effects and were so tightly arranged in the boat that none could move or stretch out during the trip. Those who protested at the inhuman conditions on the boat were severely beaten.

According to the survivors of the disastrous shipwreck of October 3, 2013, the boat *en route* had started to take in water. Scared and apprehensive, one of the smugglers (the Captain), in order to attract the attention of some commercial ships or other nearby boats, had set fire to a blanket, sprinkling it with diesel in order to use it as a visual indicator. Such conduct caused a fire on the deck. The ensuing fire frightened the migrants who, *en masse*, moved towards the other area of the boat, away from the fire. This caused imbalance and the subsequent capsizing of the boat.

Following these facts, 366 people including women and children, lost their lives in one of the deadliest events on Italian waters outside of war times. The events of the ill-fated trip gave rise to the extensive criminal investigation otherwise called the GLAUCO OPERATION. Through telephone intercepts, it was discovered that the cooperation between Ghermay Ermies and Mahray John preceded the boat trip of 03/10/2013 and continued even after the shipwreck. Intelligence so gathered revealed that of the 500 migrants on board the wrecked ship on 03/10/2013, 109 were sent to Tripoli by Mahray John and 68 of them died in the shipwreck.



The investigation revealed that while Mahray John, Elmi Muhidin and Ghermay Ermies were principal actors of the criminal organisation in Africa, the first seven defendants formed a critical part of the organisation and operated from inside Italy. This latter group was responsible for helping migrants quartered at the Reception centres to avoid giving their thumbprints to the police, escape from the centres, travel across central and Northern Italy and ultimately move on to other destination countries in Europe and beyond. This group were especially adept at providing logistics to enable the migrants to travel and to establish in any city or country of their choice in Europe without detection. They provided temporary lodgings, clothing, transportation and travel and immigration advice to the migrants for a fee, such fees always paid in advance. They provided fake or altered passports and other travel and identity documents to enable the migrants to reach their respective destinations while avoiding detection and arrest. They procured for the migrants, marriages of convenience or sham marriages with European citizens as a short cut to obtaining resident permit and European nationality. Their remit also included physically transporting the migrants from one point to another via bus routes, private cars and hired vans. Using all human and material resources necessary, the suspects, working together, pursued and achieved a common criminal purpose of effecting illegal entry and establishment of migrants into Italy and beyond for profit.

The legal findings of the case were as follows. At the hearing conducted to determine precautionary detention, the public prosecutor ruled for detention of all available suspects pending full trial. In reaching this decision, the public prosecutor, following laid down determinants of a criminal group, concluded that the suspects belonged to a criminal organisation, were part of a criminal conspiracy and, participated in the activities of a criminal group. The public prosecutor also assigned jurisdiction to Italian courts applying the principle of *autore mediato*.<sup>15</sup> Specifically, for the lawful exercise of the Italian jurisdiction, it is necessary that the action and omission that constitutes the criminal conduct takes place, wholly or in part of the territory of Italy (Article 6, Criminal Code). The jurisdiction will equally be established if the natural result of the conduct occurs in Italian territory. In respect of criminal conspiracy, the jurisdiction of the state will extend to all co-perpetrators (even if abroad) as long as any act of

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<sup>15</sup> 'Autore mediato', doctrine of the so called 'mediated' or 'indirect' perpetrator, Article 54 of the Italian Criminal Code

participation in the common plan occurs in Italy. The prosecutor also highlighted the difference between smuggling of migrants and trafficking in people notwithstanding that the two are often interlinked.

The above details reveal some key features concerning the nature of this criminal organisation. There was clearly **interdependence between the groups** in Sudan, the Sahel region, Tripoli and Italy. Even in Italy, there was coordination between the various cells in Agrigento, Rome, Milan and other cities. During the planning and execution of their illegal activities and even during their rest periods, contacts between the principal actors were intense, constant and frequent. This extensive network of the criminal organisation was built and sustained by an array of **communication channels**, including telephone, Skype, Tango, Viber, WhatsApp and many others. They also made use of satellite phones for communication in places where cell phones and Internet do not function. As a result, there was always a constant flow of information between members of the organisation regarding conditions on the sea, stages of migrants' journey and the manner of assistance required by each. Free flow of information between the various members of the group ensured a stable structure for the group's criminal activities. The criminal activities of the criminal group was further helped and the network strengthened by the **system of payments** adopted by it. The use of instant money transfer channels like Western Union, MoneyGram and Italian Poste Pay, ensured that members of the group received instant payment for services agreed to be rendered at all stages and in all places. The further practice of families of migrants handing over cash money to representatives of the group anywhere in the world further enhanced the structure and network of the group.

Of all the four cases that emanated from the investigation into the shipwreck of 2<sup>nd</sup> and 3<sup>rd</sup> October 2013, this case is more representative of the workings of the modern day criminal groups engaged in smuggling and trafficking migrants from Libya to Italy through the Mediterranean. Other than the FERMO PM GLAUCO I and II cases, arising out of the investigation that followed the 03/10/2013 shipwreck, there were 3 other relevant cases where organized criminal groups engaged in people smuggling were investigated by the Italian authorities in Sicily.

(1) FERMO PALESTINESE 1, where Abdalmenem Ih Attour, a Lebanese was, among others, charged with illegal transportation of migrants from Africa to Italy, particularly from Libya to Lampedusa for a fee.<sup>16</sup> He was also charged with providing safe houses for the migrants in Libya with armed guards and inhuman treatment of the migrants.

(2) FERMO PM MUHIDIN in which Elmi Muhidin Mouhamud, a Somalian national, was identified as the leader of the kidnapping gang operating in the deserts.<sup>17</sup> He was specifically charged with offenses relating to trafficking in persons, kidnappings and smuggling of migrants for a fee or ransom.

(3) FERMO PM SCAFISCA which had Bensalam (alias Bensalam Khalid) of Tunisian origin, as defendant.<sup>18</sup> He was identified as one of the two smugglers that organised and piloted the ill-fated boat crossing of October 3, 2013. Investigations conducted showed full participation in these criminal activities by all the nine suspects with different roles as well as their ability to be fully operational, regardless of the ongoing investigations on other apprehended members of the association and network of actors. The techniques and strategies observed to have been employed by these actors in their operations, have been analysed in the chapter six of this work

While the other cases examined in this study dealt with the aspects of the *modus operandi* and the actors of the phenomenon, this case shines light on how the diverse groups have responded to the spike in demands for crossings by migrants and the various approaches employed by European authorities to stem the tide. It gives a detailed presentation of activities of the actors in their networks revealing their connections and their inter-relations revealed through wiretappings carried out by the Italian flying squad during several investigations. Information contained in these proceedings are deemed credible following the assertions of Colwell, Hiscock, and Memon (2002) who in their analysis endorse the veracity of eyewitness reports such as contained in the proceedings, in investigations, in which also the criminal justice

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<sup>16</sup> Examined in chapter five of this work as regards the aspect of actors involved in the Libya to Italy irregular maritime migration phenomenon

<sup>17</sup> Examine in chapter 6 as regards the aspect of the *Modus operandi* employed by actors in the Libya to Italy irregular maritime migration phenomenon

<sup>18</sup> Also examined in the sixth chapter of this work as regards the aspect of the *Modus operandi* of the actors involved in the Libya to Italy irregular maritime migration phenomenon

system expresses a high level of confidence. Although this may not tally with the opinion of Aziz, Pastore and Monzini (2015) regarding the authenticity of the structural organisation proposed by this study, the indications from these proceeding are considered more viable than the non-detailed summaries of activities reported the UNODC.

## The FERMO PM GLAUCO II Case

The complex investigations by the office of the Public Prosecutor into the activities of the organized criminal group did not stop with the detention and prosecution of the nine suspects. The investigations continued, leading to the issuance of yet another order for precautionary detention of twenty four suspects, mainly of Eritrean nationality, on 10/04/2015. GLAUCO 11 is, therefore, a follow up on the work developed and the findings reached in the Glauco operations. It involved 24 suspects, 22 residing in Italy, one Eritrean, Ghermay Erimais and an Ethiopian, Mered Medhaine Yehdego.

The facts and circumstances in this second case are similar to that of GLAUCO 1, such that even Ghermay Ermias, a principal suspect in the first proceeding, is also a defendant in this second case. As in the earlier proceedings, the declarations of migrants, phone tapings and surveillance operations were central to the investigation. The investigation found that the organized criminal group identified in the GLAUCO OPERATION remained fully operative at a transnational level, with cells in many different places. Responsibilities were shared among members and cells, with some responsible for the illegal entry of migrants into Italy, while others were concerned with their transit to final destinations in the European Union.

According to the proceedings, the smuggling of migrants is organized in different stages. Firstly, migrants are collected and assembled in Libya where they are received by Ghermay Ermias and his associates. Usually, they are kept in Zuwarah (Libya), in houses under the control of Ghermay Ermias, until the day of their departure for Europe via the sea. Again, their journey to Libya from their respective

home countries is fraught with violence and abuse, including kidnapping, of which Ghermay Ermias and his partners were aware and accomplices. Every service rendered to the migrants is paid for in advance and those who are not able to pay are forced to work in lieu. From Ghermay Ermias' houses in Zuwarah, the migrants embark on the most precarious stage of the journey. They are crammed into unstable boats and launched into the Mediterranean in the direction of Italy. Conscious of operation *Mare Nostrum*, the smugglers abandon these boats in international waters after they have sent a request for help to the authorities. The migrants are subsequently, in most cases, rescued by the coast guards.

Once migrants are on Italian soil, they are again “recruited” by members of the organized criminal group operating in Italy, with the promise of facilitating their further movements, and providing other logistical support, such as accommodation and clothing. All services are provided only after pre-payment has been made.

The *modus operandi* of the organized criminal group, therefore, consists of: (1) Introduce migrants illegally into Italy; (2) Once in Italy, migrants are forbidden from participating in the standard identification procedures, including photographs and finger printing; (3) Before the conclusion of identification and reception procedures, migrants are assisted by members of the criminal group, in moving away from the Reception centers towards northern Italy, and from there to northern Europe. Avoiding identification procedures at the Reception centers is in a bid to preclude the application of European and national laws on immigration. According to European Union law, the administrative procedure aimed at obtaining a resident permit and or refugee status, shall be finalized where it is initiated. If the migrants are photo identified at the Reception centers in Italy, the mentioned administrative procedure is triggered. This means that migrants who wish to settle in any other European country can no longer do so, on account of having already initiated the asylum procedure in Italy. Only Italy is obligated to consider their asylum or residence requests. On escape from the Reception centers, and in their bid to get to their destination countries, migrants, assisted by members of the organized criminal group, are moved from one place to another by public bus transport, as a way of evading passport controls and possible detection by the authorities. Investigation also revealed not only prepayment for each service provided, it also

revealed in greater detail the methods of payment used. Members of the criminal organization receive payments through different systems, legal and illegal. They can receive payments directly in cash; through the “*Ahwala*” banking system based on trust; through financial services providers that allow quick and smooth movement of cash, such as *Western Union*, *MoneyGram*, and, in Italy, *Poste-Pay*.

Other services provided for migrants by the criminal group in Italy include, the procurement of false documents to enable migrants travel within Europe undetected, and the arrangement of sham marriages as a means of procuring and or enabling illegal entry, transit and stay.

Evidence gathered showed that members of the organized criminal group had precise yet varied roles, either as a migrant receiver and or collector, driver, *Ahwala* etc. with the contribution of all suspects being essential to the smuggling of migrants and other related offences by the group. Ghermay Ermias, Mered Medhanie Yehdego (in North Africa) and Ghermay Asghedom (in Italy) were, at this stage, identified as main leaders of the organized criminal group. The investigation concluded that the group remained operative and was responsible for smuggling tens of thousands of migrants across the sea into Italy and the rest of Europe.

The legal findings of the case were as follows. In view of the findings of the investigation, the public prosecutor determined that all the suspects were members of a transnational organized criminal group dedicated to the smuggling of migrants for financial and material benefit. The group operated mainly in Central Africa, the Maghreb countries, Italy and northern Europe. All suspects conspired in the smuggling of migrants and in procuring and or enabling the illegal entry, transit and stay of migrants in Italy and from there to other places in Europe. Precautionary detention of the suspects was determined because of the risk of escape; risk of tampering with evidence and risk of the suspects repeating the offences if not restrained. The order of precautionary detention was also issued against suspects whose whereabouts was unknown at that time, even as their investigation was continuing.

The judicial reports enable some of the key questions to be answered such as: can the rapid increase in the number of migrant crossings be linked solely to the desire to travel by the migrants? If so, to what extent have the evolving strategies and techniques employed by the criminal smuggling groups assisted this phenomenon? The answer, according to Monzini, Aziz and Pastore (2015) is that the high demand for crossings in the recent past can be attributed to the heterogeneous criminal networks, which avail themselves of the desperate situation of the migrants, expanding the markets in popular transit hubs, such as Libya and Zuwara.

The escalation in the crossing figures in the recent past points to two sustaining factors; first, the high demand in crossings, and secondly, the ability of the transnational criminal groups in adjusting to the trend in terms of their structure and network, which is the focus of this chapter. What stands out clearly in the judicial proceeding is the use by the criminal networks of social networking sites and other electronic forms of verbal and financial communication. Here we are referring to Applications like *Skype*, *Imo*, and *WhatsApp* which have end to end encryption (for security purposes) as against the use of telephone conversations which are easily amenable to wire tapings by the authorities. Most of the evidence used to convict the 1st to 7th defendants in the FERMO PM GLAUCO1 case on the count of belonging to a criminal organisation was obtained through wiretapping of their telephone communications. It was observed in the transcript of the wire taps that the suspects preferred discussing details of strategy via *WhatsApp* and *Skype*. This infers that the complexity and the evolution of the crossings in the Mediterranean are inversely conditioned by the techniques and structural formation of the criminal groups.

Based on the judicial reports above, the remainder of this chapter will trace the development of criminal networks as part of the overall evolution of the irregular migration flow in the central Mediterranean.

## The formation of the Criminal Networks

Networks have been identified as a common feature in the study of social organisations (Williams 2001), and applied to organised crime (Potter 1993). The

traditional understanding of organised crime identified their structure as either hierarchical or pyramidal. It now appears that these criminal organisations have significantly evolved. The Europol Risk Assessment of 2013 identified an estimate of 3600 OCGs actively functional in the EU, with about 40% of them running a network type structure (Europol SOCTA 2013). The 2016 Europol report records Europol being purview to information regarding over 10,000 suspected members of smuggling networks in 2015 alone (Europol 2016). Bârsan and Cardiş (2014) explain that the observed replacement of traditional hierarchy of the groups which acted based on geographical criteria, by free networks which worked together with the sole aim of exploiting new opportunities on the free market, necessitated the definition of organised crime group on an international level, which the United Nations have provided. They add that there has been an expansion of international commerce which can be seen in the mode in which the activities of organised crime organizations throughout the country have expanded and diversified. This scholarly observation could be visualised in the recent irregular migration by sea from Libya to Italy in which some of the smugglers have been identified as former drug smuggling offenders who have diversified into the business of smuggling of persons because of the profits which smugglers now make from migrants and because of the unprecedented surge. Considering the statistics of SOCTA 2013 and EUROPOL 2016, these observations and assertions appear tenable. This aligns with the response of an officer of the Italian Flying Squad in Palermo who deals directly with irregular migration cases particularly on the issue of the evolution of criminal groups and networks (Interview 11)<sup>19</sup>. He revealed that structurally, the criminal groups identified with people smuggling could also be grouped as the Mafia based on its hierarchical model as presented by Arsovka (2014). This modelling of criminal groups has been extensively discussed in the third chapter of this study. Other revelations by the officer exposed the fact that based on this categorisation and understanding, human smugglers apprehended by the people smuggling unit of the Italian police, are prosecuted in the same way members of the Mafia are prosecuted.

Regardless of the scholarly assertions regarding the perceived structure of criminal organisations, evidence and data reveals significant evidence of the evolution of

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<sup>19</sup> The officer did not wish to be identified; he rather remains anonymous for security reasons.



criminal organisations/networks. Bârsan and Cardiş (2014) argue that there are no unique models of a transnational crime organisation based on its multi forms, codes, experience, areas, and tactics. Their arguments are premised on the fact that

...the fight against organized crime is quite complex and requires international cooperation; crime organizations are sophisticated, easily adjustable and are in permanent expansion of their alliances and agreements in order to obtain broader access to 'know-how', new technologies of ensuring better protection from state's authorities, reducing risks and opening new channels of illegal activities (Bârsan and Cardiş, 2014:160)

This submission could be argued as the reason for the evolution of criminal groups as well as the increase in the business of people smuggling and trafficking (Bloch and Chimienti, 2013, The Migration Observatory, 2014, Vogel, Triandafyllidou. and Düvell, 2011. See also Campbell, 2013). It is therefore possible to trace and lace the challenges and complexities of the phenomenon in recent times with the traits asserted by Bârsan and Cardiş, 2014. In essence, the different sides to the network of the human trade between Libya and Italy points to one thing; a multi-various networks with distinctive characteristics that make them indomitable which this study examines in this chapter.

Although criminal organisations have in the recent past been observed to operate through fluid networks, shifting from the traditional hierarchies (Williams 2001), indications from data collected for this research suggest that the evolution in the structure of criminal networks has become a continuum at the same time scattered. One notable feature of the criminal organisations involved in the smuggling of persons from Libya to Italy is the fact that they are more than ever transnational and 'boundary spanners' (Williams, 2001). William's noted the capacity of criminal networks to flow around physical barriers and at the same time across legal/geographical boundaries as an advantage. This ability goes some way to explaining how their operations survive against prosecutions and clampdowns. The FERMO PM GLAUCO case revealed the existence of a criminal network of smuggling groups, active both in Italy and the African continent. The research concludes that the Libya to Italy human trade

is organised and steered by transnational networks consisting of various operational components as “collective sets”, and not as a “compartmentalized structure” within a formation. The structure is one of a number of groups interconnected, with the ability to mutually interact with a common goal of orchestrating and carrying out criminal operations/projects. This could be compared to the collective network concept (Kurtz 2009), only that in this case, the common goal which is the financial gain and acclaimed authority in successfully smuggling migrant through international borders remain the common bond that links the groups. The focus and interest of the groups momentarily transcend their traditional structures with their common goal in mind.

Membership of a criminal organisation is established when the role and method of the acts performed are such as highlight the existence of a bond/agreement to commit a crime. This can occur when the role cannot be entrusted to people outside the organisation or when the person involved uses the resources and system of the organisation as a permanent member of the organisation. Membership is not established simply because the organisation may occasionally place responsibilities on the person. In this regard, boat owners or lessors, Italian nationals who are occasionally recruited to drive migrants across European borders and others who, in a single instance, take part in fake marriages for a fee, though identified as actors in this study, are not classified as belonging to a criminal organisation.

In the FERMO GLAUCO case and using the afore-mentioned criteria, it is obvious that all the defendants belonged to a criminal organisation. The case is demonstrative of the existence of a bond between the “cell” in the Italian territory and those operating from abroad (Libya, Eritrea, Sudan, Ethiopia) which together have allowed members of the cell to interact with the migrants, facilitate their travel arrangements to Sicily and thereafter, to northern Italy and other parts of Europe. Although an attempt was made by the public prosecutor in the FERMO GLAUCO case to allude to a permanent and existing criminal organisation operating out of Africa and Italy to facilitate the smuggling and resettling of irregular migrants into and in Italy, opinions differ as to whether there is indeed a permanent criminal organisation so structured. For instance, Salt (2000) points out that the symbiosis observed between the trafficker/smuggler and the migrant complicates issues. He argues that the trafficking and smuggling organisations consists of a flexible structure of many loosely interconnected and

competitive networks in which the smuggling and trafficking market is continuously pooled and re-shared, as against working with a single core. The OECD (2015) report, on the other hand, analyses that the smuggling organisations adopt adaptive strategies in the face of policy changes, by either changing prices or reverting back to their poly-criminality mode or adopting intense smuggling tactics to make more money. To this end, Monzini, Aziz, and Pastore (2015) suggest that these smuggling organisations are structured in the form of flexible coalitions which are managed by means of ad hoc contractual agreements, continuous interactions with other local and transnational networks. They assert that even judicial proceedings have not been able to arrive at proven organizational structure, where particular roles are specifically shared out, whereas this study disproves that claim by extrapolating from proceedings examined key evidence to demonstrate the organizational structure of OCGs in the human trade. However, in the opinion of the EUROPOL (2016), it perceives that cooperation among smuggling networks would be according to the immediate need, thereby making it more occasional but a regular occurrence. It exposes that the competition among them is managed by means of larger criminal networks attempting a sort of hostile takeover of smaller opportunistic networks. As varied as these opinions may be, this research adopts the perceptions of the 2016 EUROPOL report on Migrant smuggling, which suggests that the evolution and structure of smuggling organisations tend to take up all identified features and many more, in order to meet immediate need. This transcends merely being flexible.

