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James Yap

Hilina Fessahaie

Enbal Singer

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Populism's Global Impact on Immigrants and Refugees: The Perspective of Eritrean Refugees in Europe and Israel

JAMES YAP,[†] HILINA FESSAHAIE,[‡] AND ENBAL SINGER[‡]

I. INTRODUCTION

The populist movements spreading across the globe today have come in many different shapes and sizes. However, one attribute that has been relatively consistent among them is that they have thrived by stoking anger and resentment against smaller and more vulnerable sectors of society. This has been a fundamental component of the illiberal populist playbook. From Muslims in Modi's India, to Kurds in Erdogan's Turkey, to Palestinians in Netanyahu's Israel, populist leaders have found that an effective and reliable technique to harness general public disaffection for their own political benefit is to channel it into hostility towards an already marginalized minority population that lacks the political power to fight back.

In more economically developed countries, populists' target of choice has often been immigrants and refugees. For instance, in the U.S., Trump rose to power to exuberant chants of "build the wall," and his administration has flaunted its harsh treatment of Central American migrants as a badge of honor.¹ In the U.K., the Brexit movement was fueled to a large extent by resentment towards recent

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[†] President of Canadian Lawyers for International Human Rights (CLAIHR); BSc, McGill University; JD, York University; LLM, Yale University.

[‡] LLB, University of Asmara, LLM, American University.

[‡] BA, McGill University; JD, University of Toronto.

1. See, e.g., Kirk Semple, *Trump Attracts Central American Support for Hard-Line Policies*, N.Y. TIMES (Sept. 25, 2019), <https://www.nytimes.com/2019/09/25/world/americas/trump-salvador-migration.html?login=email&auth=login-email>.

arrivals from other EU countries. And in continental Europe, hostility towards asylum seekers arriving from the Middle East and Africa has been the bread and butter of populist parties such as the AfD in Germany, the National Rally (formerly National Front) in France, and the Northern League in Italy. Even where such parties do not hold power directly, their popularity and influence have caused more moderate governments to shift towards tougher policies on immigrants and refugees.²

Of course, such governments are subject to certain legal constraints in the measures they can take to establish their anti-immigrant credentials with the electorate. In particular, under international refugee law, people who have a legitimate fear of persecution should they return to their country of origin are considered to be refugees, and no country may deport them back to their country of origin. The international refugee law system, which is largely embodied in the 1951 *Convention Relating to the Status of Refugees* and 1967 *Protocol Relating to the Status of Refugees*, emerged in its present form in the aftermath of World War II, as a response to the millions of people displaced by that conflict.³

The humanitarian principles underpinning the Refugee Convention have now gained near universal acceptance globally, and the Convention itself currently has 145 States Parties. However, the recent global surge in illiberal populism, with its accompanying hostility towards immigrants, has placed strain on this system. This comment examines how illiberal populism has affected the experience of the global population of refugees originating from one particular country: Eritrea. It is hoped that the experience of this one particular population illustrates some of the challenges that the global rise of illiberal populism has posed for immigrants and refugees generally.

II. BACKGROUND

Eritrea is a small country in the Horn of Africa that gained its independence from Ethiopia in 1991. It has one of the world's most repressive governments.⁴ It has no constitution, active legislature,

2. MARTIN A. SCHAIN, *SHIFTING TIDES: THE RADICAL-RIGHT POPULISM AND THE IMMIGRATION POLICY IN EUROPE AND THE UNITED STATES 1* (Migration Policy Institute 2018).

3. Frances Nicholson & Judith Kumin, *A Guide to International Refugee Protection and Building State Asylum Systems*, UNHCR (2017), <https://www.unhcr.org/3d4aba564.pdf>.

4. *See Countries and Territories*, FREEDOM HOUSE (2020),

2020] POPULISM'S IMPACT ON IMMIGRANTS AND REFUGEES 191

independent judiciary, elections, political opposition, or independent media. It languishes under the dictatorial rule of Isaias Afewerki, who has been president since independence.

