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EU “hotspots” spread fear and doubt

One year on, the EU response to a Mediterranean tragedy leaves vulnerable people in legal limbo

Background

On 18 April 2015, a shipwreck in the Central Mediterranean caused the deaths of an estimated 800 people seeking to reach Italy. The EU responded to the tragedy by calling the first of many emergency summits and speeding up the issuance of the EU Agenda on Migration. A package of measures, meant to increase Europe’s border security and decrease the number of people seeking safety in the EU, included a “hotspot” approach intended to expedite processing of asylum claims and swifter returns of those rejected.

One year on, arrivals to Italy and deaths along the way remain high. Numerous concerns have been raised about the way these hotspots function and the potential violation of people’s right to claim asylum. People rejected from the system are left confused, in a situation where they are unsure of their rights, and vulnerable to exploitation.

Arrivals to Italy are increasing

The crossing between Libya and Italy is the deadliest sea route in the world.ⁱ Despite its dangers, nearly 10,000 people made the attempt to reach safety in Europe through this route in March alone. Total arrivals to Italy in the first quarter of 2016 are almost double the number of arrivals in the same period of 2015.ⁱⁱ The death toll for the current year has already reached 219 people for just the central Mediterranean.ⁱⁱⁱ This is in addition to the uncounted numbers of people who lose their lives before ever reaching the Libyan shore.

The conflict in Libya continues to make this long-standing route to Europe both volatile and extremely dangerous. This instability disrupts smuggling routes that are then re-established, leading to successive decreases and increases in arrivals to Italy. Despite multiple efforts from the European Union, which first declared this time last year that its approach would be based on working with transit countries to stop people taking desperate trips,^{iv} deterrence is failing and a lack of safe and legal alternatives continues to lead people to risk their lives.

People are arriving traumatised

The conflicts, abuses, and abject inequality that drive people from their homes, the dire conditions on the routes that lead to Libya, and the further dangers people on the move face as they seek passage to Europe lead many to experience severe trauma. The United Nations Support Mission in Libya has noted that migrants detained in Libya often face torture, beatings, and forced labour. Recently four were shot dead and 20 wounded while trying to escape a detention centre.^v

“I spent 8 months in Libya” said Filsim, a 22 year old woman who travelled alone from Somalia to Italy. “We were imprisoned by a gang of traffickers when we had just arrived in the country. There were more than 20 of us in the same room; men and women together. The traffickers would leave us for two or three days without food and water, and they beat us for fun. I have so many scars on my breast. We were forced to call our families, asking for money to be sent to the traffickers.” Filsim was finally released when her family managed to pay US\$800 as a ransom. Then she had to pay US\$1000 for the trip to Italy.

The experiences leave many of those who finally arrive in Italy relieved to find safety. Bakari, an asylum-seeker from Gambia, said: “When I arrived here [in Italy], they didn’t beat me, they didn’t throw stones at me. I was happy to be here.”

But many are also traumatised and in need of psychological support, in addition to basic assistance.

“I decided to leave my country because my family and I were tortured many times,” said Abou, an asylum-seeker from Ivory Coast. “With everything I’ve lived through, finally I’ve arrived in a place where rights are respected. I hope this is the end of my nightmare and the start of a new life.”

20 year old Muhammad from Somalia said: “My father worked for the national army. That is why Al Shaabab burnt down our house. My brothers and I tried to escape from the fire, but they were waiting for us outside the house and they shot me. I was seriously wounded in my left leg and I have no idea of where my parents or my brothers are”.

“Asylum-seekers have to learn how to connect themselves with their pain, in order to get through it,” said Flavia Calò, Medici per i Diritti Umani (Doctors for Human Rights) team coordinator and Oxfam Italia partner. “As part of a medical-psychological team operating in East Sicily, many of the asylum-seekers we meet are experiencing multiple traumas. They have been victims of every kind of violence in their country of origin, during the journey, and in Libya. They call the route between Agadez in Niger and Libya ‘the route of hell’. They tell us about being imprisoned and tortured for months in Libya, or kidnapped for ransom by locals, whom they call ‘Asma Boys’¹. Many of them survived shipwrecks, and have lost relatives and friends.”