In truth, the increase in migrants' demand for crossings of the Mediterranean resulted in more smugglers entering the now lucrative “business”. With this came more specialisation and “professionalism”. There arose, therefore, the need for better organisation with a view to avoiding detection and arrest and making more profits. The findings in the case under review suggest that the criminal networks involved have since evolved and become dense, complex and transnational. They are linked in some cases and parallel in others, not involving a protracted criminal bond and not based on permanent membership but having a well-planned objective of profit. We see from the case under review, criminal networks orchestrating the transport of the migrants from their countries of origin across the Sahara Desert and the coast of Libya into Tripoli. In Tripoli another network of criminal groups warehouses the migrants pending suitable arrangements for a boat or dinghy to take the journey across the

Mediterranean. Even as the migrants travel from Sub-Saharan Africa across the desert to Libya and from Sudan to Libya, there exists other armed groups who kidnap and keep the migrants against their will and ultimately extort huge sums of money from their relatives before they are released or handed over to the Tripoli based people smuggling networks (judicial reports, the FERMO MUHIDIN Case). These informal and overlapping networks emerge, morph and fade by the week. This feature is observed uniformly in the conversations recorded via phone tapings between the suspects/actors obtained by the anti-trafficking and smuggling police squad. Below is an excerpt of the analysis of the conversation between the smugglers (both professional smuggler and a relative as an actor) on behalf of a prospective client, who was the younger brother of the caller. It is an example of the interconnectivity of the smuggling groups and actors.

***Box 7.1.***

*Conversation 15.11.2013, starting at 11:47, prog nr.380, 393,285,690,899 to SAL.M, from TES:*

**‘TES calls from Australia and informs SAL.M that he sent money to SAMUEL to help a relative named HENOK GEREZGIHER,** but did not get any news, because SAMUEL would not answer the phone. TES, informs that the boy is 15 years and is a survivor of the sinking, was transferred from Lampedusa to Sicily and needed the said money right away.

SAL.M reassures TES that he would go personally to talk to SAMUEL.  
TES informs that the number of the guy is: 00393339996008...’

***7-1. Excerpts from The FERMO PM GLAUCO case***

Examining the above excerpt in relation to previous conversations wiretapped on this thread as contained in the proceeding,<sup>20</sup> the caller had earlier contacted a different smuggler who appeared to have swindled him and had not carried out the agreed plan of smuggling the minor abroad, after receiving the money paid for the service (The FERMO PM GLAUCO case, pp. 52-55). This implies that though a smuggler may appear to belong to the same association because of shared nationality, they

<sup>20</sup> The wiretapped conversations are attached as an appendix in the finished draft of this work.

nevertheless, in most cases, have their private operations which they run without collaborating with other members of their organisation, as their own prerogative.

Scholars in the network field, such as Powell (1990), explain that in networks, transactions are carried out by the network of individuals who are ‘...engaged in reciprocal, preferential, mutually supportive actions’ (Powell 1990, p.303). The complexity as indicated by Powell in networks such as these is that ‘...they involve neither the explicit criteria of the market, nor the familiar paternalism of the hierarchy’ (Powell 1990, p.303). In the same vein, this manner of interconnectivity in the form of a network, is identified by Campana (2016) in his illumination of criminal networks as a mode of exchange, as against the renowned twin pillars of market and hierarchies championed by Williamson (1973, 2005). However, the complexity in the network of the criminal groups in the Libya to Italy irregular migration is problematic based on the diverse features and characteristics of their trade, especially hierarchy. These are further analysed in the succeeding part of this work.

The networks in the Libya to Italy human trade, regardless of their unique organisational structure, were observed to exhibit the ability of coming together to commit more crimes, without imposing necessarily a hierarchical structure. The focus of their actions secures their unification; this unification for the most part is temporal. Figure 12 below presents a representation of the network and linking of the smuggled migrant with the different actors analysed in chapter five of this study, and how they are further connected to other actors in the course of the journey from their diverse countries or place of origin, through the transit points, towns or cities, to their desired destination or location.

### The Integrated Criminal Smuggling Network Model (ICSNM)

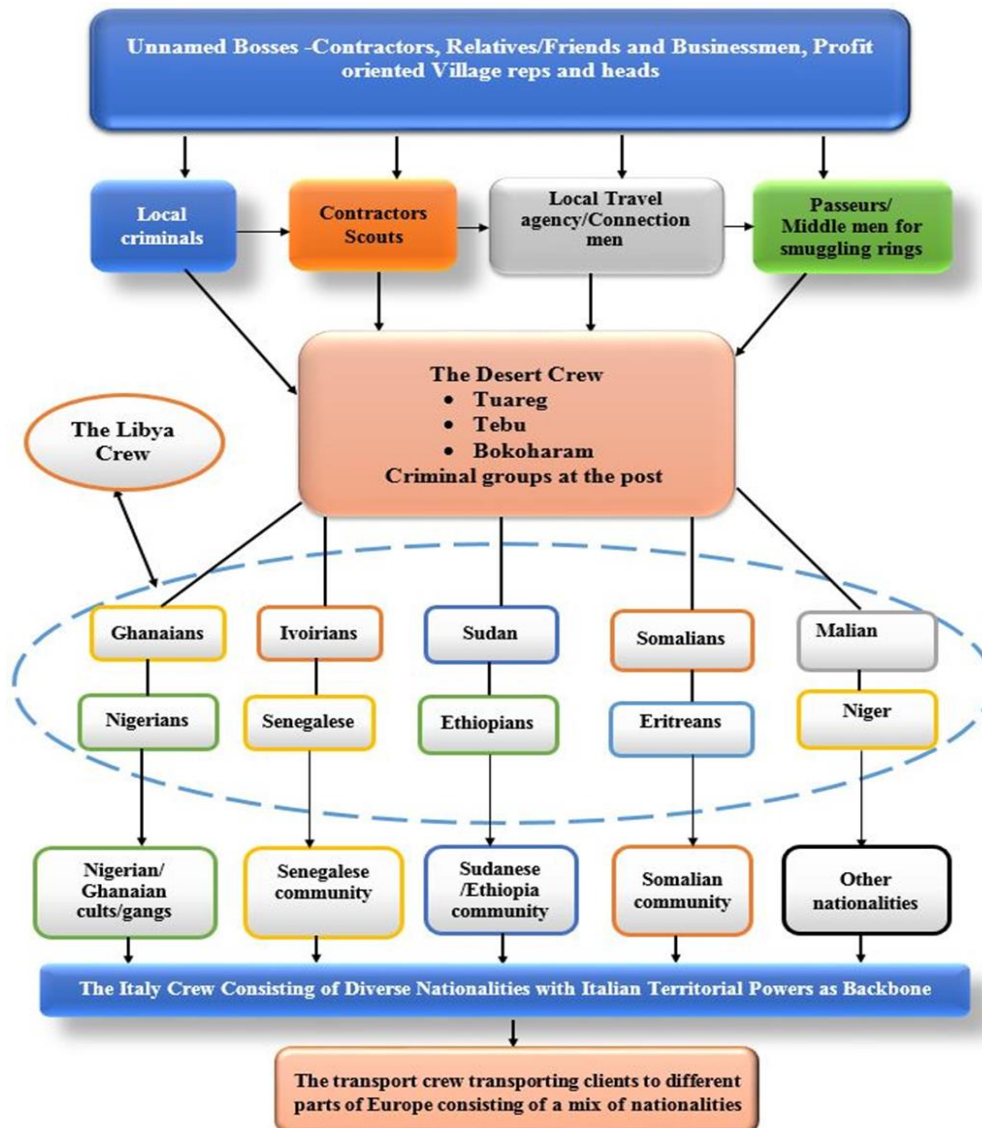


Figure 7-1. Integrated Criminal Smuggling Network Model (ICSNM) indicating the connection between the scattered human trade groups and the migrants.

The diagram above is a mix model which describes the type of network of criminal organisations driving the Africa-to-Europe voyage, which this study refers to as the Integrated Criminal Smuggling Network Model (ICSNM).<sup>21</sup> In their respective entities,

<sup>21</sup> The findings from the case file, validates the indications from findings gathered during filed study in Italy (Palermo, Castelvetro, and Rome). Examining the interview transcripts, indications are that the structure of these criminal networks is dense complex, and transnational. The findings suggest that these networks are linked in some cases, and parallel in other

these groups are of their own unique structures yet converge to form sub groups as the need arises and are non-permanently linked to the other groups for the purpose of any trade. For an example, the subset of the Nigerian/Ghanaian gangs are made up of multi-various groups who comport themselves to converge solely because of the human trade. They also have their own heads in their various sub groups; this surprisingly, does not in any way hinder their collaboration. Although the case examined in this chapter – the FERMO PM GLAUCO case – illuminates mainly the activities of criminal groups in the Horn of Africa, this analytical diagram is based on data regarding smuggling networks of Sub-Saharan and North African origin but may also be applied to other regions with minor modifications. The diagram above shows a criminal network with roots in migrants' countries of origin, such as Sub-Saharan Africa, North Africa, including East Africa, which begins with business men (Unknown Bosses), Contractors (contacts) and family members of the migrants who may decide to indulge in the business of illegal migration in the form of either trafficking of human beings for profit or people smuggling for profit (Interview 30). With the Nigerian connection as an example, village heads and individuals desperate for quick money or better economic alternatives are contacted and linked with smuggling rings disguised as local travel agencies, philanthropic kinsmen, connection men, and other local criminals. An independent respondent, who preferred to remain anonymous when asked of how she got connected to the smugglers, recounted that the lady who trafficked her and her friends, came in the guise of being a help to their family's helpless condition and was adored by all as good fortune to the family (Interview 39). At this level the connection link is horizontal. Desiring migrants, and pimps by these connections are connected with middlemen/Passeurs of smuggling rings, operating in their different formations. These independent smuggling rings, in the process of the voyage, meet with the desert crew which consist of the Tuareg, Tebu, Bokoharam and possibly other unnamed criminal groups who exploit the desert smuggling route. This “desert crew” as this study tags them, sets up road blocks in order to exploit migrants, as well as unknown criminal groups that go through the desert, demanding large payments per person, most often sums not less than 10,000 Cfa. A respondent in Palermo, with extensive knowledge of the route stated that;

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*cases, not involving a protracted criminal bond and not based on participation or permanent membership but having a well-planned objective of profit. Evidences from the field, based on respondents' opinion shows that these criminal networks operate in form of cells within major Italian territories such as Agrigento and Rome - consisting for instance of Eritrean complementary to that operating in the African territory.*

...every week, at least 30 vehicles (Toyota Pick- up) leave through the desert. During the journey, there are posts where they have to pay each person 10,000cfa [these posts are usually occupied by men from North of Chad and Libya – generally known as the Tuareg], armed rebels. There are almost 10 or 11 of the posts in the course of the journey to Libya.

(Interview 36).

At arrival in the most prominent transit countries for sub-Saharan and east African migrants, Libya, the migrants get connected to other criminal groups. In the majority of cases, the criminal groups consist of members of different nationalities, but are mainly from Sudan, Ethiopia, Eritrea, Nigeria, Ghana, Egypt as well as Libya. Indications from field study conducted for this study suggest that, though the different groups may have vertical or horizontal structures of regional hierarchies, the connection at this level is horizontal with two main bosses. The criminal groups at this level form alliances with one another across the Mediterranean. An example of such links is the Somalian, Sudanese, Eritrean and Nigerian communities' link with Italian criminal groups to form a formidable Europe based smuggling chain. Although not clearly outlined in the diagram, the smuggling groups may maintain whatever models of organisation suits their existence, be it hierarchical or alien conspiracy or any other structure as independent smuggling rings. Excerpts of conversations between smugglers contained in the FERMO GLAUCO 1 proceedings reveal that the actors connive on many occasions with the aim of organising a smuggling assignment. This aligns to a considerable extent with the expositions of William (2001) regarding the ability of criminal groups and networks to congregate and disband where they deem necessary, towards achieving a common goal. Thus, these smuggling groups form these alliances only as a means to succeed at the points of embarkation.

It is possible however to assess the opinion of the court in this case (FERMO PM GLAUCO) regarding alliances across the Mediterranean as somewhat tenuous. This is because although in this case, the available evidence points to a clear link between the smuggling ring in Sudan/Eritrea/Syria through Libya and Agrigento in Italy, there yet remains a debate as to whether this is always the case. Conversely, drawing from



the responses of interviewees and the literature, there are clear indications that there exist networks in sub-Saharan Africa who only organise and move migrants from their countries of origin into the desert and consider their mandate expired at that point (Interview 1, 17, 18, and 28, Aziz, Pastore and Monzini 2015, UNODC 2010). These sorts of networks have no responsibility or connection for any further steps the migrants take from there. Also, some Tripoli based operators simply make arrangements for a boat, cram the migrants into it and leave them to the mercy of the sea and European coast guards. They are not concerned about what happens to the migrants in Italy, whether or not they survive the perilous journey across the sea. As argued by a confessed people smuggler, 'anyone here who has no money can sell their apartment, buy a boat, and organise a smuggling trip' (Kinsley 2015). Such a person certainly has nothing to do with the migrants if and when they get into Italy. It is the contention of this study that the cell of receptors that exist in Agrigento arose in response to a need by the migrants. They formed and operated in some cases independently of the Tripoli gang. It however, has not been suggested that they shared their profits with or were in any other way answerable to the Tripoli network. A parallel could be drawn here of the observed human trade network operating from Libya to Italy and the drug smuggling networks that import illicit drugs from Africa and South America into Europe, using Spain as a hub (The Economist 2016, UNODC 2011, UNODC 2007). The joint Europol-Interpol report of 2016 also adds that exploited migrants are at some stages of their journey used as drug mules for smuggling drugs. These migrants have no choice regarding their involvement in drug smuggling; hence cannot refute the status. While some networks get the drugs into Spain with the intention of disposing it to any willing and ready buyer, others have a transnational reach, capable of moving the consignment further around Europe, even as far as Scandinavia. These later networks have a network of agents spread across Europe with a hierarchical structure with an overall boss. But there is no uniformity in the structure.

### *The structure of the groups in the network*

The findings of published studies indicate that the human trade is organised by fluid networks as well as complex networks (Siegfried 2015, Massey and Coluccello 2007,

Reitano *et al.* 2014). However, the findings of this research indicate that, although there is lack of permanence as regards criminal organisation, when smugglers and traffickers work together, they adopt horizontal and vertical structures. This study regards this sort of network as 'scattered and structured' rather than fluid. 'Scattered' in the context of this study refers to the ability of the criminal group being able to move off in different directions as a result of geopolitical factors or restrictive anti-smuggling measures, albeit with flexible return-to-status-quo abilities. In their assumed locations, these networks exhibit in an amoeboid form the multi-various characteristics that enable them thrive; so it is possible to have a group mutate from a traditional hierarchical or pyramid structure to whatever structure best suits the regions and the sociological factors it presents. In other words, having both impermanence and yet a clear structure when they are constituted, suggests that the organised criminal groups involved in the human trade operate in scattered networks employing a complex *modus operandi*. Consequently, the networks are structured organisations, where members come and go, and can be readily replaced, whilst at the same time remaining clandestine. The question of the evolution of organised criminal groups in recent times is reflected in some characteristic traits identified by this research, which will be discussed in this chapter. To this extent the issue of hierarchy is contested. Findings from field research and primary data analysed indicate that, regardless of the supposition that organised criminal groups in recent times operate through fluid networks (Williams 2001), and the formations appear definable, albeit the concept of criminal hierarchy still exists. Although they may feature certain characteristics, such as specialisation and strict division of tasks, which this study refers to as a 'task-motivation' trait of these criminal groups, at the same time, findings suggest that this feature enables the criminal groups to make their activities hard to identify. The EUROPOL (2013) report on organised criminal groups authenticates this finding as a technique of adopting flexible hierarchy by the organised crime groups as a means of avoiding recognised organisational structures enabling them to obscure their activities. EUROPOL (2013), equally reveals that criminal groups are evolving and have in recent times adopted the concept of shared leadership, usurping the product of 'complimentary skills' and 'leadership collaboration'. This research suggests that this may explain the reason for more coalitions in place of competitions despite emergence and evolution of smuggling groups in the face of the market demand of smuggling services.

In the line of criminal networks, a notable change that this research has observed, is the structure and behaviour of organised criminal groups; particularly groups involved in the Libya to Italy human trade, and their use of multi-national membership. When organised criminal groups were discussed in the Europol 2013 risk assessment, there was an indication of membership based essentially on shared national, ethnic, language, familial and kinship ties. However, the analysis presented spoke of only single nationality criminal groups or even dual-nationality groups and not multi-national membership groups. Although the UNODC attempted to provide a profiling of smugglers based on a regional categorisation, no research has noted multi-national membership. In his analysis on the social organisation of Chinese people smuggling, Ko-Lin Chin (2011), contrary to assumptions and arguments by scholars like Meyers (1994), Zhang Gayford (1996) and Hood (1997), found that membership of people smuggling groups were not solely dominated by the Chinese but also non-Chinese in various transit countries just as in any other legitimate international trade. To this end, it is possible to share in the argument of Bilger *et al.* (2006:86) Webb and Burrows (2009:8) that the perceived good reputation of the smugglers, which is birthed by the trust the majority of the migrants have in them, complicates the possibility of gaining a comprehensive insight on the actual profile of the smuggler. This research also suggests that the identified amoeboid nature of the criminal groups and the scattered structure of the networks also contribute to this complexity, and on the other hand, exposing the increasing trait of multi-membership both in the core groups.