Probably its most notorious practice, however, is its system of universal forced labor that is euphemistically known as the “National Service Program” (NSP). Under the pretext of fostering economic development, effectively every Eritrean who reaches the age of 18 is conscripted into the NSP and their labor becomes subject to complete state control.⁵ This means that they are assigned to a job that they are not allowed to leave without authorization, or, if they are judged to possess certain aptitudes, further education or professional training, upon completion of which they are then assigned to a job that they are not allowed to leave without authorization. This program encompasses effectively the country’s entire workforce, from manual laborers on farms or in factories to white-collar professions such as doctors, lawyers, judges, public servants, and engineers. Attempts to flee one’s assigned job are met with severe punishment, including arbitrary detention and/or torture. The NSP has been recognized by the International Labor Organization (ILO) as constituting forced labor and by the United Nations as constituting slavery.⁶

This unorthodox system has also been the primary motivation cited for the thousands of Eritreans who flee the country as refugees every year. According to United Nations High Commissioner for Refugees (UNHCR) figures, despite its tiny population, Eritrea ranks as the ninth largest country of origin for refugees with over half a million Eritrean refugees living outside the country.⁷ Most of these are in neighboring Ethiopia or Sudan. However, many have ventured further afield, and these are largely concentrated in two main clusters.

The first cluster is in Israel. These refugees have made the voyage over land through Sudan and Egypt, generally paying human smugglers for their transport. Those who safely made this journey before December 2013 have been able to enter Israel. After that, however, a fence built for the purpose of stopping such migration has

<https://freedomhouse.org/countries/freedom-world/scores> (showing a 2/100 “global freedom score”).

5. *Eritrea: Events in 2017*, HUMAN RIGHTS WATCH (Mar. 6, 2020), <https://www.hrw.org/world-report/2018/country-chapters/eritrea>.

6. *See Service for Life: State Repression and Indefinite Conscription in Eritrea*, HUMAN RIGHTS WATCH (Apr. 2009), at 81-83, https://www.hrw.org/sites/default/files/reports/eritrea0409web_0.pdf.

7. *Global Trends: Forced Displacement in 2018*, UNHCR (June 20, 2019), <https://www.unhcr.org/5d08d7ee7.pdf>.

cut off this route.⁸

The second cluster is in Europe. These refugees have also generally paid human smugglers for passage through the Sahara to somewhere on the southern Mediterranean coast, typically Libya. There, they board ships bound for a littoral country in Europe, usually Italy.⁹

III. ERITREAN REFUGEES IN EUROPE

The ships that human smugglers use to transport migrants originally from Eritrea (along with those from many other African countries) across the Mediterranean into Europe are often in dangerously poor condition. They often founder at sea with calamitous results.

In October 2013, a shipwreck off of Lampedusa resulted in an estimated 368 deaths.¹⁰ Later that month, the Italian government set up a search and rescue operation named Mare Nostrum with the goal of preventing similar tragedies in future. Because a previous European Court of Human Rights ruling prevented Italy from forcibly returning such migrants to Libya where they embarked due to the human rights conditions and ongoing civil war there, all migrants rescued at sea were being brought to Italy.¹¹

However, Operation Mare Nostrum attracted vocal domestic political opposition. Around the same time, the far-right Northern League under its new leader Matteo Salvini was beginning the ascension that would see it rise from roughly 5% popular support nationally to key partner in the ruling coalition by 2018. Like many of its European populist counterparts, it accomplished this in no small part by aggressively campaigning on hardline positions on immigration. In particular, they fostered hostility towards the Mare Nostrum program and portrayed it as merely encouraging illegal immigration to Europe at Italy's expense.¹² This political climate

8. Harriet Sherwood, *Israeli Fence Construction Cuts Off Migration from Egypt*, THE GUARDIAN (Dec. 31, 2012), <https://www.theguardian.com/world/2012/dec/31/israeli-fence-cuts-migration-egypt>.

9. Aryn Baker, *Rescue at Sea: A Week on Board a Refugee Recovery Ship*, TIME (Mar. 6, 2020), <https://time.com/refugee-rescue/>.