“We don’t know what’s really happening in the hotspots”

While three hotspots have been functioning in Sicily since September 2015, the European and Italian authorities in charge of them have yet to agree a clear legal framework and standard operating procedures. This leaves a serious gap in clarity on how this system is ensuring respect for Italian, European and international law.

NGOs have reported that, due to the hotspots approach, migrants are “interviewed” to determine their status immediately after they disembark and while, therefore, under severe physical and psychological stress.

A parliamentary question asking the government to respond to these allegations and clarify how people’s rights are being respected remains unanswered.^{vi}

“The time of disembarkation is critical,” said Alberto Mallardo from Oxfam Italia partner Mediterranean Hope, operating in Lampedusa. “Migrants are exhausted and disoriented, and are received at the port by an intimidating crowd: border police, quarantine officials, the Guardia di Finanza, local Red Cross workers, officers from a range of European agencies,

¹ Asma in Arabic means “Come, come...”

all wearing uniforms and masks. It is really hard for them – how can we imagine that they are lucid enough in these moments to get through an interview?”

These screening interviews taking place in the hotspots are only regulated by a letter from the Interior Ministry; and no regulation has been issued to make clear how the law is being applied.

“The law is clear: there is no situation in which border police are the ones who decide whether a migrant can or cannot accede to international protection,” said Paola Ottaviano of Oxfam partner organisation Borderline Sicilia.

Lawyers from ASGI and Borderline report that return decisions appear to be based on information gathered in a form people are expected to fill out during these screening interviews, while standing at a disembarkation point. This leaves grave doubts about due process. In this form, called in Italian “foglio notizie”, they are expected to indicate the reason for their arrival in Italy, choosing between: “occupation”, “to join relatives”, “escaping from poverty”, “other reasons”, or “asylum”. During these interviews, which last just a few short minutes yet dictate people’s futures, no representative from the UNHCR, IOM or EASO is present, and migrants don’t receive a copy of the form they filled in and signed.

“When we read the return orders, as lawyers we’re wondering: where are these declarations they’ve made? Where is the document, signed by the migrant and counter-signed by a mediator, which should contain the details based on which a person is being given a return order? Which official from Italian Police did the interview?” asked Antonio Fiore and Riccardo Campochiaro from the legal service of Centro Astalli in Catania, whom Oxfam Italia interviewed about their experience in order to map the current situation in Sicily.

The Interior Ministry recently acknowledged that this form does not have any legal value in order to determine the legal status of the migrant.

NGOs are reporting that people were rarely informed about their right to claim asylum, while migrants report that in many cases this information was not communicated, or provided just minutes before their interview while standing in line, or even postponed until after the interview itself.

“Basically, we don’t know what’s really happening in the hotspots,” continued Antonio Fiore, “but we have seen the results on the ground: people coming to us holding their decree of expulsion, with no idea what it says, and without having ever had their rights explained to them.”

Oxfam has found serious discrepancies between the operations of different hotspots that raise further doubts about their consistent respect for fundamental rights. The hotspot located in Trapani has issued no expulsion notices to date, while in Lampedusa, from the end of September 2015 to January 22, 2016, 1,426 migrants have been given a return order, of which 311 have been detained in the Centers of Identification and Expulsion (CIE) and 1,115 have been told to leave Italy from Rome airport within 7 days. Such striking differences reinforce Oxfam’s concern that the procedures for hotspots are unclear, erratic, and not appropriately regulated in accordance with the law.

People are left in legal limbo, vulnerable to exploitation

The expedited approach of the hotspots is yielding faster decisions and more return orders, but as a result many people are shut out of the asylum system, stranded, and vulnerable. While there are some places available for people deemed irregular migrants in specially mandated expulsion centres, most are simply abandoned.