When Monzini, Pastore and Sciortino (2004) examined the organisation of the people smuggling business to and through Italy, in a project promoted and supported by the European Science Foundation and *Consiglio Nazionale delle Ricerche* respectively, they identified the problem of inadequate data for an in-depth analysis of the organisational structure of the human trade to and through Italy. The analysis presented spoke of the need for sources that would enable an effective reconstruction of the organisation of the services provided by the smuggling groups, and the internal system of relationships and strategies employed by the groups. It is this need that this research has endeavoured to meet through its examination of key judicial proceedings, corroborated by targeted semi-structured interviews with relevant respondents. Aziz, Monzini and Pastore (2015) more recently have argued that there

is little solid and systematic evidence of organisational structures. However evidence and data from field research conducted for this study indicate a probable organisational structure, particularly for the criminal groups operating between Africa and Southern Europe, on the central Mediterranean route. The FERMO PM GLAUCO evidences connections that transcend international boundaries involving professional smugglers conducting their business in both Africa and Europe; in Eritrea, Australia and Italy. This case had seven defendants of Eritrea nationality, one from Sudan and one national from Ethiopia. While all the Eritreans resided in different parts of Italy, the Sudanese lived in Sudan while the Ethiopian lived in and operated from Libya. All the defendants, whilst residing in three different countries were able to work together to achieve a common goal confirming the observations of Chin (2011) regarding the global nature of the business. This implies that the structural organisation of criminal groups in recent times, in their organised nature, transcends, to a large extent, cultural/national boundaries. These are changes necessitated by the phenomenal rise in the number of migrants wanting to cross the Mediterranean into Europe. The key point here is that networks that were assumed to be peopled by members of the same ethnicity with a common language have expanded to include people from multiple ethnic backgrounds (UNODC 2011, Chin 2011). The activities of individual networks have now become transnational in certain cases,

...a request for 'intervention' made to SALIH Mohammed and Samuel WELDEMICAEL by a person resident in Australia, which asked the two suspects to help his brother, illegal in Italy, to go to Rome. The conversation between the two does not only show the complications of a proposed operation of the group but also the fact of how the same suspects are well known for their activities in support of the migration phenomenon even outside the country... (Judicial Report- FERMO PM GLAUCO)

The above excerpt from the judicial proceedings exemplifies the intricacies of the smuggling groups involved in the Libya to Italy human trade, emphasising the **transnational** nature of their relationships and the services they provide. Details of the conversation referred to in the report are provided in the appendix. The evidence indicates that the criminal networks involved in the Libya to Italy human trade exhibit

an **amoeboid** nature – the ability to adjust to suit whatever condition - which confirms Phil William’s characterisation of criminal networks’ core; which is characterised by a dense connection among individuals/members and peripheries; which though less dense with a more loose relationship nature, is highly significant in network patterns as facilitators of cooperation (Williams 2001:72, 73).<sup>22</sup>

Aziz, Monzi and Pastore (2015) argue that the structure of the smuggling groups allows for flexible coalitions which can be managed through ad hoc contractual agreements and repeated interactions among different local and transnational networks, which could in turn facilitate easy geographical shifts to respond to counter-trafficking and smuggling operations. However, judicial proceedings examined for this study reveal that the structures remain and are reinstated by means of recruitment when members are apprehended and detained. Thus, the business continues without obstruction.

In the same vein, field research indicates that the different actors examined in Chapter 5, belong to groups that exhibit the characteristics of criminal networks proposed by Williams (2001). Certain distinctive differences, and significant similarities, were identified in the analysis of the different actors at different stages of the Libya to Italy journey, briefly discussed in Chapter six and represented in Table 6.2 in the same chapter. The next section examines this amoeboid feature of these criminal groups briefly mentioned to identify their flexible and overlapping capabilities.

### *The nature and the network of the human trade criminality*

This study argues that the structures assumed by the actors of the human trade in forms of groups and networks are effects of the characteristics which they exhibit which in turn reflects their nature. In the preceding section, it is argued that the criminal networks and groups in the Libya-Italy human trade exhibits an amoeboid trait in their organisational structure which to a reasonable extent aligns with the expositions of

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<sup>22</sup> Amoeboid - Amoeba comes from a Greek word meaning ‘to change.’ The amoeba moves by continually changing its body shape, forming extensions called pseudopods (false feet) into which its body then flows. The pseudopods also are used to surround and capture food—mainly bacteria, algae, and other protozoa—from the surrounding water. It is used here to signify the mode of metamorphosing of the criminal groups of the Libya to Italy human trade.

Williams (2001) in his analysis of networks and criminal networks. It could also be implied that this feature is the reason for the concept of poly-criminality of the networks highlighted by the Joint Europol-Interpol report of 2016 on migrant smuggling (Europol 2016).

When questioned on the nature of the criminal groups involved in this human trade, a number of the professionals encountered on the field had diverse understandings of the criminal groups; some assessed them as scattered, highly enterprise driven, highly complex, opportunistic in nature, diverse and formidable (Interview 28, 17, 18, 3, 4 and 11)<sup>23</sup>. Whatever nature they may assume, one fact resonates; they are scattered. Thus, they exhibit different characters as a means of adjusting to whatever condition their operations constitute. As a result of the fact that members of the network i.e. the actors are specialised in their operations, they are efficient in covering up any loophole. Judicial proceeding corroborated by interviews conducted reveal that apprehended members of the groups/network are quickly replaced while the apprehended ones remain lip sealed.

The formation of criminal groups according to their nationalities that have their own leadership without having to pay royalty to external leaders yet being able to work with other criminal groups to execute a plan, and then disband when it is accomplished, evidences an *independent criminal group structure*. The study finds that this independent group structure is aimed at remaining clandestine and incognito (*Squadra Mobile*). Another reason for this structure is to allow for versatility, enabling groups to engage in multiple business activities. This versatility, in turn, enables increased capacity building and more profits.

This study suggests that determining the nature of criminality on the central Mediterranean route is based on an understanding of the structure of criminal networks. The structure of these criminal networks is analysed through the lens of the organised criminal group typology analysed in Chapter 3 and 4. They include the hierarchical/alien conspiracy; the patron-client relationship model; the illegal

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<sup>23</sup> Interview 28 – Interview with a Professor of International Law; interview 17- Interview with an Anti-smuggling and irregular migration prosecutor/judge at the *Ministero della Giustizia* (Palermo); Interview 18 – head of Police (Palermo); Interview 3- Interview with academia from CISS Palermo; Interview 4 – interview with the Coordinator of Centro Astalli, Palermo.

enterprise model; and the network model (Arsovka, 2014, Davis 2012, Zhang and Chin 2002, Cressey, 1969). The networks operating out of Libya, however, employ divergent structures, exhibiting complex characteristics. For instance, findings from interviews show that while the Eritrean groups have a horizontal structure, the Nigerian groups have a vertical structure. Further, the Nigerian groups have strong hierarchies, layered bosses, and operate as confraternities; these bonds are formed right from the formative years of the protagonists (Interview 28). The complexities of the structures are reflected in their intersections at certain points, and their ability to work together to achieve planned goals. In effect, these groups have different formations in terms of nationalities reflecting both regional and clustered hierarchies<sup>24</sup>. They have the ability of coming together to commit more crimes, without necessarily adopting a hierarchical structure. As argued by one of the respondents,

...the criminal groups based on the origin such as Eritrean and Syrian and the others are different/separate, they only seek for other connections when they arrive in the EU from their bases, there are no connections – they simply operate within their communities (when they need extra connection to fulfil an aim and their help can only come from another group such as getting to the north of Europe, from another region/nationality they explore it. (Interview 28)

Based on this analysis, it can be deduced that formation of criminal groups to perform designated operations transcends the original structures per nationality and structural codes (See Von Lampe, 2011). Arguably, the interconnectivity between criminal groups and the strong regime of hierarchical leadership is prevalent in the criminal network steering the irregular migration from Libya to Italy. Further indications from findings suggest that African networks are infused into the Italian criminal groups; for instance, the Nigerian group have been observed to have joined forces with the Italian group and they have complete control of the territory, particularly in the drug and sex trade and smuggling (Interview 28). The structure of these criminal networks appears complicated and unique because a situation where the Eritrean group, for instance, features a horizontal structure while the Nigerian group features a vertical structure

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<sup>24</sup> See Le (2012)

reflects features of both economic models and hybrid models of organised criminal groups. One common trait among the various networks, however, is the gender and age of members. The average age for the seven out of nine defendants whose ages were ascertained in FERMO PM GLAUCO was 28 years. They were all males and cannot be said to be engaged in any form of occupation as their smuggling remains the only documentation of their activities. Europol reports that the average age for people arrested for people smuggling and trafficking in 2015 was 32 years (Europol 2015). In other words, these networks are composed mainly of male youths. The Nigerian human trafficking networks remain an exception here as women (Madams) are at the helm of affairs especially in relation to human trafficking for the sex trade in Europe.

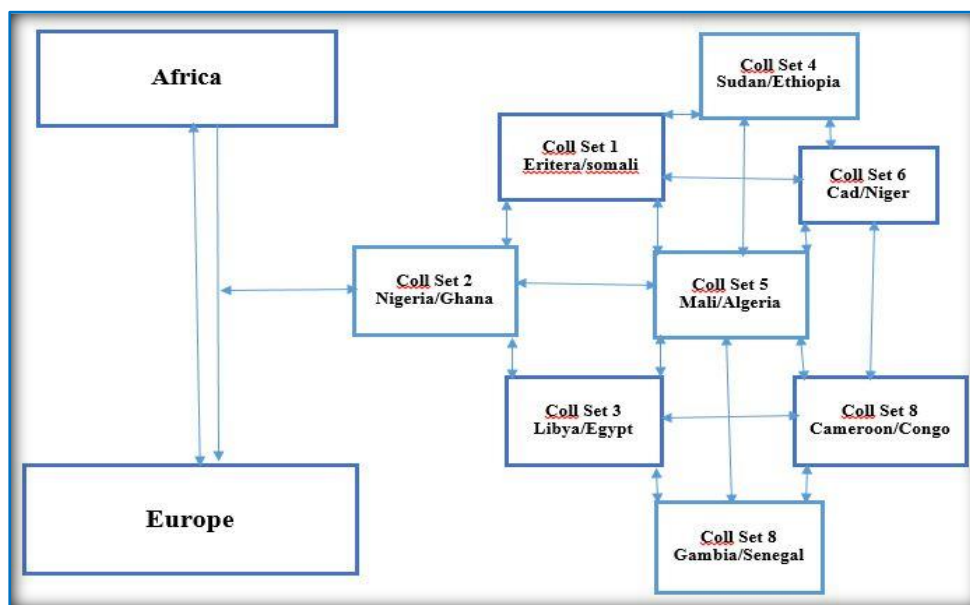
Conversely, regardless of the fact that these groups come together to make up the Libya to Italy network, findings indicate that there are no actual intersections of these groups: they are all separate, depicting the scattered trait argued by this study. Though the groups feign the semblance of independence, research findings indicate that each region has a main boss such as the regions controlled by Erymais and Medhaine who are allegedly the main kingpins of criminal people smuggling networks (Interview 18) in the Libya to Italy routes. However, it is unlike the drug cartels where turfs are carved and each boss fights to control his turf and does not allow any new operator. The Libya to Italy human trade remains a free entry enterprise but recognises the dominance of certain actors in certain regions either due to their successes or longevity in the trade.

Although Aziz, Monzini and Pastore (2015) argue that even judicial proceedings have not been able to identify organisational structures in the smuggling business, the analysis of the judicial proceedings selected for this study corroborated with field study carried out, suggest otherwise. To this end, a conceivable model for explaining the distribution and formation characteristics of the network of criminal organisations in the 'human trade' from Libya to Italy is designed and presented below. This model reflects the characteristic feature of collective sets which is made up of multi groups who are interconnected and mutually interact with the ultimate goal of carrying out designated smuggling and trafficking operations. The arrows in the diagram are representations of the interconnectivity of the criminal groups/organisation which



indicate how the groups interrelate to enable them carry out tasks and operations. Based on this design, it is arguable that for the criminal groups in the networks, the focus transcends their autonomy but rather the business and how to make their profits. Consequently, the ideals of convening and disbandment following a cause or task is here demonstrated (William 2001). Groups therefore form what this research refers to as 'collective sets' to enable them effectively meet the market which is made up of actors of different origins

This model reflects the characteristic feature of collective sets.



**Figure 7-2. The distribution and formation characteristics of the criminal networks.**

Examining the foothold of these non-native criminal groups in the various desired destination countries, indications from the interviews are that the criminal groups in Italy have direct connections with other criminal groups in Libya. They act as support in Italy for people who arrive from Libya on the boats, and organise further trips from Sicily to Northern Italy and other parts of Europe because a majority of migrants do not want to stay in Italy. Together with countries in the Balkan region, they tend to serve as transit countries for migrants. Preferred destination countries for the migrants include Germany, Switzerland, Netherlands, Belgium, the United Kingdom and the

Scandinavian countries of Sweden, Norway and Denmark. This is evident from the testimony of witnesses during trial and evidence from the wiretapping of defendants' telephones during investigation in the FERMO PM GLAUCO case. It is thought that the criminal groups operating in Italy to help newly arrived migrants continue their journey to other parts of Europe are made up mainly of migrants who followed the same route in the past. Their involvement is more opportunistic and grew out of an observed need from their own experiences. For these categories of migrants who desire to move on to other countries, Italy is simply perceived as a transit country. The interconnectivity between the criminal groups and the migrants is intensified by the cordial relationships and communications these criminal groups maintain with the migrants before and after their arrival; and even in the reception centres with the aim of increasing their clientele.

### *Respondents' views vs Comparative view from literature on the nature of criminality in the study area*

This research explores all the varied opinions in determining the nature of criminality in the Africa Europe human trade via the Mediterranean. Having considered the nature and the network of the human trade criminality, this study proceeds to analyse the responses provided by the interview respondents regarding their opinion on the nature of criminality in the Libya to Italy human trade. Their opinion is considered based on the fact that these respondents have been carefully selected according to their relevance to the study. In this vein, the opinion and positions from interview transcript are explored. From the interview transcript of this study, there were divergent opinions of criminal organisation involved in the smuggling of migrants from Libya to Italy. When asked about their understanding of criminal organisations, respondents were split in their views. Some of the respondents explained that while the structure and characteristics of the groups and individuals appear complex, they are nevertheless highly organised and flexible. The nature of flexibility of these groups was explained by the way they were able to respond to changes in restrictive immigration measures set out by the EU (especially the coastal States), the change in the level of violence employed by the smugglers, as well as the motive behind their venture. Another key feature observed from the responses was the level of

connection of the groups within themselves and with some authorities. Some respondents claimed that the resilience of these groups was as a result of their links with their counterparts in countries of embarkation and destination and that the collaboration of the smuggling groups enables them not to be easily intercepted and identified. The respondents further explained that although the rate of irregular migration in the Africa-to-Europe route – particularly via the Mediterranean – has increased in the recent past, the political situations which may be referred to as drivers of these events, as also noted by Browne (2015), do not necessarily always create these criminal groups. The criminal groups are rather observed to flow with the money source which is thought to be the demand for smuggling services stirred by the would-be migrants' need and desire to survive. Difficulty in understanding these criminal groups is analysed based on its concept of illicitness and the dangers they are associated with, which seem to dispel further probing and successful investigations. For instance, one of the respondents (an Italian state prosecutor) reported two major investigations Glauco 1 and Glauco 2 that were successfully conducted; including some arrests made, but stated that the kingpins of these groups remain 'at large'. Similarly, for instance, the Italian Flying Squad representative interviewed indicated that though warrants for arrests have been granted, the unit yet face the challenge of proofs for the potential arrests. He claimed that they can only rely on the cooperation of the migrants to identify these offenders which appear unachievable as the migrants remain hesitant in this regard.

Other views and debate based on findings from interview transcript present respondents' view of the nature of transnational criminal networks reflecting an array of perspectives of the Libya to Italy criminal networks. These particular views are based on their expertise in the field, experiences and personal encounters. These views analyse the transnational organised criminal groups that originate from the West African, Sub-Saharan region but are presented in comparison with the East African originated transnational criminal networks identified and analysed in the FERMO PM GLAUCO case. This enables an understanding of the nature of criminal networks in the Sub-Saharan section of the irregular migration from Africa with the knowledge that regardless of their region these criminal groups pool migrants at the same point of embarkation (in most cases Libya) as the East African groups testified in the FERMO PM GLAUCO case.

Based on the interview transcripts, a migrant mediator's opinion of the criminal groups/organisations involved in the most recent irregular migration particularly across the central Mediterranean is that they are scattered in their networks with a complex *modus operandi* (Interview 30). There are indications that these groups are transnational networks that act on the weakness of the structures in the society (with connections/representatives). These groups also have connections with the people in both Libya and Italy who inform them either via phone calls or text messages of when it is safe to transport migrants; "...listen this time is not good for travel..." or "...this time is not favourable ..." (Interview 30). Findings indicate that these groups have different bosses, reflecting the concept of shared leadership where each boss has a responsibility which corroborates the analysis of risk assessment made by EUROPOL (2013). Typical examples of such type of leaders are the Nigerian madams on local levels with certain roles such as recruiting girls. These categories of leaders are able to operate and carry out their business because they have good reputation before the king or the local village heads from where their clients or the trafficked girls are recruited. The interviewed migrant mediator's perception of the criminal groups in this trade is echoed by a settled migrant interviewed during the field study for this paper in Italy in 2016 (Interview 33). Indications from this interview are the concept of groups in groups and in some occasion inter-related groups where the members and their leaders are acquainted, working as agents that know themselves. This concept agrees with the context of two professional smugglers who were contacted by a transboundary client to organise the irregular transportation of an illegal relative within regions in Italy contained in the FERMO PM GLAUCO case proceeding being examined in this chapter. Cases in the Judicial proceedings examined in this study, reveal the inflated fees charged by the smugglers for their services, which has been analysed under the diverse aspects of *modus operandi* employed as the concept of "inflated transportation cost" in the sixth chapter of this study; a witness interrogated during one of the documented trials stated "...I paid to the latter the sum of two thousand (2,000) dollars, compensation for the payment of my trip" (Judicial reports, FERMO PALESTINESE 1 case, pg. 20). Consequently, the monthly earnings of the members empower them to live enticing and extravagant lifestyles and ultimately enables them recruit their members. Return on investment is huge. With a 74,000 pounds investment on a boat and an average profit of 24,000 pounds per trip, a

smuggler can make up to half a million pounds per week if he organises twenty trips a week (The Guardian 2016).

Additionally, the views of an academic interviewed reveal the concept of multi-membership in the groups driving the process, highlighting the diverse features analysed in the preceding part of this chapter in which the formation and structure of the groups as a result of the features they display present them as amoeboid in nature. An instance of the Nigerian group joining forces with the Italian group which grants them complete control of the territory, particularly in the drug and sex trade and smuggling, further highlights the implication of a multifaceted and interconnected group in the network (Interview 28). Weighing the views of the respondents, the scattered network characteristics as suggested by this study, is affirmed by all as the most notable characteristics of groups and networks. To this end, an Italian judge in charge of Irregular migration and Mafia cases presenting the Medhaine and Erymias' network as an example, describes the intensity of the scattered nature of the criminal groups as little groups under each network that are accountable to that network, having different agents that desiring migrants approach for their services; '... they are scattered but still have one boss - each group have little outlets...' (Interview 18). He asserts in further discussions that he perceives that the smuggling networks though different, are observed to be returning to the hierarchical structure, but are more deadly and dangerous than the Mafia. The judge's observation is matched with the assertions of the Head of the Police (*Squadra Mobile* in Palermo), a prosecutor of irregular migration cases, who analyses the nature of the criminal groups as '...very structured organisation where you can identify the leader and the persons that support the leader' (Interview 17). Further indications from interview transcript reveals the features of good logistics because they have availability of weapons and men, persons and places to compound, especially in Libya, as features that convey their structured nature. In clearer terms the prosecutor informed that;

'...the criminal groups operating in Africa...they have a horizontal connection with the people operating in Sicily -Italy...because with the people operating in Sicily they are at the same level because they are in charge of a different part of the route...the people in Libya are in charge of the route concerning the travel from central Africa to Libya,

and from Libya to Sicily...(two steps)...the people in Sicily are then in charge of the last step which is from Sicily to other parts of Europe' (Interview 17).