10. Pierluigi Musaro, *Mare Nostrum: The Visual Political of a Military-Humanitarian Operation in the Mediterranean Sea*, 39 MEDIA CULTURE & SOC'Y 11, 12 (2017).

11. *Hirsi Jamaa and Others v. Italy* (no. 27765/09), Eur. Ct. H.R. (2014), available at: <https://www.refworld.org/cases,ECHR,4f4507942.html>.

12. Julian Miglierini, *Migrants Tell Migrants: Don't Come to Italy*, BBC NEWS (May

made the program politically unviable. The Italian government attempted to negotiate with other EU member states to share the expense of this program.¹³ Here too, however, efforts were frustrated by right-wing populist elements from other EU member states.¹⁴ Therefore, despite universally acknowledged success in its mission, Mare Nostrum eventually ceased operations in October 2014, and was replaced by a much more limited operation run by the EU's border agency, Frontex.¹⁵

The results corresponded with what would be expected. In the following two years, the rate of fatalities of Europe-bound African migrants attempting to cross the Mediterranean spiked dramatically,¹⁶ punctuated by a shipwreck in April 2015 that cost an estimated 800 lives.¹⁷ This incident, combined with the dramatic surge that year of refugees arriving through Turkey from Syria, Afghanistan, and Iraq, thrust the issue of Mediterranean migration into the spotlight of European public discourse, creating what became commonly referred to as Europe's "migrant crisis."

From 3,538 dead and missing trying to cross the Mediterranean in 2014, the figure rose to 3,771 in 2015 and 5,096 in 2016.¹⁸ After that, figures began to decline again as EU governments reached controversial deals with the governments of Libya and Turkey (the latter with respect to the somewhat less deadly but still highly dangerous route common taken by Middle Eastern migrants from Turkey to Greece) to stem the flow of migrants by intercepting them before they boarded ships bound for Europe.¹⁹ Italy's deal with

10, 2014), <https://www.bbc.com/news/blogs-eu-27352480>.

13. Steve Scherer & Ilari Polleschi, *Italy in Talks with EU to Share Responsibility for Boat Migrants*, REUTERS (July 8, 2014), <https://www.reuters.com/article/us-eu-italy-migrants/italy-in-talks-with-eu-to-share-responsibility-for-boat-migrants-idUSKBN0FD1YL20140708>.

14. Emily Koller, *Mare Nostrum v. Triton* (2017) (unpublished), <https://munkschool.utoronto.ca/ceres/files/2017/10/Paper-Emily-Koller.pdf>.

15. *The New European Operation Frontex Plus/Triton: an operation with differing objectives and more limited means than the Mare Nostrum operation*, AEDH (Oct. 13, 2014), <http://www.aedh.eu/en/the-new-european-operation-frontex-plustriton-an-operation-with-differing-objectives-and-more-limited-means-than-the-mare-nostrum-operation>.

16. *Migrant deaths in Mediterranean hit record in 2016-UN*, BBC NEWS (Oct. 26, 2016), <https://www.bbc.com/news/world-europe-37779228>.

17. *IOM Counts 3,371 Migrant Fatalities in Mediterranean in 2015*, ION UN MIGRATION (Jan. 5, 2016), <https://www.iom.int/news/iom-counts-3771-migrant-fatalities-mediterranean-2015>.

18. Operational Data Portal, *Mediterranean Situation*, UNHCR, <https://data2.unhcr.org/en/situations/mediterranean>, (last visited Apr. 28, 2020).