“When we got off the ferry in Agrigento, there was a bus waiting for us. They took us to the train station. They gave us a sandwich and a bottle of water, and a card with the telephone

number of Caritas, and they left us there. It was five in the morning, and we did not know where to go,” said Filsim, the 22 year old Somali woman who spent 8 months in Libya.

Bakari, from Gambia, said: “After two days, they gave us the paper [the decree of expulsion] and they put us out on the street without any explanation. There were seven of us, and we slept at the train station in Catania for three months.”

“Some migrants have received the return order on the ferry boat between Lampedusa and Porto Empedocle,” said Valerio Landri from Caritas Agrigento. “At the port, the police took them to the train station in Agrigento and left them there, inviting them to take the first train to Rome and go back to their countries. But when the government institutions realized that in Agrigento local organisations helped migrants to exercise their right to apply for asylum, the police started to take them further and further away, to train stations inland, up to 35km away from the city.”

People left in an irregular, undocumented situation are at risk of trafficking and labour exploitation, and fear often prevents them from seeking help.^{vii} The European Union Agency for Fundamental Rights has noted that this fear means that those responsible for exploiting migrants can act with impunity – with women left particularly vulnerable to abuse – while people who seek to assist undocumented migrants can face criminal charges.^{viii}

The European Union has to do better

One year on from the Lampedusa tragedy that claimed so many lives, EU member states have collectively failed to find a comprehensive solution to managing migration that puts human lives first. The hotspots approach is a band-aid over a failed system that leaves a disproportionate burden on national systems of a few member states, and leaves grave concerns about respect for the rights of the people who pass through this system and those left in limbo on the other side.

The EU must urgently re-think its collective treatment of people arriving at Europe’s borders and ensure that every human being, no matter their status, enjoys the basic respect of their rights and fundamental dignity.

Oxfam calls for the EU and the Italian government:

- To clarify immediately how the procedures used within the hotspots approach are in accordance with law at European and national level and how oversight is conducted, including recourse to appeals.
- Ensure that, in accordance with law, every person is informed about his/her rights, including the right to ask for international protection, in a form and language they can understand.
- Bring identification and registration procedures into line with full respect of human rights. Use of force to coerce compliance with identification and/or fingerprinting procedures must not be permitted.
- Guarantee that no one is pushed back or returned without a specific examination of his/her individual situation by the proper authority, which cannot be a law enforcement officer.
- Put an end to de facto detentions. No one must be detained in reception centres for the sole purpose of ensuring his/her identification.
- Guarantee access to independent organizations which can provide aid, including psychosocial support, and monitor the respect of human rights, on the ships used for search and rescue operations, at the disembarkation points, and inside the centres where identification takes place.
- Put in place specific protection procedures for vulnerable people, including unaccompanied minors, women travelling alone, pregnant women, traumatised or ill people, and people with disabilities.

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ⁱ https://publications.iom.int/system/files/pdf/fataljourneys_countingtheuncounted.pdf

ⁱⁱ January-March 2015 arrivals totaled 10,165 according to UNHCR, while in January-March 2016 arrivals totaled 18,777. See: <http://data.unhcr.org/mediterranean/country.php?id=105>

ⁱⁱⁱ <http://migrantreport.org/map/GeoPortal.html>

^{iv} http://europa.eu/rapid/press-release_STATEMENT-15-4800_en.htm

^v <https://unsmil.unmissions.org/Default.aspx?tabid=3543&ctl=Details&mid=6187&ItemID=2099550&language=en-US>

^{vi} http://parlamento17.openpolis.it/singolo_atto/58019

^{vii} <http://www.osce.org/secretariat/173571?download=true>

^{viii} http://fra.europa.eu/sites/default/files/fra-2014-criminalisation-of-migrants-0_en_0.pdf