In line with this assessment of a criminal group taken together with academic interviews, there crystallises a more vertical structure in the connection of cults such as the Nigerian groups where women have distinctive roles particularly in criminal networks devoted to sexual exploitation of women (Interview 29). The academic contends that the horizontal formation of the Nigerian group is a ploy to hide the true identity of the leader thereby obstructing detection and prosecution. Bârsan and Cardiş (2014) however differ on this. They explain that the observed replacement of traditional hierarchy of the groups was based on geographical criteria by free networks which worked together with the sole aim of exploiting new opportunities on the free market. This was observed to have necessitated the definition of organised crime group on an international level which the United Nations has provided. They add that there has been an expansion of international commerce which can be seen in the mode in which the activities of organised crime organizations throughout the country have expanded and diversified. This development could be visualised in the recent irregular migration by sea from Libya to Italy in which some of the smugglers have been identified as former drug smuggling offenders who have diversified into the business of smuggling of persons because of the profits due to the unprecedented surge. This observation is validated by the response from an officer of the Italian Flying Squad who is directly in charge of handling irregular migration cases on the issue of the evolution of criminal groups and networks (Interview 11). The interview with the officer revealed that structurally, the criminal groups identified to be involved in this business of people smuggling could also be grouped as the Mafia, based on its hierarchical model as presented by Arsovka (2014). The modelling of criminal groups as analysed by Arsovka (2014) has for the purpose of this study, been extensively discussed in the third chapter of this study. Based on this categorisation and understanding of these criminal groups grouped as in the category of the Mafia, human smugglers apprehended by the people smuggling unit of the Italian police, as informed by the officer, are prosecuted in the same way members of the Mafia are prosecuted. Going back to the concept of organised crime groups and crime organisation, Bârsan and Cardiş (2014) argue that there are no unique models of a transnational crime

organisation based on its multi forms, codes, experience, areas, and tactics. Their arguments are premised on the fact that

...the fight against organized crime is quite complex and requires international cooperation, crime organizations are flexible, sophisticated, easily adjustable and are in permanent expansion of their alliances and agreements in order to obtain border access to “know how”, new technologies of ensuring better protection from state’s authorities, reducing risks and opening new channels of illegal activities (Bârsan and Cardiş, 2014:160)

This submission which is in tandem with the opinions of such scholars as Vogel, Triandafyllidou and Düvell, (2011), Bloch and Chimienti (2013), and Campbell, (2013), could be adduced as the reason for the evolution of criminal groups as well as the increase in the business of people smuggling and trafficking which has beleaguered not only Africa and Europe but also become an international concern (See also The Migration Observatory, 2014). The flexible, sophisticated, easily adjustable and continually-in-permanent-expansion-of-their-alliances features of the present-day criminal organisations could account for the inability to completely defeat them. Therefore this study suggests that analysing the criminal networks that organise the Libya to Italy Mediterranean voyage as a single network which exhibits all the forms and characteristics of the different paradigms of organised crime may enable a better understanding of the nature of criminality involved in the trade, hence the development of the Integrated Criminal Network Model rather than merely refer to it as ‘complex’.

Furthermore, the basis of the scattered nature of the criminal groups as identified by this study can be deduced from the assertions and comments of a government official who is a medical practitioner in Palermo who has attended to several newly arrived migrants in Palermo. She points out the diverse origins/borderlands of the members of the smuggling groups with an example of an Afghan migrant travelling from Greece and Turkey, and the travel is organised by different groups; same as the migrants that go from sub-Saharan Africa to Libya highlighting the probable differences expected (Interview 32). This observation is supported by the response of a settled migrant in Palermo who drew attention to the fact that the differences in this context can also be

based on the lingual variety and the different nationalities that carry on this business – the Iraqis, Arabs, and Africa – Somalia, Ethiopia, Eritrea, and West Africa (Interview 25). It is debatable that they may all have contact such as in Italy where there exist groups in the south, central and the north, but remain dispersed. It is however important to note that as unimaginable as it may seem that Turkish, Grecian and Libya/African criminal groups can form a network, the stories and the time of the journeys is different and difficult depending on where the point of embarkation is. This is inferred in the light of the understanding that for the Libya to Italy route, the network is strong and possible but with the Turkish route it is rather difficult. BBC (2015) reports of the problematic nature of the eastern Mediterranean route (which is via Turkey) as a result of the efforts put in by the Turkish government in addressing the issue of countless migrants arriving in Turkey for their onward journey to the nearest Italian Island. To this extent, the effect of the implementation of the EU-Turkey statement is not ruled out (EU- State Watch 2016). Indications are that these observed difficulties have, based on events in the recent past, bolstered the pre-eminence of the criminal groups, thus the evolution of their strategies and techniques.

The Non-Governmental organisation interviewed on the other hand, opined as a contribution to the opinion of the academia, that the criminal groups avoid being linked as a means of making themselves independent so that they remain indomitable (Interview 23). This argument is presented based on the fact that cultist groups (like the black axe group originating from Nigeria) who are also involved in drug and prostitution carry out their own criminal activities with no form of remittances to any particular head. Hence they have adopted the Independent Criminal Group Structure so as to defy investigation. Summarising the diverse views of respondents concerning criminal groups, a table is presented below, indicating the category of respondents and their perception of the phenomena.



**Table 7-1. Categorisation of the respondent's view of the criminal network organising the Libya to Italy irregular migration based on their experience (source: the Author)**

| Respondent Views on the characteristics of the criminal organisations based On their experiences: Findings From Interview Transcript |   |   |
|--|---|---|
| Category of Respondents  | Opinion 1   | Opinion 2   |
| <b>A migrant</b>   | Scattered in groupings and variegated and yet acquainted; huge earnings of existing members, lure others. (Interview 33)  | Difference based on language differences and nationalities (the Iraqis, Arabs, and Africa – Somalia, Ethiopia, Eritrea, and West Africa); interconnected but dispersed; existing groups in Southern and Northern Italy  |
| <b>Law enforcement</b>   | Scattered networks but having one boss (e.g. the networks of Medhaine and Erymias are different); small groups accountable to a/per network; diversity of agents; networks observed to be returning to the hierarchical structure, but are more deadly and dangerous than the Mafia. (Interview 18) | Structured organisation with a visible leader, (second in command), good logistics; availability of weapons and human resource and locations (especially in Libya); the African group have a horizontal connection with the people operating in Sicily but roles are conducted in division of labour for the stages of the journey from Africa to Sicily (Interview 17) |
| <b>An academic 1</b>   | Variegated criminal groups; collaboration between the Nigerian group and Italian groups, having complete control of the territory, particularly in the drug and sex trade and smuggling. (Interview 28)   | ...the structure of the Nigerian groups is of a vertical formation...they are not horizontal as some argue so no one understands who is the big one and its more difficult to get to them; however appears more vertical, and connected with the cults; women have distinctive roles in the Nigerian criminal networks, notably for sexual exploitation. (Interview 29) |
| <b>Government official (medical practitioner)</b>  | Variegated criminal groups from different borderlands; travels and groups are organised/formed per nationalities (it is counter-intuitive that Turkish, Greek and Libyan/African criminals can form a network); the stories, time and point of embarkation is different. (Interview 32)             |   |
| <b>Non-governmental organisation</b>   | Variegated groups of criminal networks; they operate independently so that they remain strong; there is no form of remittance to a particular head; they have adopted <i>the independent criminal group structure</i> so as to defy investigation. (Interview 23)                                   |   |

Examining the claims and assertions highlighted from the respondent's quotes, it is clear that each respondent presents his claim based on a first-hand knowledge and experience perspective, which provides an array of features of the criminal groups/networks in the Libya to Italy irregular migration. In essence, the migrant who has encountered different criminal groups *en route* his journey to Europe would express his opinion of the scattered nature of the networks based on occurrences and his dealing with the group he contracted to organise his transportation, while the migrant mediator on his part would only relay the opportunist transnational nature opinion of the network he would have gathered during his contact with particular migrants. It is therefore important to note that, given that a majority of migrants will not tell exactly what their experiences were, there is little doubt that all the information provided by a migrant who voluntarily offers his testimony may be worthy of note. Moreover, the assertions of the academia of the diversely linked formidable nature of the networks can be assessed to be based on examination as in the manner of this study; reliant upon primary data, while the claims of law enforcement agents and prosecutors of these networks having a scattered but deadly hierarchical structure, can be opinions based on investigations conducted and cases prosecuted. Conversely, while the claims of the government official may not be factual because their opinions of an internationally complex network are based on information provided by migrants that they have dealt with, being mindful that the migrants may have fear of the reaction of the authority and as such might withhold certain details, the claims of the non-governmental social worker of an Independent Criminal Group Structure may be more realistic because of the level of confidence the migrants may have in social workers.

A number of descriptive key words explaining criminal networks/smuggling organization in the study area were noted from the interview transcripts and is further analysed in chapter eight, echoing the intricate nature of these smuggling groups. The problem associated with identifying the offenders and the distinction between the offenders and the victims yet pose a major barrier in understanding the trend as well as determining the nature of criminality involved.

## The question of ‘the Connection of irregular people smuggling groups with the Mafia’

One of the themes from the interview transcript was the structure of the criminal organisations which questioned the involvement of the Mafia in the irregular migration from Libya to Italy. Consequently, in the discourse of people smuggling and trafficking networks, the debate on the link between the Mafia and the criminal groups that organise the Africa to Italy and Italy to other European countries movements is yet ongoing.

For the sake of background knowledge, the five major Mafia organizations existing in Italy include; Cosa Nostra (Sicilian Mafia), revered as the world’s most popular criminal organisation and also the oldest manifestation of the Sicilian Mafia; Camorra or Campanian Mafia, known for their extreme violence and their lavish lifestyle; 'Ndrangheta or Calabrian Mafia, categorised among the most threatening organised criminal group not only in Italy or Europe, but also in other continents; Basilischi (Basilicatan Mafia); Sacra Corona Unita (Apulian Mafia), exhibiting its heterogeneous structural characteristic which enable them carry out diverse strategic criminal activities; *Mala del Brenta*, *Banda della Magliana* (Europol 2013b -Italian Organised crime) and the newest escalation, Mafia Capitale, is referred to as a drafting of Roman upper class members into an organised criminal network, operating a systematic Mafia model (De Bonis 2015). In general terms, the Mafia are known for their bonds that supersede the law of their communities, love for respect, the love for power, particularly economic power thus, they are defined by their conduct of exercising absolute power over their territories (Europol 2013b).

This explains why it remains questionable that African criminal groups such as the afore mentioned identified human traffickers and smugglers resident in Italian territories are able to flourish without the possible involvement of Italian criminal organisations such as the Mafia. The suggestion of the involvement of the Mafia created a controversy among the respondents who participated in the field study conducted for this work. This is implied because, while respondents from the criminal justice system claimed that there were no evidence to prove the involvement of the Mafia and as such could not be said to be involved, over 10 of the 40 respondents

interviewed held to their position as regards their assurance of the involvement of the Mafia. Respondent 22, a representative of CARITAS in Palermo, asserted the existence of a connection between the Nigeria criminal groups and the Italian criminal groups given the rate of prostitution in Sicily. Perhaps respondent 22's opinion may be based on his experience of many years working with trafficked migrants. She believes that "...they [other criminal groups/organisations] cannot function without the authority of the Mafia (Interview 22). Other respondents held similar position while some respondents from anti-Mafia organisations conform to a limited degree, with the defence of the possibility of the Mafia knowing simply about the transportation but not clearly involved with its management. This stance was equally contradicted by a representative from Santa Chiara Palermo, who argued that the fact that no one admits to the truth about the involvement of the Mafia may not dismiss their contribution;

I can also confirm that the smuggling rings have contacts with the Italian also, because there is no business or criminal organisation that can function on Italian territories without the authorisation of the Mafia. This is something that everyone is quiet about. No one wants to voice it that that the Italian criminal groups are also connected.

(Interview 20)

Although criminal justice agents interviewed did not agree to the involvement of the Mafia since they claimed not to have sufficient evidence to prove, a number of respondents strongly agreed that there may be a link between the duos. Their responses on this question are stated thus;

...there is a connection between the Nigerian criminal groups and the Italian criminal groups. Surely, the rate of prostitution in Sicily shows that there is an agreement with the Italian Mafia. Surely, the prostitutes cannot function without the authority of the Mafia.

(Interview 30)<sup>25</sup>

I can also confirm that the smuggling rings have contacts with the Italians also, because there is no business or criminal organisation that can function in Italian territories without the authorisation of the Mafia. This is something that everyone is quiet about. No one wants to voice it out that the Italian criminal groups are also connected.

(Interview 20)<sup>26</sup>

As regards transportation, the Sicilian Mafia may be informed about the transportation and prostitution but there is no direct management by the Sicilian Mafia. They may have permitted it but are not directly involved in it.

(Interview 25)<sup>27</sup>

There is the case of several Italians profiting from the migrant flows like making profit with the hosting of the centres...the Mafia are really involved in this hosting. A good example is the town of Mineo, where there is sited the biggest shelter or Reception centre in Sicily. There was a big case of the Mafia being involved in Mineo, where they were hosting was smaller than the required number of migrants like the 4000 migrants...inside, everything was going on and they had not only criminal groups for smuggling of persons but also for drugs and traffickers for sexual exploitation.

(Interview 29)<sup>28</sup>

Based on these responses from interview transcript, the involvement of the Mafia may be debatable as concluded by the criminal justice system, with the assumption that

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<sup>25</sup> A government official from the *Commissione Territoriale per il Riconoscimento della Protezione Internazionale* - Territorial commission for the International Protection and Recognition Palermo, Sicily.

<sup>26</sup> Interview with Fr. Vincenzo Volpe from Santa Chiara, Palermo

<sup>27</sup> Interview with a representative from Addio-Pizzo, Palermo, Sicily, Italy.

<sup>28</sup> Interview with a researcher from CISS - Cooperazione Internazionale Sud Sud, Palermo, Sicily, Italy.

there has not yet been enough evidence to prove the involvement of the Italian Mafia in the criminal network being discussed in this study. Based on this claim, even though there may be other criminal organisations in Italy who may be involved with the African groups in certain ways in this human trade, the role of the Italian Mafia remains a puzzle and thus deserves further investigation. Nevertheless, an Italian medium reported the involvement of Italian mobsters in human trafficking cases (Day 2013). The report spoke of members of Mafia organisations working with crime syndicates in Egypt who charged and extorted huge sums from several would-be-migrants for the perilous trip from Libya to Italy which in most cases were not even successful and the migrants endured the worst conditions. Evidences such as ‘...a chilling wiretap made in 2011 [which] overheard one Sicilian Mafia boss telling the Egyptian traffickers: ‘If they find you, throw them [the migrants] all into the sea’, makes it doubtful that the Mafia will not be involved in illegal activities in their territory, particularly on the Italian southern coast. This opinion was also shared by a Mafia expert and author Corrado de Rosa (day 2013).

Despite the debate on evidence of the involvement of the Mafia in the human trade, indications from data collected suggest that the Mafia have been observed to provide aids to these migrants, thereby commercialising the circumstance as a way of laundering money (Interview 12)<sup>29</sup>. This opinion is corroborated by a publication by Perry and Agius (2015) on the response of prosecutors in Rome on the debate of why the Sicilian Mafia are permitting organised criminal groups to make millions off their turf. The response of the prosecutors revealed main attraction of the Mafia to the business of people smuggling and trafficking. Hence, although the Mafia were alleged not to be the main smugglers, they were indicted to have cashed in on the construction and management of the reception centres. In this context, the migrants were merely piggy banks to mint and launder money. Also, other reports, including Ford (2017), alleged of how the Mafia are not only commercialising the plight of the migrants but also integrating these vulnerable migrants into Mafia-related enterprises in Sicily (Day 2013, Tondo 2016, Ford 2017<sup>a</sup> and Ford 2017<sup>b</sup>).<sup>30</sup> In actual sense, a person found

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<sup>29</sup> Interview with the Head of Casa San Francesco (a migrant reception centre and home) Palermo, Sicily, Italy, May 25, 2015.

<sup>30</sup> Although it is believed that the Costa Nostra typically does not deal directly in prostitution and drug dealing, it can be argued that the Mafia has found a convenient loophole to these moral codes by exploiting migrants, especially Nigerians. Clearly, the

guilty of aiding and abetting a crime cannot be absolved of the said crime, hence it can be argued that the Mafia are as guilty as the smugglers. Correspondingly, a respondent referred to the case of Mineo in validating an observed practice of several Italians as a fact, profiting from the migrant flows in the form of making profit with the hosting of the centres, laying strong emphasis on its capacity and its reputation (Interview 29).<sup>31</sup>

Europol 2013<sup>b</sup> informs that the Mafia are in the custom of regulating the impact of their criminality on productive activities that go on in the territories they control, so that even though they exert power and are seen as parasites nourished by the productive part of their societies, they would not stifle their source of sustenance. This implies that there is the possibility of the Mafia having full knowledge of the occurrence of human trade activities in their territories and as such may not be absolved of irregular migration crimes committed in Italy and beyond. This is argued on the premise that the Mafia have pre-eminence in their communities and in many ways, at the same time benefit from the activities of the smuggling and trafficking groups that operate in and outside Italy. A number of press publications relay the involvement of the Mafia in their capacities. Laccino 2015, reports that the Mafia have been seen as a sort of employment agency that offer 'lousy' salaries and inhuman accommodations to arriving migrants as well as organised further journeys to other parts of Europe. This claim corresponds with the offences of the nine suspects accused in the examined FERMO PM GLAUCO case file, who were accused of organising break-outs from reception centres and further irregular journeys to other parts of Europe. Wiretapping of conversations between Mafia in Rome reveal the long-time dealings and connection between the Sicilian Mafia- the Cosa Nostra, and trafficking groups in Italy and illegal immigration bosses in countries such as Egypt, Libya, Syria, Pakistan and Turkey (Laccino 2015).

It is worthy of note that small criminal groups such as the groups emerging from diverse African regions which in majority of cases are opportunistic in nature, availing themselves of the vulnerability of the migrants and the incident in the political systems

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existence of these vulnerable migrants has enabled the Cosa Nostra to involve themselves in activities that their inflexible codes of honour would normally forbid.

<sup>31</sup> Interview with a Representative of CISS, in Palermo, 2016

as well as the rescue operations on the Mediterranean, apparently link and align themselves to stronger and bigger criminal groups in the countries of origin such as the Mafia. This is implied because, according to indications from interview transcript, no alien criminal organisation or group can operate in Italian territories without the consent and acquiescence of the territorial powers, the Mafia in this context. Considering the possibility of arrived migrants' accessibility to low paid jobs on farms and brothels and accessibility to forged documents and the drug trades, it becomes questionable to absolve the Mafia of any involvement. This assertion is confirmed by Gillan (2011) who details the sorts of jobs that are available to newly arrived migrants; which includes sex trade and drug trade. This equally confirms the observations of the President of Addio-Pizzo interviewed in Palermo during field study, who affirmed that majority of the African migrants who live in Ballaro region of Palermo get involved in doing the dirty business for the Mafia groups such as drug trafficking. She however pointed out that the migrants, who carry out these dirty jobs, do so possibly as a means of survival (Interview 26).

Though the Mafia may deny involvements in smuggling of migrants, their affiliations and alleged muscling of migrants/refugees into the construction and management of reception centres in which these migrants are also forced to live, in no way absolves them of playing the part of actors in the human trade (Perry and Agius 2015). Gillian (2011) claims that sex trade is tolerated by the Mafia in the Castelveitrano region because of the economic advantage, thus the Nigerians in the region pay the Mafia and are allowed to transact their businesses. An immigration migrant mediator in Palermo, and representatives of Centro Astalli and Santa Chiara interviewed in Palermo in 2016, attest to the fact that the migrants get involved with petty crimes in drug trafficking as a means of survival given their inability to get proper papers and jobs (Interview 4 and 20). These migrants, particularly those in the Ballaro area, an acclaimed Mafia territory, are reported to pay some level of allegiance to the Mafia in charge of the territory to allow them carry out their business ventures (Interview 23).<sup>32</sup> In this context the involvement of the Mafia, though not direct cannot also be denied.

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<sup>32</sup> Interview with Head of Peligrin della Terra, in Palermo Sicily, Italy



The questions remain as to how they (Mafia) operate without being physically identified? This trait may be credited to the secretive nature of organised criminal groups of which the Mafia belongs. The Cosa Nostra and the 'Ndrangeta are known to be one of the oldest Mafia groups in Italy that are involved in profitable ventures ranging from illicit to licit. To this extent, other publications reveal the possibility of the Cosa Nostra exploiting the human trade in recent times, particularly in relation to the incident of vanishing minors (Caprio 2011, Day 2013, and Townsend 2016). The freedom with which the suspects in the FERMO PM GLAUCO case and other unidentified suspects operate in this trade could be traced to Townsend (2016) assertion that the Mafia apparently have agreements with the smuggling groups as the Nigeria bosses have with the women in their trafficking business thus giving the African groups the freedom to operate without caution as in the case of Cara di Mineo which is now referred to an 'open hub for smugglers. Accordingly, the Mafia who is known for their display of solidarity, their rule of absolute silence sworn at admission to the Mafia clan (*Omertà*), cannot be overlooked and outplayed when involving businesses in the territories they control (Seindal 1998). In other words, their speciality of promoting and selling private protection and the created impression of the Mafia being a secret, illegal organisation could be argued to have played out in their dealings with the criminal groups which have emerged and situated in their territories, regardless of the claim of the criminal justice system (Gambetta 1993, Morselli *et al* 2010).

...it shows the existence of a dense and complex network that operates in constant liaison with the mutual understanding to cooperate in the implementation of a project and criminal speculation and profit-making unit organic aimed at final journey towards the coveted goal which is Europe; the result of the full operation of a criminal group having available a stable structure and having well-planned objectives.

(Judicial report, *Tribunale di Palermo, Sentenza contro I. H. Attour Abdalmenem*, 2 April 2014.)

Based on the above quote, although the collaboration of the Mafia is contested by the criminal justice system, the existence of the criminal groups in the manner that the

judicial proceeding refer to, can only be as a result of endorsements by the local territorial powers in the form of the Mafia.

The Mafia in the literature has been portrayed based on the dynamics of family ties, political power and respect of territory, governed by cultural codes and norms which prohibit their exploitation of certain crimes such as prostitution. This may seem to have deterred them from the most profitable illicit trade, the human trade (Bechi and Turvani 1993, Finckenauer 2007, and Paoli 2010). Although emphasis has been laid on the hierarchical structure of the Mafia and the generally assumed ultimate business of private protection (see Gambetta 1993), the EUROPOL's (2013) threat assessment on the Italian organised crime includes people smuggling/trafficking in the list of criminal activities undertaken by the Mafia. Based on Williams's (2001) illumination of the possibility of networks in which key participants are hierarchical organisations, the Mafia may not be absolved of involvement in the criminal enterprise of the human trade. Judging by respondents' views, there is a considerable reluctance to voice out convictions on the involvement of the Mafia; hence there may be little truth in the assertion by some that the Mafia is unaware and not a participant in the human trade from Africa to Italy, and from Italy to other parts of Europe. Notwithstanding the apparent fear and understandable reluctance on the part of many to publicly link the Mafia to the growing human trade across the Mediterranean, this research finds Mafia fingerprints all over the phenomenon.

Analysis in this chapter has been able to convey that despite the factors that enable the linkages and connections, the negative effect of the trade outweighs the positive. While it is debatable that positively, the maritime escapades have granted several African fleeing migrants the privilege to a better life and new opportunities, this positivism is quickly erased by the negativity of the death toll and perilous experiences in the course of the journey.

### **The Distinctive Characteristics of the Criminal Network of the Libya to Italy Human trade And Its Effect on the Changes and Trends**

While the world recognises some universal traits or characteristics of organised crime groups and fight same with this knowledge, the criminal organisations controlling people smuggling and trafficking from Africa and fuelling irregular migrations in Europe tend to have their own unique characteristics which have ensured their survival to date. These unique traits have ensured that they adapt easily to new and more challenging law enforcement regimes and in the process contributed to the increase in the number of irregular migrants entering Europe between 2010 and 2015. Such unique characteristics as the flexible horizontal structure, their ability to corrupt and compromise law enforcement and state authorities, the huge profit accruing to them and their sophistication and adaptability among others have served the criminal organisations very well till now. This section based on the analysis in chapters five and six, examines the unique characteristics of the criminal networks in the human trade from Libya to Italy and demonstrates how these characteristics have informed changes in migration within the timescale of 2010 to 2017 which is one of the contributions to knowledge of this study. These characteristics of the organised criminal groups are predicated by the personalities of the actors, the *modus operandi* and strategies employed by these actors and the structure of the groups and their network. All the characteristics may not be extensively discussed but the most significant ones will be addressed in this section.

### *Observed unique characteristics involved in the way of this irregular migration based on judicial reports and field study*

Notwithstanding the changes in the ways in which the smugglers operate, some structural features have remained constant, overlapping with emerging characteristics. For instance, the criminal organisations involved in the Libya to Italy Mediterranean Voyage adopt the characteristics of a *patron /client structure* with a *scattered nature*, to reach more clients, whilst operating an *illegal enterprise structure*, taking advantage of push factors<sup>33</sup> that drive immigration, as well as the business of people smuggling which has become one of the most lucrative organised crime activities. However, though some of the criminal organisations such as the Nigerian groups may be *hierarchically structured*, they depict a *diverse yet linked nature*, linking with other

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<sup>33</sup> Opportunistic transnational nature

groups in the transit countries such as Libya and Italy (Interview 28), making them an *internationally complex criminal network*. Another characteristic exhibited is the independent group structure/nature which involves criminal networks having their own leadership without paying loyalties to any particular person while being able work with other criminal groups to achieve a planned aim and subsequently disband. In some cases, they are inconceivable and incognito so as to defy tracking, clamp downs and investigation. They are profit oriented and driven by demand. A few other characteristics are further analysed in detail.

### *Sophistication and Adaptability*

It has also been noted that people smugglers and traffickers from Africa tend to be well informed, sophisticated and proactive. This sophistication has made them more mobile and adaptable. Consequently, as one route becomes increasingly dangerous or unprofitable, these networks are the first to take note, investigate and often change to an alternative route. This is most evident among the smuggling and trafficking networks from West Africa. Between 2010 and 2014, there was a -3 percent change in the number of people being smuggled from the West Africa region through the Mali-Morocco-Spain route. This shift was as a result of preventive and repressive measures being implemented within that period by the Moroccan authorities. The criminal networks switched instead to the Mali-Niger-Libya-Italy route which was considered more conducive as at that time (Annual Risk Analysis 2015. Frontex.2015, pg.16). This switch is also noticeable between air and land borders in Africa. As more document frauds are detected at the air borders, less are recorded at the land borders showing the flexibility of the criminal networks in their operations. Even this flexibility and mobility is not restricted to routes but involves also countries of origin and destination. Judicial proceedings of the FERMO PM GLAUCO case reveal the extensive use of phone and other communication applications such as Skype, Viber and Tango by the suspects accused of irregular migration crimes in the Italian territories in producing fake visa, passports and tickets; also contracting fake marriages for intending migrants who are ready to pay any prescribed fees. Recorded wiretappings of phone conversations collected by the flying squad, indicates that this means of communication enables the smugglers and clients to evasively organise their

operations whether they be part of the groups or mere private opportunist that are in the business of availing themselves of every opportunity to exploit vulnerable desiring migrants. A significant case of supporting and organising illegal migration to Italy recorded by the FERMO PM GLAUCO case is the case of an application made by one of the suspects for family unification, in which a marriage of convenience was contracted with a woman in Ethiopia who was until the time of this transaction, unknown to the smuggler (Judicial report, FERMO PM GLAUCO case). A similar contract is made between an official resident in the Province of Agrigento in Italy in a marriage of convenience with a woman in Saudi Arabia on the grounds of family unification as indicated in the box below.

**Box 7.2.**

*Conversation of 18.01.2014, 10:14 hours, prog nr. 144 393 898 524 836 on the user used to ABKADT SHAMSHEDIN between predicted and a man unnamed:*

*"The other party [the unnamed man] says there is a woman known to him, who is located in Saudi Arabia and SHEMSEDIN asks if he can go to Saudi Arabia to marry this woman in order to bring her into Italy on the grounds of family reunification. The man notifies him that it is difficult to get into Saudi Arabia with the document of political refugee.*

*SHEMSEDIN says he can travel to Saudi Arabia on the pretext of pilgrimage. The party says he has to re-contact the woman in question and let SHEMSEDIN know. The caller asks how one gets divorced because he wants to do it.*

*SHEMSEDIN says that divorce is not necessary but if he's going to marry equally again. The caller says that he was married in Sudan and has sought advice from the people (does not say who) and they asked him to help him with some money, also adds that the same is also married in Ethiopia and asks if She knows someone who can help.*

*SHEMSEDIN says to go to Agrigento as that place nobody knows him, adding that he has done in this business before. SHEMSEDIN says that after getting married (presumably Rome), getting married the second time went to Agrigento and was helped in this case by NUREDIN. SHEMSEDIN tells the other person to ask NUREDIN as the latter will tell you how long it takes to do the whole thing, adding that, however, he would have to take up residence in Agrigento, reminding him to contact NUREDIN because he will take care of everything. "*

(Judicial report, FERMO PM GLAUCO Case, pg 81-82)

**7-2. Excerpts from Judicial report, the FERMO PM GLAUCO Case**

This excerpt reveals the nature of sophistication and adaptability in the business of smuggling agents such as the suspects in the FERMO PM GLAUCO case. A continuation of the conversations in the line of this business of falsification revealed

the adaptability of the actors/smugglers in relocating or travelling to any location the business demands in order to complete a particular deal.

In a similar manner, smugglers from Nigeria often acquire travel passports from any other West African country and their clients travel with such passports as citizens of that other country. So do Ghanaians. Migrants from Nigeria also sometimes travel from airports of other West African countries considered less constrictive and less risky for their illicit business (European Commission 2015). In reality; the evidence of this sophistication is not limited to travel through the land borders of the Central Mediterranean. Criminal organisations operating out of Nigeria are able to identify scheduled international events (exhibitions, trade fairs, seminars and conferences) in Europe, register their clients for these events, pay the required participation fees, secure hotel bookings and other necessary things and use this evidence to support a visa application for their clients thereby obtaining authentic documents based on inaccurate or misleading information. A Ghanaian migrant in Palermo - Italy in a conversation, stated that she had come into Italy with a tourist visa and has since remained in Italy with her husband, leaving their children with her parents in Ghana, in West Africa. In a case like this, she may have her passport destroyed and turn around to seek for asylum; she may only be able to travel back when she would have been granted a stay in Italy on the grounds of asylum. Findings indicate that smugglers are very proactive and react immediately to the nuances of European countries embassy staff. When it was noticed some years ago that the embassies of the Schengen countries of the European union were better disposed to granting travel visas to West African couples (as opposed to individuals embarking on a vacation), a practice arose among the people smugglers where a frequent male or female traveller is paired with a first time visitor of the opposite sex and both apply as a couple. The first time visitor was usually the paying client and the practice enjoyed a certain degree of success. (European Commission, DG Migration and Home Affairs 2015). European diplomats are not immune to the corrupting influences of the African human smuggler/trafficker. Some have since been sucked into the vortex of corruption and been recruited as willing accomplices. A classic example of this collusion is that of a Senegalese couple as reported by The Guardian (Ní Chonghaile (2015). In this case, an African woman married a European diplomat who was responsible for the issuance of visas at the embassy of his country. It turns out that the woman was a people

smuggler and was selling visas for between 5000 to 6000 British pounds sterling which the diplomat husband issued. The proceeds was laundered through the woman's three accounts in her bank. One of the accounts was with power of attorney to her husband. The proceeds were later applied for the purchase of real estate in Dakar, Senegal's capital city. In the words of Gianpaolo Muccemi, co-author of eBook "Confessions of a People Smuggler" who spent two years travelling with smugglers across the world, "...they are clever. Think of a smuggler as someone who never sleeps and spends 24 hours a day thinking about how to break into Europe. They read newspapers, study European laws, study what FRONTEX is doing..." (BBC 2015). To this extent the volumes of telephone wiretapping by the Italian flying squad recorded in the EFRMO PM GLAUCO case proceeding, reveals the ingenuity and creativity of these smugglers in their bid to both make profit and assert themselves ahead of anti-people smuggling operation such as the FRONTEX.

### *Multijurisdictional Spread*

Between 2010 and 2015, there has been a lot of development in the communication sector in most parts of Africa. Telephone and internet services are now available to even the most remote of communities. Improvement in communication has widened the jurisdictional spread of the smuggling networks. It has therefore become possible for an actor in a particular network to so easily move from one jurisdiction to the other while still maintaining regular contact with his network. From Lagos to Agadez and to Tripoli and on to Europe, the smuggler/trafficker and the client/victim remain in touch with the departure point. Most importantly however is the expanded role of the diaspora population since 2009/2010. Aided by social media made possible by improvement in communication, the diasporic population has become very central as migrant smuggling often develops along ethnic and linguistic lines. (GIATOC 2016). Incidences of smugglers contacting migrants and transacting the procuring deals via Facebook and WhatsApp sprawl the media as it was in the case of the Cargo Ship, Ezadeen in which 450 migrants were found abandoned on the Sea and was towed to Italy (Hooper 2015, Dearden 2015, Coleman, 2015, and CBS News 2105). The report had it that the said ship was to be the second ship left on course to crash into Italian shores. Technology in recent time has not only assisted the smuggling groups in their

procurement and recruitments but has also been employed by migrants who in their show off via WhatsApp and Facebook have unintendedly supported and enhanced the business of the smuggling groups. The Europol report of 2016 wrote that smugglers are increasingly relying on social media to report and advertise their services; presenting attractive, mouth-watering offer those desperate desiring migrants may not be able to resist as well as recruit aspiring smugglers (Europol 2016). Their adverts are supported with evidence of their successes. This point was analysed as the concept of operational success motivated advert as an emerging strategy employed by the smuggler in the sixth chapter of this work. Interview with IOM representatives in Palermo and a representative of CARITAS in Rome, further illuminated how trafficked girls have in turn lured their friends into the hands of the trafficking Madams by the use of technology in showcasing assumed enviable achievements (Interview with Caritas, Interview with IOM). Effectively, the maximizing of ICT by the criminal networks in promoting their business can be said to exhibit their global dominance/control (jurisdiction) capability especially in regions where their exploits are revered such as regions where the belief that migrating to developed regions such as Europe will enhance living conditions. This point is supported by Toaldo (2015) who noted the prominence of west African counties particularly Nigeria, in the statistics of migrant flows which could be attributed to the emergence of deeper smuggling networks, cheaper travelling packages, the continuous Boko Haram crisis, and the evergreen tradition of *“travelling to Europe to make it big”* syndrome. The scope of dominance of the criminal networks in the Libya to Italy human trade, therefore exhibits their characteristics of multi-jurisdictional spread which overtime enables them to decide where to pitch their tent and from whence to advance.

Following the diverse characteristics of criminal networks that have been observed and discussed in this chapter, it is worthy of note is that a number of key words were identified as recurrent terms used by respondents in the categorisation and definition of organised criminal organisation and networks involved in the Libya to Italy people smuggling. For the ease of understanding, they are categorised according to the respondents whose perceptions are based on their profession and experience in the field of irregular migration - human trafficking and smuggling. These key words are observed to reflect both characteristics identified in literature on criminal organisation and also indication from field study transcripts. This indicates a conflation in the views



on the phenomenon which may have informed the descriptive categorisation of the people smuggling and trafficking of person across the Mediterranean as incomprehensively 'complex'.

**Table 7-2. Table showing the diverse perception of the human trade networks by field study respondents.**

| <b>Key words used in defining and categorising criminal Networks/Organisations involved in the Africa-to-Europe people smuggling</b> | <b>Category of respondents</b>  |
|--|---|
| <b>Professionalism</b>   | Academia (Respondent 2)   |
| <b>Organized and flexible group of individuals</b>   | Academia (Respondent 3)   |
| <b>Cooperative/Cohesive</b>  | Criminal justice system (Respondents 1 & 11)<br>Academia (Respondent 2)   |
| <b>Highly connected and Interconnected grand groups</b>  | Academia (Respondent 3)<br>NGOs<br>Academia<br>Criminal justice system  |
| <b>Increased violence</b>  | Academia (Respondent 2)<br>NGOs (Respondent 4)<br>Criminal justice system (Respondent 11)                                     |
| <b>Change in motive and goal</b>   | Academia (Respondent 2)   |
| <b>Evolved / metamorphosed / Developed</b>   | Criminal justice system (Respondent 11)<br>Governmental institutions (Respondent 8)<br>Anti-Mafia associations (Respondent 9) |
| <b>Complex</b>   | Criminal justice system (Respondent 11)<br>NGOs (Respondents 6 & 7)<br>Academia   |
| <b>Profit and Demand oriented</b>  | Governmental institutions (Respondent 10)<br>Criminal justice system (Respondent 11)  |
| <b>Multi-levelled/variegated/ Mixed hierarchy</b>  | Academia  |
| <b>Structured and hierarchical</b>   | Criminal justice system   |
| <b>Horizontal cooperation</b>  | Academia  |
| <b>Scattered</b>   | Government officials  |
| <b>Unknown</b>   | Academia  |

The table above demonstrates that there are certain similar definitions and categorisations that were echoed by more than one category of respondents such as the aspect of 'increased violence' which was pointed out by both respondents from the academia, criminal justice system and the non-governmental organisation. The opinion of the respondents reflects also their knowledge of the criminal organisation

originating and dominant in the sub-Saharan Africa and north Africa being compared with the criminal organisation originating from East Africa which this study analysed in the fifth, sixth and seventh chapter.

Based on these different perspectives observed in the table above, it can be deduced that although the activities of smuggling networks are evident in diverse regions, the perception of the populace directly affected and in contact with them differ.

### *Authority, Corruption and Compromise*

Another unique and notable characteristic of organised criminal organisations operating in Africa for the smuggling and trafficking of migrants to Europe is the ease of corrupting or compromising authorities and law enforcement agencies. Although collusion with authorities is a general trait of criminal organisations worldwide, this trait is more pronounced and with a higher rate of success in Africa. This is not surprising if the across-the-board poverty and deprivation in the continent is taken into consideration. A settled migrant in Palermo, recounting the intricacies of his voyage to the EU – Italy through the desert routes and finally via the sea route, stated that *“...every week, at least 30 vehicles (Toyota Pick- up) would leave through the desert. During the journey, there are post where we had to pay each person 10,000 CFA...and once they have left Agadez, the migrants are normally told to let go of their passport, as they may not need them anymore, more so that it may not be possible to identify them to know what county they are from”* (Interview36)<sup>34</sup>. From interview transcript and scholarly articles, the city of Agadez in Niger republic, which has long been long considered a smuggling city, is a case in point (Interview ISAB). The economy of the city is built around smuggling and it has been so for ages. Everybody, including city and security personnel live off smuggling. This fact is not lost on migrant smugglers and traffickers who have since taken advantage of the historical interplay between the city and the underworld. According to a report by the Global Initiative Against Transnational Organised Crime (GIATOC), a Geneva based lobby, at least half of all West African migrants who reach Lampedusa in Italy first pass through Agadez. The ethnic Toubé gang who dominate the trade charge migrants between \$200 and \$300

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<sup>34</sup> Interview with Senegalese migrant in Palermo, who did not wish to be identified, hence he is referred to as an independent respondent.

for passage into Libya or ask them to carry drugs in lieu of payment (The Economist, 2014). Interview transcript corroborates this fact of inflated fees collected from travelling migrants in order to permit further passage where a respondent re-counted: "...I paid about 150 - 300euros to get to Libya, apart from the one I paid at the different post which was 10,000 Cfa" (Interview Resp. Senegal). The truth of a possible compromise with the ruling authorities, which allows and encourages the emergence of more people smuggling merchants is rather glaring regardless of the several promises by the government of Niger to stamp out large scale people smuggling through its borders in the past. It is suggested that the negative impact of such action on the local economy is a stumbling block. The Economist quotes a diplomat in Niger, "Dismantling the networks of intermediaries, drivers, guides, migrant safe homes, and clandestine migration consultants would place the regional economy of Agadez under significant stress". What the diplomat did not feel able to say however is the role official corruption plays in the whole conundrum. In other words, the unique environment in which they operate has united to sustain their operations and prolong their existence and profitability notwithstanding the fightback from European authorities especially FRONTEX beginning from 2011 after the demise of Muammar Gaddafi and the uprisings in Mali and Niger republics. Even at safe houses and embarkation points in Libya, it can only be corruption that prevents the authorities from detecting and stopping the smugglers and their clients in their tracks. Where smugglers and traffickers are intercepted and arrested, there is no evidence to suggest that they are duly prosecuted. Most suspects end up escaping the rap as a result of judicial corruption made possible by the proceeds of the illicit business. Put simply, these criminal organisations or networks are **highly connected** to the powers that be within their zone of operation. Witness testimonies from the judicial proceedings of the FERMO PM SCAFISCA case, made statements that could be termed as indicting the Libyan authority as regards the migrants being transported from the Libyan shores:

*I contacted an intermediary named Ermiyas, probably Ethiopian nationality, to which I gave \$ 4,800. Later, accompanied on a car by other Libyan entities, in the like of Ermiyas, we were taken to a collection centre available to the Libyan organization devoted to this type of travel. In this centre, where we were collected in about 500, we were about two weeks. Then we were then taken up on a **military***

*truck, equipped with a closed box body and, in groups of about 100-120 people, they took us on a beach, after a journey that lasted about an hour and a half. I do not know what city it was.*

(Judicial report, FERMO PM SCAFISCA Case, pg. 8)

Examining this quote, the information about a military truck connotes some level of compromise and corruption which boosts the enterprise and survival of the smuggling groups in Libya. Access to state properties such as a military truck implies that there may either be a mole in the corridors of power or some level of cooperation with the organised criminal groups on the side of the territorial authority. Regrettably, issues as this are not veraciously spoken about so as not to discredit the ruling power. The Guardian newspaper of London quotes Abu Uday (probably a pseudonym), one of Egypt's most active people smuggler who earned a net income of 1.5million British pounds sterling in 2014 from smuggling an estimated 10,000 migrants to Italy; in his words; "If I want to smuggle 300 migrants, the authorities will arrest 50 and let 250 go, to show the Italians they are doing some work. Maybe they take \$12,800 per operation" (Ní Chonghaile 2015). As it stands, therefore, migrant smuggling remains a "low-risk, high-reward" business. This ensures that irregular migration to Europe continues and thrives in spite of preventive measures taken by European countries to combat it.

### *Flexible structure characteristic*

Flexibility here refers more to the ability of the actors in the network to adapt to trends vis-a-vis their roles and task. Organised crime such as the human trade from Libya to Italy through disastrous means such as the recurrent perilous journeys across the central Mediterranean is *ipso facto* being organised through the concept of networks. As William (2001) revealed, these networks are fast, evolving exhibiting traits of universality yet imperceptible, ubiquitous and invisible, everywhere and nowhere' (Williams, 2001: 64). Most of the groups involved in the transnational smuggling/trafficking of migrants from Libya to Italy have no hierarchical structure but operate rather as loosely connected people and in small networks. The suspects in

FERMO PM GLAUCO<sup>35</sup> case were accused of crimes committed abroad such as Libya, Eritrea, Sudan, Israel and other regions in Africa as well as in EU countries such as Sweden, Norway, Germany, France, Netherlands, Austria, Australia and Canada. They are at the same time accused of crimes committed in the different regions of Italy such as Lampedusa, Rome, Mineo, Agrigento, Caltagirone and other locations. Crimes committed by the accused according to the proceeding include: Criminal association transnational crime; Crime of aiding and abetting illegal immigration; The crime of trafficking in person/ illegal transfer of migrants; Kidnapping and coercion; Extortion/exploitation; Torture/abuse/maltreatment of migrants, Sexual abuse of female migrants; and Crime of Negligence. An indication from this case is that there is no ownership or chain of command in the structure of the networks. Each person or network is only answerable to his or its need for financial profit. In a smuggling network for instance, the person who recruits the potential migrants has little or no nexus to the person or group that procures necessary fake documents nor does the latter have any control over the person who sees to it that relevant state officials are bribed and compromised for easy passage across the borders. The **amorphous** nature of these networks ensures that they are **not easily discernible** yet **ubiquitous** and able to operate at any given time. They have therefore been aptly described as “complex criminal networks that do not recognise borders and which can be likened to multinational corporations” (BBC 2015). This implies that although the Europol report of 2016 explicitly explains that members of smuggling networks have been observed to work autonomously in some cases, with a few low-level contacts, it is clearly dependant on the degree of risk involved (Europol 2016); the point remains that the versatility of the networks is largely applied when they deem it necessary. To buttress this point, the FERMO PM GLAUCO case examined reveals incident of the suspects privately conducting their own operations yet still part of a group. They also do not divulge important details that will reveal their connections to the authorities. In Palermo the head of the *Squadra Mobile* interviewed for this study, revealed that they had only one successful cooperation from an arrested smuggler since the years of their investigation of irregular migration case (Interview 18, Palermo, 2016). However, the actors and groups continue with their operations regardless possibly because of

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<sup>35</sup> Judicial proceeding of the case against nine suspects on irregular migration crimes committed within Italy and abroad. This case is one of the four selected case files on irregular migration crimes used as case study evidence in this study.

their structure or a probable kinship-tie or agreement they may have which may be similar to the Mafia *Omertà*. To this extent, the death, imprisonment or voluntary withdrawal of an actor does not therefore pose any serious threat to the survival or success of the network as such actor can so easily be replaced. Except in few situations, the structure of migrant smuggling networks differs remarkably from that of other typical criminal organisations where people “are tied and committed to the group, cannot leave and are often bound by oath”. Findings of this study indicate that the loose structure which has been adopted by actors in this phenomenon is beneficial to the smuggling operations in more ways than one. In this light, scholars believe that by working in networks, the criminal groups are equipped with “flexibility to adapt new routes and methods in response to policies and measures dedicated to controlling European borders” (Aiazzi, Iaria, and Monzini 2016). Other scholars writing of the Study of Smuggling of Migrants on the other hand, opine that a network is better understood in the context of “...individuals who provide their specific services to whoever requests these services”, further explaining it as being “...confined to people who come together for specific task/operation and dissolve, [who] can meet again but, the same people, may at times perform different roles or bring new people to perform their tasks” (Aksel, *et al* 2016). In essence, the actors identified in the fifth chapter of this work such as locally based opportunists for instance, may not be registered as members of a particular group, but can be referred to as part of the irregular migration network being that the services they provide which include: falsified documents, transportation, accommodation, bribery of border officials, and advice/tips to migrants *en route*, are essential for the successful movement of operations steered by professional smugglers (UNODC 2006, HM Government 2011, and INTERPOL 2016). Consequently, the choice to operate in networks no matter their prior structural organisation, gives them leverage against the combative measures put in place to manage the phenomenon. Indications from interview transcript reveal that in some cases, some actors have diverted from a particular role to another to suit the demand at the time; a friend who falls in the category of local scout or a private business man reverts to being a transporter of desiring migrants as the opportunity present itself (Interview with ISAB) or in the case of the guards converting to transporters in the FERMO PALESTINESE 1 case<sup>36</sup> on the Lampedusa landing of 15/10/13 and

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<sup>36</sup> Judicial proceeding on the Case against Abdalmenem IH Attour on the landing of 15/10/13 and 11/3/2013, defended by the lawyer's office. Gaetano Mongiovì of the tribunal of Agrigento.

11/3/2013. This flexible structure therefore makes smuggling networks more resistant towards law enforcement than closed and hierarchical organisations would be. Tracking and taking down a network is therefore an operational nightmare for law enforcement agencies.

### *Changes in terms of the organisational and behavioural features of the criminal groups and their networks; how does it inform the migration process?*

This section examines the evident changes in terms of the organisational and behavioural features of the criminal groups and their networks. It questions how these changes inform the migration process, evaluating whether it encourages it or discourages the phenomenon. These changes include changes within the timeline of this study which is from 2010 till present date. Findings from field study reveal that the organisational structure and behavioural feature of the criminal groups in their network, to a large extent, encourages its evolution and complexity. Some of the evident changes are examined in this section, particularly those indicated in the interview transcript based on respondents' experiences - both victims of smuggling practices and professionals - in matters relating to people-smuggling practices. The observed changes reflect the evolution in the phenomenon that the accounts in the judicial proceedings failed to clearly elucidate. Based on indications from field study, some areas recorded significant changes; these are discussed here;

### *Trends in the Modus operandi*

One trend that has brought about significant changes in the Libya to Italy human trade is the structure and the *modus operandi* of the people smuggling groups. Fr. Vincezo from Santa Chiara in Palermo Italy pointed out the fact that in the last 5 to 10 years, the arrival of migrants could be assessed as more structured and organised. This was also echoed by an Immigration judge in Palermo and Soura Valeria of CARITAS in Rome who asserted that the mode of operation of the people smugglers in terms of organisational structure and even violence could have been, to a large extent, attributed to the increase in the number of arrivals (Interview 22). Fr. Vincezo noted that 15 years prior to that, the arrivals were just large and not organised as it has been

observed in the recent past (Interview 20). Considering the means by which the degree of organisations of these groups in recent times could be achieved, the evolution of information technology cannot be overlooked. This is observed in the widespread access to internet with various apps such as WhatsApp and Facebook and sophisticated phones. This line of thought also reflects ISMIS perception of the roles of technology in the trade as against what was obtainable in the years before 2010 (Interview with ISMIS). Migrants can now call from their boats as well as make connections through the internet. Fr. Vincezo added that often times, the migrants would arrive with just 'Sim' cards tucked away from the smugglers and traffickers which will later be useful for them in connecting with their relatives that are already in the desired destination countries as well as referrals they could have been given prior to their embarkation (Interview 20).

An interesting fact pointed out by ISMIS is that the trade can no longer be termed as clandestine. This could be based on the fact that getting smuggling services is not in any way difficult as the degree of secrecy in the perpetrators and their locations (in some cases) appear no more a secret. This agrees with migrants testimonies in the FERMO PALESTINESE 1 case where they recounted of how they simply got details of the smuggler off friends whilst discussin on the streets, work place, and even in cafes. Notably, the smuggling groups have increased in numbers and members to suit the surging demands to travel as observed by a representative from CISS in Palermo (Interview 29). This can also be related to the fact that the business is clearly more lucrative and less risky for the smugglers than has ever been. Members are taken on to the smuggling groups and ad-hoc members willing to make quick money at the instance of existing operations. People smugglers are observed to now apply the tactics of unaccompanied-voyage as discussed in the sixth chapter of this work. Media reports point out that these smugglers simply invest in cheap dinghies that are unable to transport the migrant to their destinations because they believe the European rescue mission would intercept the boats and bring them to safety (Farrell 2017). They even offer seasonal discounts for bad weather days (Weise 2015) While they evade the authorities, they are at the same time making more profit while also overcrowding the boats which has led to the gamut of sea disasters recorder between 2013 and recent times. The Head of Police in Palermo explained that because the rescue ship do not repatriate the migrants, but rather bring them down to Italy, the



smugglers simply need to assure the migrants a limited trip duration during which they would be rescued and assuredly taken to Italy (Interview 18). Another emerging *modus operandi* observed is the concept of women trafficking women, referred to by Professor Fulvio – a professor of International Law in Palermo – as feminisation of the trade (Interview 28). Although this was observed in the Siegel and De Blank (2010)'s work as regards the role of women in human trafficking networks, the scale of the practice is re-echoed by respondents following its increase in recent times. According to Prof. Fulvio, the practice is quite evident in the Nigerian case, where once trafficked women who have now become their own bosses, traffic other women. A migrant mediator in Palermo, based on his experience with migrants, also mentioned the instance of the Nigerian girl who was once trafficked but has evolved to the one who today pays for others to be trafficked (Interview 30). In the past it was the men who would organise the transportation of the women to the destination country, but the reverse appears to be the case in recent times.

### *Trends in Routes*

As the *modus operandi* and the structure of the criminal groups are changing, analysis and reports show that the routes as well are changing. Though the detections by the FRONTEX 2016 Risk analysis report indicated that there was a reduction in illegal-border crossings in the central Mediterranean route in 2015, which is the focus of this research, the Eastern Mediterranean routes appeared to be the get-way routes for mostly desperate Syrians who sought all means to get to European shores. The Economist recorded that about a million crossed the Mediterranean in the year 2015 which has astronomically grown from the formerly largest flows in the year 2011; from 64,000 to 150,000, with a land flow of about 270,000, from Agadez towards Libya (The Economist 2016). Sharing the statistics of flows in the Mediterranean, the Head of Police in Palermo, added that the sudden opening of the Libya routes through the Mediterranean, has made every point a thorough-fare despites the measure put in place (Interview 18).<sup>37</sup> These tit-bits of statistics indicate the fluctuations in the flows in the routes in reaction to the trends and occurrences that triggered the shifts. An Italian Judge, Calogero Ferrar, interviewed in Palermo, Italy added that the changes

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<sup>37</sup> Interview with Head of Police - *Squadra Mobile*, Palermo.

in routes and the reduction in the flow in 2015 in the Mediterranean route and increase in the Balkan route was no coincidence but as a result of the number of arrests that were carried out in Italy. However, despite the arrests, the knowledge that there are rescues in the Mediterranean, now makes the travels quicker than before. Interim changes have been set in the pipeline as regards ways to limit the hundreds of thousands that would continue to take the perilous sea journeys. A professor of International Immigration Law interview in Palermo – Prof. Fulvio Vassalo expressed hope in the project with the European Commission to control and close the border between Libya (south) and Niger (north) which has become the main route from sub-Saharan Africa to Libya and to Europe, while the police in Zuwara have awakened to fighting the increasing take-off from their region; especially in Misuarata (Interview 28). Media reports by May 2017 reported that in the light of closing the said borders, growth and development programmes in local communities, as well as technical and financial support were yet being sought from Libyan authorities in fighting illegal migration at the borders around Niger (EURACTV 2017). The ideas in theory appear good but the implementation as other ideas of the commission remains a challenge (McIntyre 2017). The professor further pointed out that criminal groups/networks that have taken advantage of the take-off points in Zuwara and are becoming stronger and domineering, hence police in the major hubs are becoming aware of the realities of the situation and have therefore taken up the task of guarding the sea so as to reduce the activities of criminal networks on the sea (Interview 28).

Most striking in the discourse is the issue of Bangladeshis and Kurds routing through Libya. It would have been assumed that take-off in North Africa would include only Africans but revelations from data collected reveals that the mixed migration category and demographic is getting more complex as the phenomenon evolves. In sum, the increase in the routes is owed to the increase in memberships of smuggling networks which in turn is owed to the returns and transnational versatile nature of the structure of the criminal networks involved in the evolving human trade. The link between the structure and the drivers – which include both human resources, socio-political, economical and geographical issues- continues to spawn in a complex nature.

### *Trends in Violence*

Europol risk assessment of 2013 identified violence as one prominent characteristic associated with OCGs (SCOTA 2013). Most notably, the increasing use of violence is one strategy that was recurrent in the comment of the respondents during field study for this research. Violence in agreement with the SCOTA report is now used as an integral part of the strategies of the criminal network involved in the present-day human trade. The SCOTA report of 2013 clearly attests to the fact that in illegal migration, violence is used in intimidating migrants upon arrival (SCOTA 2013). The effect of violence on the human trade transcends the concept of violence as a push factor as in the opinion of Toaldo (2015), where he notes violence as enforcing compulsive migration in region such as Libya and South Sudan. Comparatively, findings from data collected reveal another dimension to the use of violence particularly in the smuggling of persons from North Libya to Italy. It was observed that the use of violence has now been shifted from being used against rival gangs and intimidating members towards being used as an enhancement tool for their smuggling business. Migrants were reported to be forced at gun point to embark upon unseaworthy boats by the smugglers who have devised the use of cheap unseaworthy boats as a means of making more profits, neglecting the consequences of the quality of the vessel used or the consequences of overcrowding such unseaworthy vessels. While comments from respondents such as the director of Centro Astalli in Palermo, Sicily, who relays horrid stories of migrants being forced unto boats at gunpoint (Interview 4), the analysed FERMO PM MUHIDIN case speaks of migrants abducted, enslaved, exploited in diverse ways and there after forced unto unseaworthy boats (Judicial reports FERMO PM Muhindin). Additionally, increasing the danger involved in the business is the alleged involvement of the Mafia with the criminal groups involved in the human trade in Italian territories in particular. Respondents echoed the fact that the triumph of the criminal groups are enabled by their affiliation with Italian Mafias in the diverse regions where the trade is accepted and thriving as a result of the endorsement of the territorial Mafia. (Interview 22).<sup>38</sup> Considering the increase in irregular migration flow in the Mediterranean and calamities that have been associated with it particularly in the recent past, it suffices to say that increase in the use of violence is one change that has been boosted by the characteristic of flexibility and multi-jurisdictional spread of the criminal networks.

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<sup>38</sup> Interview with Suora Valeria from Caritas Rome and Palermo, Sicily.

## *Trends in Investigation*

Investigating the crime of irregular migration particularly across the Mediterranean has over the years become a complex and difficult task often laced with several challenges. The FRONTEX identified the problem of the unending complexity wherefore it stated that;

The job is never finished however. The networks of human smugglers and traffickers stay abreast of FRONTEX operations; as soon as a route is identified and closed down by an EPN or FRONTEX sea operation, the facilitators will adjust either the route or their *modus operandi* to stay ahead of the detection net'.  
(FRONTEX 2017)

While the statement informs that continuous efforts are being put in place by the authorities, the challenges that continue to erupt as a result of the characteristic of the criminal networks exhibited by their strategies posed a continuous hindrance to a complete clampdown of the phenomenon. The FERMO GLAUCO case revealed that criminal organisation involved in the smuggling and trafficking of persons into Italy and from Italy to other European countries, continued to forge in their activities despite investigations being carried out on arrested members. Most striking is the fact that not only are their activities observed to go unimpeded, recruitment of new members to effectively replace the detained members continue (Judicial reports FERMO GLAUCO case). Considering the characteristics of loose coupling of criminal networks along the model of Charles Perrow, discussed by William (2001) as regards their robustness and resilience, the criminal networks in the Libya to Italy human trade could be said to have advanced beyond simply evading knock-on or cascading effects.<sup>39</sup> Rather than rely on the strategy of redundancy in the network to carry on activities formerly carried out by arrested members, they engage in more recruitments in the face of investigations. Considering the legitimacy of this realisation, it is plausible that corruption has a great role to play. Despite the challenges observed, investigation into

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<sup>39</sup> This is a situation where a loosely coupled network is equipped and limits knock-on and cascading possibilities to one part of the network so as not to undermine the network in a whole; at the same time preserving diversity in response, determining which parts of the network should respond in what manner and location.

Libya to Italy people smuggling and trafficking crimes in recent times evidently has recorded, amidst the challenges, greater successes than before as identified from interview transcripts. While the president of *Peligrin della Terra* in Palermo expressed the perceived difficulty of apprehending culprits due to the fact that the migrants travels mean the migrants having to go through different towns and criminal groups, which could be attributed to the new structure of the criminal groups. The Head of police of Palermo informed of remarkable successes made by the force in recent times (Interview 23).<sup>40</sup> He pointed out that the investigations carried out so far has revealed to a good measure, how to reduce the flow probably with the establishment of a 'CARITAS' sort of organisation in the Libyan points of embarkation (Interview 18). He added that ten years prior to then, there were no rescue missions such as the *triton* or *mare nostrum* because the coastal countries which have become points of embarkation such as the Libya, had agreement with EU to restrict migration across the Mediterranean, which came to a dissolution after the overthrow and death of Gadhafi. However, as a result of the investigations that have been going on for about three years now, the police have been able to arrest over 100 offenders. These sorts of results are relatively new as arrests were not always very possible due to the secret way these trips were organised. More considerable as a change would be the fact that one of the defendants arrested in GLAUCO 1 accepted to cooperate with the Palermo criminal justice system. It is considered a change as he is the first person in history recorded as accepting to cooperate, hence they accorded him the same protection provided for witnesses against the Mafia. These successes notwithstanding, the state prosecutor for irregular migration crimes, opined that investigations could have been much easier if the Flying Squad perhaps had jurisdiction to investigate in the African regions from where embarkation takes place or even co-operation between the police in places such as Libya, Eritrea, Ethiopia and Sicily (Interview 17).

### *Trends in Economics and profits*

The debate on whether the human trade in recent times could be assessed as being more enterprise driven is a question that is worth considering given the profit margin

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<sup>40</sup> Interview with the Head of *Peligrin della Terra*, the first Anti-trafficking non-governmental organisation in Palermo.

associated with the business of human trade. Thachuk (2007:198) in his work, *Transnational Threats: Smuggling and Trafficking in Arms, Drugs, and Human Life*, assessed people smuggling as the fastest growing form of organised crime which is estimated to generate a profit of approximately 6 billion dollars or more annually. In accordance with this assertion, the ILO in 2005 estimated the value of illicit human trafficking at 32 billion dollars globally (ILO 2008). Graduating to 2016, the human trafficking industry according to Molloy (2016), is estimated to generate about 150 billion dollars annually. Current statistics by Human Right First (2017) state that the ILO estimates the human trafficking business to earn about 150 billion dollars yearly with 99 billion dollars being made from commercial sexual exploitation alone. In all the report presented on the profits made from illicit human trade, it is most striking to note that about 6.75 billion dollars have been recorded as profits generated for criminals along the two major smuggling routes North/East/West Libya to Italy, and also from South America to North America (UNODC 2017). Given the statistics presented and following the evolution in the organisational structure of criminal networks in recent times, it can be argued that the human trade has become a more enterprise driven affair. It is therefore impossible to perceive human smugglers in particular as mere “assisted migration” agents but as opportunistic businessmen/entrepreneurs who have resorted to maximizing the drivers of irregular migration to their advantage. Following this statistic, indications from interview transcript strongly suggest that the *modus operandi* and the organisational structure of the networks involved and the outcome thereof is poised to multiply these numbers (Interview 23, Interview 25). Some other respondents alleged that the business seems to thrive owing to the advantages it yields to the receiving countries such as Italy as there is a struggle and competition to host migrant centres when there are arrivals (Interview 22). According to the state judge for irregular migration cases, more criminal groups and more members are joining the smuggling networks; probably because of the profit they make which is providing a big market. This strongly suggests that the offer of migration to Europe is and will continue to create the demand for smuggling services. Therefore, focus should be on decreasing the demand by creating conditions to stunt the growth of the criminal groups by making more arrests which will in turn reduce the number of criminals available to provide the offer to migrate.

## Socio-political issues

The Arab-spring among other socio-political issues has been assessed as a factor that has intensified the degree of irregular migration over the years (from the 2010) till present time. While some scholars such as Uchehara (2015) opine that the movement from Libya to Italy is embarked upon with the hope for a better life, others such as Kohnert (2007) have argued that the movement, in majority of the cases, are due to external forces which according to John Fisher Burns of New York Times (2017), are assumed fancy lifestyle that the Europeans enjoy seen by these migrant with expansion of ICT. While Flahaux and De Haas (2016) debunk such claims as being based on stereotypes, Monzini, Pastore and Sciortino (2004) on the other hand pointed out that the presence of underground-border economy had a significant part to play in the growth of illegal migration flows. Following this debate, research data collected for this research has shown that the recent growth of irregular migration has evolved from people seeking economic alternatives to people escaping political, religious crises and epidemic. To this end, a number of scholars such as Rezouni, (Lt.C), (2010) Browne (2015), Kuschminder Bresser and Siegel (2015) have also diverted the blame for irregular migration to social-political crisis. This research particularly agrees with the opinion of Kuschminder, Bresser and Siegel (2015) on the fact that specific drivers of irregular migration appear to have been overlooked and under- researched. Schmid (2011) endeavours to identify these push factors such as demographic push factors, ecological push factors, political push factors, economic push factors, and Attendant circumstances increasing the migration potential. Based on the different pointers shown by the debate on the effect of social-political issues as drivers of irregular migration, this research attempts to draw a parallel between these drivers of irregular migration and the organisational structure of criminal networks involved in this human trade. The Criminal Network Nature Bubble (CNNB) developed by this research (chapter 7), reveals flexible and overlapping features of the structures of the criminal groups/networks which enable them to adjust their *modus operandi* and the modalities by which irregular migration in recent times is organised. Based on the CNNNB, the feature of being diversely linked, formidable nature, opportunistic transnational nature and scattered nature of the emerging groups enable them to wade through the

changes affecting the phenomenon and thrive against all odds. Interview transcript on the other hand reveal that while some respondents from the populace are of the opinion that the situation is simply a politically orchestrated affair (Interview 35), others based on their professional experience opine that in early times of the emergence of this phenomenon, releasing and opening the borders was what President Gadhafi used in threatening the Italian government and other EU states to make them grant him his several requests. However following the death of Ghadafi, the borders are now being manned by local gangs such as the Tuareg and other smuggling dons who may have possible connection with terrorist groups such as the ISIS and Boko-haram (Interview 17, 18, 28).<sup>41</sup> The debate notwithstanding, it is evident that the criminal groups which have emerged in recent times in their diverse formations, have simply taken advantage of the confusion and are thriving making it a more complex phenomenon.

### *Tends in Numbers and arrivals*

The increase in the numbers of arrivals in recent times according to BBC Dateline London reads a number of 94,000 according to the UN report of 30th of July 2017, indicating a 70% increase from the numbers recorded from 2015. A reporter for Prospect magazine interviewed on the same programme stated that about 11,000 migrants were recorded to be arriving in 5 days From Africa (mainly West Africa), with about 300,000 migrants still waiting in Libya. The tables below show the statistics of arrivals as at 2013 and what the records in the early part of 2017 was, which clearly indicates the increase considering the records in recent times.

**Table 7-3. Statistics on arrivals based on judicial proceedings.**

| <b>Statistics Of Major Landing In Italy Based On Reports Provided By Judicial Proceeding</b>  |        |         |         |       |         |
|---|--------|---------|---------|-------|---------|
| <b>Country</b>  | Syria  | Eritrea | Somalia | Egypt | Nigeria |
| <b>Number of arrivals</b>   | 10,851 | 9213    | 3254    | 2618  | 2458    |
| <i>Report indicates that majority of landings took place in Sicily (Lampedusa and other Pelagie Islands). A recorded estimate of about 14,102 migrants have</i> |        |         |         |       |         |

<sup>41</sup> There is a suspected accord with the Isis and boko haram in the smuggler such as the Kufre.



landed while 20,862 migrants have arrived in the rest of Sicily (source: Italian Ministry of Interior Affairs).

**Table 7-4. Statistics on arrivals in the year 2017 by the Italian ministry of Immigration**

| ARRIVALS BY SEA, ITALY<br>JANUARY - APRIL 2017/2016/2015<br>(source: Italian MoI) |         |       |        |
|---|---------|-------|--------|
| Year  | 2017    | 2016  | 2015   |
| January   | 4,468   | 5,273 | 3,528  |
| February  | 8,971   | 3,828 | 4,354  |
| March   | 10,853  | 9,676 | 2,283  |
| April   | 12,411* | 9,149 | 16,065 |

\*as of 19 April

Although this research does not engage in calculation of the intensity of African migration based on the size of populations or based on births in the originating and destination countries as suggested by Flahaux and De Haas (2016), the assessment of the flow by this research is hinged on the statistics provided by the IOM. The second part of 2017 according to IOM reports records arrivals to Europe of about 118,684 migrants, with about 116,692 arriving by sea and about 2,405 recorded as dead/missing on the Mediterranean. Based on indications from interview transcript it can be deduced that the issue of numbers especially from 2011, are clearly no longer a case of propaganda but reality (Interview 32).<sup>42</sup> Other changes which were noted to have emerged in 2014 included the arrival of unusual but new nationalities in Italy such as from the Gambia and landings which were purposefully directed to Palermo (Interview 25, 26). IOM representatives encountered on the field confirmed that the sharp increase in the statistics of mixed migration flow is a significant change (Interview 19, 37). These changes are assessed by this research as most primarily the effect of the adopted organizational structure of the transnational networks involved in the trade as analysed in the 7<sup>th</sup> chapter of this work and also the *modus operandi* employed such as the over crowding of boats, violence, various other forms of exploitation with coerces the migrants in their favour.

<sup>42</sup> Interview with a Medical Practitioner handling smuggled migrant cases and torture victims in Palermo, Sicily, Italy.

### *Trends in Mixed Push and pull factors*

A mix of many factors have in the recent past, driven the movement of persons most especially from Africa to Italy which are identified as changes influenced by the characteristics of the criminal networks that organised the human trade along this route. A number of these factors include the permitted porous borders of Africa states especially West Africa (ECOWAS), porous coastal borders between Africa and southern European States which makes way for the sea routes that appear to defy tracking. Another factor as regards transportation and cost is the upgraded, simplified though sophisticated payment modes such as the Awahla payment system which could be assessed as the active response of smuggling networks to restrictive state measures. Aziz, Monzini and Pastore (2015) consider evolving complexities of the smuggling networks and the human trade as a reaction to the state response. For every change and stricter measure set up the smuggling networks appear to promptly adjust to a solution. Therefore, with the increase in transportation cost and awareness in the danger and profits of people smuggling, the Awahla payment method was introduced. The state prosecutor for smuggling and irregular migration crimes in Palermo in an interview during field study for this research explained the impossibility in tracking the Awahla method; hence the Awahla is constructed only through interceptions and can only be tracked if the perpetrators talk about it as there is no direct exchange of money. Mohammed El-Qorchi identifies it as one of Informal Funds Transfer system under different names in diverse regions whose anonymity and minimal documentation appear to have been abused in funding illegal activities (El-Qorchi 2002). It is evident from the history of the Awahla transfer system that the motive was for legitimate business and not criminal activities. This method is not only a means of collecting unmistakable payment from the families of the migrant as informed by Aziz, Monzini and Pastore (2015), but also as a means of defying investigation employed by the networks. Although D.K (2015 – The Economist) explained the changing forms of the Awahla money transfer-scheme in 2015, respondents from field study in 2016, assert that the anonymity is still in existence and the people who transact this business are adamant in not revealing their sources or where the money is headed making the tracking more complex.

Another change worthy of note is the feminisation of the trade. This is considered as a push and pull factor because the successes and the trust the young women, especially women from Nigeria have in their benefactors can be said to be responsible for encouraging new arrivals into the rings. Indications from interview transcripts suggest that the case is rampant among migrants from Nigeria. The Nigerian girl who was once trafficked after being emancipated from her boss, pays for others to be trafficked. Before, it was the men who would organise their transport to places such as Italy but now, it is the women that traffic other women (Interview 28, 30, 19, 37). So, it's a new business for women; they are now bosses of their own.

So, it's a new business for women. They are now bosses of their own. However, the stigmatization women face in the end is a downside to this development. It can be argued that gender also influences how migration is perceived by outsiders, with the assumption that women are vulnerable victims and are forced to migrate and be trafficked (Schrover 2008). In contrast, male migrants tend to be seen as wilful circumventing national immigration laws for economic reasons (Schrover 2008). According to Schrover, protective measures put in place regarding women are driven by narratives of victimhood. This notion of victimhood may influence the decision of some female migrants to find a living in sex work, although this decision can have long-term disadvantages with former sex workers often struggling to reintegrate into their communities, faced with the stigma of their migration choice should they return (O'Neil *et al* 2016). In other words, the using the notion vulnerability to their advantage equally has its disadvantage.

Nonetheless, examining the mixed migration arrivals to Italy, a respondent pointed out that majority of the migrants who had initially intended to remain in Libya are forced to migrate to Italy as it is increasingly dangerous for them to remain in Libya (Interview 32). Another respondent stated that some were driven in their search for human right interventions which they perceived as lacking in their countries of origin and is a pull factor while another respondent considered the fact of Italy becoming and being calculated as a possible transit point for migration to other EU state as a plausible reason for the flow to Italy (Interview 33, 21). A medical practitioner who is in charge

of handling smuggling migrants cases and tortured victims in Palermo expressed her encounter with diverse migrants; one of which she stated;

*...I meet a lot of persons, and generally the Eritrean and Syrian people want to go to the north immediately. For the last two years, I have never had a Syrian patient because for them the first thing they want to do is to escape to the north because in Italy, it's very difficult to get political asylum...*

(Interview 32)

Based on this response, it can be deduced that the search for political asylum appears to be a significant pull factor especially for migrants fleeing political crisis. In sum, mixed migration into Italy are made up of a majority of persons who simply want to get to the first European shore from whence they may migrate to other EU states with the aid of willing smuggling groups/networks as against the perception that migrants to Italy perceive Italy as their El dorado.

## Conclusion

This chapter presents findings that reflect the nature of criminal networks involved in people smuggling between 2007 and 2016 based on analysis of judicial proceedings FERMO PM GLAUCO1 and 2, triangulated with evidence and data gathered from interviews conducted in the field. The analysis from the previous chapters focused on categorising the actors involved in the organisation of irregular transportation across the central Mediterranean and the roles of these actors. Having identified the different categories of actors and the strategies they employ in carrying out their roles, this study has moved on to analyse the structure of the network of these actors to evaluate the research findings against existing models and paradigms of criminality. The analysis of these two elements led to the development of an integrated criminal network model which reflects a putative structure for the criminal network organising the Libya to Italy human trade. This study suggests that analysing the criminal networks that organise the Libya to Italy Mediterranean voyage as a single network which exhibits all the forms and characteristics of the different paradigms of organised crime may enable a better

understanding of the nature of criminality involved in the trade, hence the development of the Integrated Criminal Network Model rather than merely refer to it as 'complex'. The criminal organisation involved as drawn from existing literature typifies the syndicate type of organised crime but in a more complex way featuring all the characteristics of business and criminal networks (see William 2001). The analysis and investigation in this chapter has focused on elucidating the impact and implication of this trade in relation to the formation and organisation of the networks involved. This chapter concludes that the organisational structure of the people smuggling network operating from Libya to Italy via the Mediterranean, defies a mere assessment of flexible or fluid network as asserted and argued by existing literature. It rather portrays adaptive professionalised and sophisticated collective sets with unique division of labour which takes on an amoeboid feature in order to continually be ahead of restrictive measures undertaken by the authorities. They metamorphose and get more sophisticated, flowing with the global technological and social development in recent times. In analysing the intricacies involved, data from empirical research and interviews all point to the fact that identifying the persons conducting the smuggling of migrants could remain impossible. This is because the migrants, having formed a symbiosis with the smugglers, do not have enough confidence in the protection which the authorities offer should they expose the identity of the person with whom the contract of moving them across the borders were entered. This may have contributed to the 18 months investigation of the Italian immigration police being futile and could have been said to have yielded no results aside from the recent arrests and convictions of 2016 reported in this work. The migrants have been observed to resort to silence, instigated by the fear of abuse which they have over time endured during the migration process. Nonetheless the models developed and presented in this chapter have endeavoured to break down these barriers and complexities towards a better understanding of the structure, formation and characteristics of the Libya to Italy criminal organisation networks. This work suggests that the flexible, sophisticated, easily adjustable and continually-in-permanent-expansion-of-their-alliances features of the present-day criminal organisations are reasons for the inability to completely defeat them. Additionally, the question regarding the involvement of the Mafia remain yet a debate. However, this research holds on to evidences collected during interviews in Sicily and Rome, asserting the involvement of the Mafia, whether direct or indirect. These assertions are tenable because no criminal

group/activity operates in Mafia territories without the consent of the Mafia of the territory.

Furthermore, analysis of the observed characteristics of criminal networks based on the different interactive processes in chapters five and six, helped to demonstrate how the unique characteristics of the criminal networks in the Libya to Italy human trade influences the changes observed to be associated with the phenomenon in recent times. The research strongly suggests that the capabilities and characteristics of the criminal networks has over the years played significant roles in the changes observed as well as adjusted to changes which have not been orchestrated by the evolution of these networks. Therefore, the criminal networks have been observed to maximise its adopted characteristics in matching up with unfolding events in recent times. For instance, analyses done reveal that changes in the *modus operandi* of the network and routes accessed is owed to the observed flexibility, sophistication and adaptability of their organizational structures. Findings indicate that the tactics are continually changed, migrants are exploited and abused, deceived and tortured before, during and at the end of the travel. Criminal group continue to mutate to suit every change and restrictive measures set by immigration authorities; only that the migrants have to pay dearly for it. On the other hand, analysis shows that their authority, corruption and compromise attribute based on their ability of having a multijurisdictional spread has to a large extent impeded investigation and in turn intensifies economic profit. Documentary evidence show that corruption in the Libyan territory which is the number one point of embarkation for the maritime journeys, make it impossible to crackdown on the syndicate despite the fact that the actors are claimed to be well known by the authorities. This over the years has been observed to influence not only arrivals but also other under researched push and pull factors. In sum, the characteristics and changing nature of the networks involved in the human trade from Libya to Italy can be assessed as continually complicating irregular migration issues and studies, hence consistent research and revision of known perception is imperative in the pursuit of a clampdown on the phenomenon.

## Chapter 8 CONCLUSION

At the time of writing, the human trade between Libya and Italy whereby tens of thousands of people seeking an escape from war or extreme poverty, are transported in dangerous and often deadly circumstances for profit by criminal smugglers and traffickers remains in place. However, the findings of the research for this thesis indicate that the nature of the criminality involved in this trade has changed over the past ten years as the numbers of irregular migrants transported has increased markedly.

The key finding is that criminal organisations involved in the human trade have changed from being fluid and unstructured networks to specialised, scattered, unrestrained and structured networks. Evidence and data from field research conducted for this study indicate a probable organisational structure, particularly for the criminal groups operating between Africa and Southern Europe, on the central Mediterranean route.

With the view of establishing the distinction between people smuggling and human trafficking, this study started with examining the models of transnational organised criminal groups and networks (TCOG/Ns) and considered their distinctive features. It therefore affirms that there is firstly a conflation of people smuggling and trafficking in human beings, established as a highly profitable, flourishing business and in the recent past being driven by TCOG/Ns. Considering the nascent nature of this phenomenon, the enabling factors, and the level of involvement of the TCOG/Ns, reveals that it is *de facto* driven by a collaboration of criminal organisation and networks as informed by the network theories of William (2001). It is the nature of these criminal networks as well as their significant roles that this study has examined.

In examining the actual process of the focus on Libya-to-Italy-human-trade, a number of factors and elements arise. They include the actors who this study have categorised into groups according to the concept of the 3 Cs – Capability, Capacity, and Convenience. This concept emphasized the notion of specialisation which is a sub-argument of the study. This study suggests that the increase and diversification of these actors could also be owed to the aftermath of the changes and trends which came as a result of the anti-immigration push-back policies implemented by relevant authorities, as well as recurrent socio-political upheavals. To this end, the Arab Spring has also had a significant influence on migration

trends; a catalyst to both breakdown of law and order and irregular migration in majority of the countries of origin of the migrants. These changes have in many ways been observed to also influence the routes and points of disembarkations. It is safe to say that these changes influence the *modus operandi* that these actors employ in the pursuit of their purpose. These *modus operandi* such as extreme violence, hostage holding, overcrowding of boats, unaccompanied-voyage, stranded scene concept, deprivation of liberty and capacity of choice are noted as strategies that these human smugglers (with a band of opportunistic entrepreneurs and businessmen) devised in outwitting the authorities and evading apprehension. Devious means of obtaining money either as payment (the *Awhala* system) or extortion is included in this list of strategies. This study considers the extent to which these smugglers would go in ensuring that they command obeisance and control, as indicating an ***unrestrained*** characteristic of the networks by identified amoral acts which have been effectively examined in this study. It is indicative that the nature of criminality in this phenomenon at the stage is related to the extortion and illicit means of money transfer that sustains the business. Following the reports from media, government and non-governmental bodies, it is debatable that these strategies to a large extent, has significantly influenced the trends in the events associated with the phenomenon. However, it is important to separate the criminality involved in the phenomenon from the bias and excuse/defence for which the practice is being undertaken. In essence, the analysis of the persons, their *modus operandi* and the structure of the networks in this study, was poised at establishing the nature of the crime committed regardless of the justification that the action may have been taken as an alternative. One major truth deduced from the analysis of the phenomenon is that every sector and *dramatis personae* identified in the review and analysis of the phenomenon seemed to benefit in one way or the other. Unfortunately but realistically, some of these benefactors are more of victims than beneficiaries in the long run. For instance, a number of unintended actors were identified in the analysis in chapter 5 who may not have known the impact of their actions/activities i.e. some reception centres and shelters. The argument about actual actors and unintended actors linked the European states as complicit of smuggling crimes based on the consequence of their policies and actions which gave room for human right violations with regards to the migrants in the light of the humanitarian crisis both on land and on the Mediterranean. In the long run, both the immediate society and the migrants suffer. Moreover, the evolution observed in the *modus operandi* of the migrant smugglers in recent times is re-aimed principally at increasing the profit of the trade. The strategies



and changes in techniques according to socio-political and geographical at different stages are unique and significantly, unrestrained.

Analysis in this study reveals unique structural organisation of criminal groups and networks as offshoots of pre-existing models of organised crime groups such as the hierarchical, client/patron, alien conspiracy and enterprise models. Indication from triangulated evidence and data from judicial proceedings and interview transcripts, reveal that these criminal groups exhibit the ability to restructure themselves as the needs appear according to the network theories of Williams 2001. In essence, they converge and disband, driven by the task, goal and expected outcomes. These groups form what this study refers to as “collective sets” according to nationality and region (i.e. the “Nigeria/Ghana *collabo*” or the “Ethiopia/Eritrea *collabo*”), and inter-relate within and without the collective sets. They independently spring up at divergent locations – scattered – in their mutations, but interestingly are linked by one common goal which is the human trade. Consequently, regardless of the indigenous structure of each of the groups, they are able to form part of the network governed solely by the purpose of association; people smuggling, each exhibiting distinguishing features as required by their task. These attributes are what informs the analysis of these structures as scattered but yet structured.

While the EUROPOL (2016:9) would opine based on analysis that the operations of smuggling networks are organised according to a ‘crime-as-service’ business model, this research suggests that the level of specialisation in their operations demonstrates that they have evolved from solely the crime-as-service model to an ‘**amoeboid-crime-as-service’ business and enforcement model**. This implies that their ability to change and adjust to ad-hoc structural arrangement without a definite, consistent, indicative structure within a period conveys a sense of amoeboid feature and capabilities. Analysis in this work reveals that the networks at different times and occasions structure themselves into scattered groups, diversely linked and formidable networks, opportunist transnational networks, independent criminal groups, or even internally complex networks as the case may be. This is devised with the aim of remaining undetectable but thriving. This observation gave birth to unique models developed to accentuate these revelations; the Integrated Criminal network model

which depicts the overall connection of these groups in the network and another model that depicts the distribution and formation characteristics of the criminal networks.

Conversely, this study suggests that distinctive characteristics observed based on the structural organisation of the groups in the networks influence the degree of flow on the central Mediterranean and resultant trends. These characteristic traits exhibited by these criminal groups following their formations and organisations, enable their devised *modus operandi* which in turn is also poised at adjusting to the change in regimes and restrictive push back measure/policies. The characteristics inform their capabilities and influence the model and structure of the groups in the network accordingly. Examples include the changes in the routes and *modus operandi* as a result of the flexibility and adaptability characteristic of the organisational structure of the networks, while their multijurisdictional spread characteristic and ability, to a large extent, can be said to have impeded investigation. This implies that if a criminal group emerges or shifts location or even reform operation does not mean that the previous group had been overridden but rather the existing criminal group has simply adapted to the trend. These groups in turn can also influence the trend such as the emergence of more criminal groups as a result of methods and profits made, changes in routes as a reaction to push back policies which in turn creates a new market for the smuggling opportunities. In essence the routes shape specialisation and *vice-versa*.

Finally, having considered the evidence available and the existing debate, it is safe to say that the organisational structure of the people smuggling network operating from Libya to Italy via the Mediterranean, defies a mere assessment of an unstructured/fluid network as is asserted and argued by existing literature. The nature of criminality in the Libya to Africa human trade is portrayed in the adoptive professionalised, and sophisticated collective sets formed by transnational criminal groups with unique division of labour which takes on an amoeboid feature in order to continually be ahead of restrictive measures carried by authorities; hence the hypothesis of a specialised, unrestrained, and scattered but structured network.

## Contribution to knowledge

This research has been able to revise and reconstruct model(s) that mimic/portray the organisation and processes of the human trade by sea from Libya to Italy. It presents conceivable models for explaining the distribution and formation characteristics of the network of criminal organisations in the 'human trade' from Libya to Italy contradicting arguments of Aziz, Monzini and Pastore (2015) which claimed that even judicial proceedings have not been able to identify organisational structures in the smuggling business. It has also tried to interpret the evidence of the means and methods in a post 'Arab Spring' environment to the present day. It has illuminated the understanding of the structure of criminal organisations involved in the irregular migration from North Africa to against the backdrop of established paradigms of organised crime and criminal networks.

The distinguishing element in the research conducted was the combination of methods used in analysing the empirical data as well as the secondary data gathered for evidence and illustration. Significant tools used for analysis include the behavioural statement analysis and scientific content analysis. By the virtue of this feature, this research suggests that its use in the study of the criminal organisation of the human trade is a contribution to knowledge.

It is therefore possible to state that my contributions to knowledge in this work are in two parts. The first part deals with the models created in bringing to light the nature and role of transnational criminal networks in the process of irregular migration from Libya to Italy. Against the existing debate of the human trade from Libya to Italy being steered by a fluid/unstructured network, this research has been able to develop models that suggest a definite shift with regards to the model of the network involved in this phenomenon. These models demonstrate that the criminal groups and networks in this particular irregular migration, exhibit a mix of traditional models of organised crime and at the same time, exhibiting additional significant features which enable them thrive and able to contravene immigration regulatory measures. That is the integrated criminal network model in which the criminal groups, regardless of their pre-existing forms merge to form a strong formidable network but still maintain their original structures. This is highly the case as these mergers are mainly non-

permanent but transient in most cases and are aimed at achieving the purpose at hand; creating an integrated criminal network.

The second is the model that demonstrates the distribution and formation characteristics of the criminal networks highlighting the significant attributes that enable the possible existence of an integrated criminal network. For instance, the groups that merge to form a network or even an individual that laces himself into a people smuggling or trafficking ring along the sub-Saharan African route based on what this work refers to as the specialisation concept of the 3Cs – convenience, capacity and capability, may end up creating a network in the form of an Independent Criminal Group structure. The individual or gangs and groups in this structure would consist of actors who fall into the category of what my research identified as opportunistic business men; who take advantage of the opportunities created by either the fact that smuggling routes are along their region or they have resources which smuggling activities along these routes may need to thrive\succeed. This shift in their form and organisation portrayed by the models enables their ability to accommodate the increasing demand of for irregular migration created by socio-political and economic conditions.

Another part of the contribution to knowledge is the methodology used, which has not been used by anyone in the way that I have. For ethical reasons, I was not allowed to contact the criminals or the victims of irregular migration; however, by virtue of my contact with prominent prosecutors among other professionals in Italy during my field study, I had unique access to very important judicial files of irregular migration cases which had not yet been release to the public domain. These files contained verbatim testimonies of victims and records of wire taps of the conversations of the offenders, which provided me with first-hand information on the activities and organisations of the criminal networks in the Libya to Italy irregular migration in the forms of human trafficking and smuggling. These files, I have by the means of Statement Analysis, analysed in form of evidence for illustration, corroborating it with interviews conducted and existing literature in addressing the important aspects of the irregular migration process which examined the “who” – the actors; “how they do what they do” – modus operandi; and “how they are organised and able to do what they do” – their organisational structure. The statement and behavioural analysis is known to be used

for forensic investigation; a tool which enables witness testimonies to be assessed as credible by the criminal justice system. This tool has never been used in analysing human trade debates except in this study. This study has used this tool as a means of extrapolating the actual events and intricacies of the networks in all veracity. The deductions therefore defy any bias. The viability and credibility in using judicial proceedings have been extensively justified in the methodological notes in the second chapter of this work.

### *Derivatives, /strong suggestions*

Following the title of this research, it can be concluded that transnational criminal networks by virtue of their disposition in form of structure models developed by this research, which in turn influences the *modus operandi* and the sort of actors that are consorted into the smuggling business, has revolutionised the irregular migration of persons across the Mediterranean in a significant way. The formation of specialised, unrestrained, scattered and structured networks which in its existence combines all the pre-existing models of criminal organisation – from hierarchical models, economic enterprise, to network models and also integrated models, has provided an unforeseen formidable force of intra-transnational smuggling network formations. It therefore requires both long term and wholesome strategies that nuances every emerging feature of this yet evolving formidable intra-transnational development.

### *Recommendations and areas of possible future researches in this area*

It is important to reiterate that this research is not conclusive as the phenomenon of irregular migration is rather a broad and topical issue, hence new occurrence and observation would require continuous research and analysis. Research areas include; the dearth of legal migration channels as a catalyst to the increase in maritime crossings; the issue of the identification of migrants, and the psychological impact of the Mediterranean crossing on the minors and the resultant futuristic effect.

The findings in this study have a number of practical implications. The criminal networks are sufficiently flexible to counter law enforcement and criminal justice strategies. The continuation of assisted irregular migration and human trafficking means

more capsizes and drownings. The details of this study should form the basis of further research into the way in which criminality, in its widest sense, operates in the human trade with a view to minimising its functioning and negative outcomes.

The framework and the illustrated criminal network structures if applied to the evolving criminal networks in the land and maritime human trade will enable a more feasible approach in dealing with human smuggling and trafficking networks.

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## APENDIX 1

### *Field Study Interview Questions*

Title: *A re-examination of the nature of criminal networks in the irregular migration from Libya to Italy via the Mediterranean.*

I am a PhD student of Coventry University, UK.

My research examines ***irregular migration from Libya to Italy via the Mediterranean.***

It focuses on the evolution of criminal networks within the timeline 2007 to the present. It also examines how the smugglers are reacting to the recent irregular migration, examining the mode of criminality involved, in the light of the African (and the Middle East) crises and uprisings in the last 5 years.

Based on my preliminary research, certain points require clarification, hence this second field trip.

This additional research focuses on:

- Actors engaged in the human trade.
- The structure of the criminal networks involved in this human trade.
- And the *modus operandi* employed by these networks.

The methodology proposed for this 2<sup>nd</sup> field study is face-to-face semi-structured interviews with relevant experts in the field.

This field work is recognised by my PhD supervisors

| Interview Guide  | Focus areas based on Findings   | Questions  |
|------------------|---|--|
| <b>Actors</b>    | <p>Research has identified the following probable actors in this process;<br/>(Gammeltoft-Hansen and Sørensen 2013)</p> <ul style="list-style-type: none"> <li>i. Transnational companies</li> <li>ii. Travel agencies</li> <li>iii. “People pushers”, smaller enterprises aiding migrant transportation</li> <li>iv. Human trafficking rings and smuggling networks</li> <li>v. NGO and humanitarian organisations that offer shelter and transportation for migrants.</li> <li>vi. push factors as actors;</li> </ul> | <p>What is your reaction to the fact that human traffickers have been identified as resident in Italian territories; have been orchestrating escapes from reception centres (Caltagirone, Marsala, Comiso, Sicily, Potenza, Catania, Mineo Catania); and are involved in transportation within Italian territories?</p> <p>Can it be said that there are criminal gangs in the Italian territories transporting migrants to other EU countries?</p> <p><i>It has been said that “...there is a link between drivers of irregular migration and actors of irregular migration. The actors make use of the drivers to prey on the vulnerability of the migrants” Do you agree?</i></p> |
| <b>Structure</b> | <p>Based on my research the structure of these criminal networks is dense complex, and transnational.</p> <ul style="list-style-type: none"> <li>• Networks are linked in some cases, and parallel in other cases</li> </ul>  | <p>Should organised criminal groups involved in human trafficking be seen as scattered networks (i.e. having a complex modus operandi)?</p>  |

|                       |   |  |
|-----------------------|---|--|
|                       | <ul style="list-style-type: none"> <li>• Networks do not involve a protracted criminal bond</li> <li>• Membership of networks is based on participation (i.e. is not permanent membership)</li> <li>• Networks have a well-planned objective of profit</li> <li>• A cell of a criminal network operates within Italian territory (Agrigento and Rome) - consisting of Eritrean complementary to that operating in the African territory</li> <li>• Networks involve a coming together to commit more crimes, without imposing necessarily a hierarchical structure</li> </ul> | <p>What structure have these criminal organisations adopted? Are they returning to a highly structured organisation? (conceivably horizontal) Or could it be where members are occasionally available and can be replaced at any time?</p> <p>What is the relationship and communication of the criminal networks with their clients in the reception centres?</p> |
| <b>Modus Operandi</b> | <p>Research has shown the emergence and increase of the use of violence by smugglers e.g. the use of torture, firearms, abuse, kidnap, coercion, sexual abuse of female migrants, extortion.</p>  | <p>In the last year, is there evidence of a change in violence or other practices by the smugglers towards migrants?</p> <p>Are the new tactics related to changes taking place in the organisational structure, <i>modus operandi</i> and smuggling routes of the networks?</p> <p>How is it that these criminal activities can continue when</p>                 |

|  |   |  |
|--|---|--|
|  | <p><b>Payment methods employed:</b><br/> <i>hand-to-hand, Awhala, Western Union Transfer;</i></p> | <p>investigations are underway to find members of the network?</p> <p>Do the methods of payment used by these organisations defy investigation?</p>  |
|  |   | <p>Could it be that the offer of migration to Europe is creating the demand for smuggling services?</p> <p>What unique observable changes have you observed in the practice of people smuggling over the past 5 years; could it be said to have become more enterprise-driven? More commercial and criminal?</p> |

**FIELD STUDY INTERVIEW RESPONDENTS**

| <b>List of Respondents</b>  |                                  |                   |
|---|----------------------------------|-------------------|
| <b>Respondents</b>  | <b>Sector</b>                    | <b>Proxy name</b> |
| Ministero della Giustizia<br>(Palermo) State Judge<br>for irregular migration<br>cases  | Criminal justice system          | Interview 1       |
| Rep 1<br>CISS representatives<br>Palermo  | Academia                         | Interview 2       |
| Rep 2<br>CISS representatives<br>Palermo  | Academia                         | Interview 3       |
| Coordinator of Centro<br>Astalli  | Non-governmental<br>organisation | Interview 4       |
| Representative officer<br>of Costiere Guadiere<br>Catania, Italy  | Governmental<br>institution      | Interview 5       |
| Coordinator of CRESM<br>( <i>Centro di Ricerche<br/>Economiche e Sociali<br/>per il Meridione</i> ) at<br>Gibelina, (Trapani<br>region)Italy, | Non-governmental<br>organisation | Interview 6       |
| Officer-in-charge of<br>MSNA, (A migrant<br>reception centre for<br>under-18s)<br>Castelvetrano, Italy  | Non-governmental<br>organisation | Interview 7       |

|  |                               |              |
|--|-------------------------------|--------------|
| Migrant mediator and Interpreter for the Commission  | Governmental institution      | Interview 8  |
| Anti-Mafia organisation representative (Addio-Pizzo), Palermo, Sicily                            | Non-governmental organisation | Interview 9  |
| Vice President of the <i>Consulta dele Culture</i> , Palermo, Sicily,                            | Governmental organisation     | Interview 10 |
| Officer of the Italian Flying Squad (the people smuggling and trafficking unit), Palermo, Sicily | Criminal justice              | Interview 11 |
| Head representative of Casa San Francesco (a migrant reception centre and home) Palermo, Sicily  | Non-governmental organisation | Interview 12 |
| Nina Border-line (e-mail correspondence)   | Academia                      | Interview 13 |
| Nigerian Ambassador to Italy, Rome (phone and e-mail interview)                                  | Government institution        | Interview 14 |
| Representative of the Anti-Mafia Centre, Castelvetro, Trapani, Italy                             | Non-governmental organisation | Interview 15 |
| Independent respondent in Castelvetro, Trapani, Italy  | Independent respondent        | Interview 16 |



|  |                                |              |
|--|--------------------------------|--------------|
| Judge of the Ministero della Giustizia (Palermo) (Anti-smuggling and irregular migration prosecutor/judge) | Criminal justice system        | Interview 17 |
| Head of Police - Squadra Mobile, Palermo.  | Criminal justice system        | Interview 18 |
| International organisation for migration. (IOM) [representative]   | International organisations    | Interview 19 |
| Representatives from Santa Chiara, Palermo [A priest]  | Non-governmental organisations | Interview 20 |
| Representatives from Multi-Volti, Palermo.   | Nongovernmental organisations  | Interview 21 |
| Suora from Caritas Rome and Palermo.   | International organisation     | Interview 22 |
| Head of Peligrin della Terra   | Non-governmental organisation  | Interview 23 |
| 2 <sup>nd</sup> Representation from CESME  | Non-governmental organisation  | Interview 24 |
| Representatives from Adio-Pizzo 1  | Anti-Mafia organisation        | Interview 25 |
| Representatives from Adio-Pizzo 2 [ President]   | Anti-Mafia organisation        | Interview 26 |

|  |                                |              |
|--|--------------------------------|--------------|
| Representatives from<br>Adio-Pizzo 3   | Anti-Mafia organisation        | Interview 27 |
| Professor of<br>International<br>Immigration Law –<br>Professor in Palermo         | academia                       | Interview 28 |
| Representative from<br>CISS<br>2 <sup>nd</sup> representation                      | Academia                       | Interview 29 |
| Migrant Mediator1<br>From the immigration<br>commission                            | Government officials           | Interview 30 |
| Migrant Mediator 2<br>From the immigration<br>commission                           | Government officials           | Interview 31 |
| Medical Practitioner<br>handling smuggled<br>migrant cases and<br>torture victims. | Government officials           | Interview 32 |
| Nigerian Migrant 1   | Independent<br>respondent      | Interview 33 |
| Nigerian Migrant 2   | Independent<br>respondents     | Interview 34 |
| Niger Migrant 1  | Independent<br>respondents     | Interview 35 |
| Senegalese migrant<br>[Anonymous ]   | Independent<br>respondents     | Interview 36 |
| International<br>organisation for<br>migration. (IOM)<br>[representative]          | International<br>organisations | Interview 37 |

|  |                           |              |
|--|---------------------------|--------------|
| Anonymous<br>Respondent<br>Castelvetrano | Independent<br>respondent | Interview 38 |
| Anonymous<br>Respondent                  | Independent<br>respondent | Interview 39 |
| Anonymous<br>Respondent                  | Independent<br>respondent | Interview 40 |

## APENDIX 2

### **JUDICIAL PROCEEDINGS SELECTED**

Five judicial proceedings and a judgement case file were selected according to their appropriateness to the focus of the study. FERMO PALESTINESE 1 case against Abdalmenem IH Attour, “FERMO PM MUHIDIN” case against Elmi Muhidin Mouhamud, born in Beledweyn Somalia, “FERMO PM SCAFISCA case” regarding the shipwreck of 03/10/2013, the “FERMO PM GLAUCO” Case against nine (9) suspects and FERMO GLAUCO II against 24 suspects. They were duly translated from Italian to English for the ease of analysis. However, for the sake of preservation of a document such as judicial proceeding of a case of a nature as that of the Libya to Italy human trade, only one of the case files (FERMO PALESTINESE 1) is attached in this appendix for reference purposes. \*

*\*Previously attached case file removed at the time of final submission for privacy reasons.*