19. Declan Walsh & Jason Horowitz, *Italy, Going it Alone, Stalls the Flow of Migrants. But at What Cost?* N.Y. TIMES (Sept. 17, 2017),

Libya, reached in February 2017, has been criticized by human rights advocacy groups over allegations that it has led to would-be migrants being detained in unacceptable conditions in Libyan detention centers.²⁰ Some of the alleged abuses suffered by Eritrean and other refugees in Libya's detention centers include: beatings, sexual abuse, poor medical care, being trafficked to smugglers, and death.²¹ There are also reports of migrants being shot by the Libyan Coast Guard.²² A challenge at the European Court of Human Rights is currently pending.²³

Further, despite the drop in raw numbers, the Mediterranean crossing from Libya to Italy remains more dangerous than it was before. Particularly after 1,200 died attempting this crossing in April 2015, states and NGOs have attempted to fill the gap in search-and-rescue operations left by Mare Nostrum, but have not quite succeeded (due in part to Italian government efforts to impede NGO rescue operations). In 2014, the only year for which Mare Nostrum was operational throughout most of the year, the fatality rate for migrants making this crossing stood at 1.81%.²⁴ As of September 2019 it stood at 3.63%.²⁵

Thus, the anti-immigrant backlash associated with the rise of illiberal populism in Europe has at least made the Mediterranean crossing more difficult and more dangerous for African migrants. Quite probably, it has also cost many lives. It has further induced European governments to collaborate and enter agreements with repressive governments with questionable human rights records, and to turn a blind eye to the abuses these governments are allegedly committing in connection with these agreements.

<https://www.nytimes.com/2017/09/17/world/europe/italy-libya-migrant-crisis.html>.

20. *A Year after Italy-Libya Migration Deal, Time to Release Thousands Trapped in Misery*, AMNESTY INT'L (Feb. 1, 2018), <https://www.amnesty.org/en/latest/news/2018/02/a-year-after-italy-libya-migration-deal-time-to-release-thousands-trapped-in-misery>.

21. *EU risks fuelling horrific abuse of refugees and migrants in Libya*, AMNESTY INT'L (June 14, 2016), <https://www.amnesty.org/en/latest/news/2016/06/eu-risks-fuelling-horrific-abuse-of-refugees-and-migrants-in-libya>.

22. *Id.*

23. *S.S. and others v. Italy* (no. 21660/18), Eur. Ct. H.R. (2019).

24. Ralph Janik, *Mediterranean Refugees: Death Risk Rising, Asylum Prospects Sinking*, EUROPEAN DATA JOURNALISM (Sept. 7, 2019), <https://www.europeandatajournalism.eu/eng/News/Data-news/Mediterranean-refugees-death-risk-rising-asylum-prospects-sinking>.

25. *Mediterranean Migrant Arrivals Reach 76,558 in 2019, Deaths Reach 1,071*, IOM UN MIGRATION (Oct. 11, 2019), <https://www.iom.int/news/mediterranean-migrant-arrivals-reach-76558-2019-deaths-reach-1071>.

Despite the foregoing, thousands of migrants from Eritrea and other countries in Africa—over 95% of those who attempt it—still make the Mediterranean crossing successfully every year and land in Europe. Under international refugee law, these are entitled to claim refugee status in Europe. However Eritrean migrants, like many others following the same route, tend not to do so in Italy where they land. Instead they travel from Italy to other countries in the EU or the Schengen zone, mostly in the corridor of Germanic language speaking countries directly north of Italy, from Switzerland and Germany in the south to Norway and Sweden in the north. Others are to be found in countries such as the United Kingdom and France. Because of the abysmal social and political conditions in their country of origin, Eritreans can typically claim refugee status with a very high success rate in these countries. For instance, in 2017 the success rate for asylum applications from Eritrean nationals among all EU and EFTA countries was 92.5%, comparable with Syria (94.4%) and Yemen (93.3%).²⁶

European countries receiving asylum applicants from Eritrea have largely recognized and complied with their obligations under international refugee law. However, some have sought other means to reduce the number of Eritrean refugees.

For instance, it was in 2014 that the number of Eritrean asylum seekers arriving in Europe surged, making them the second largest such group after Syrians. The number of new arrivals in the first 10 months of that year nearly tripled the number from the previous year.²⁷ Following this, various European countries' immigration agencies attempted to revisit their policies towards asylum seekers from Eritrea.

For instance, in November of the same year, the Danish Immigration Services (DIS) issued a report suggesting that Eritrean nationals who had illegally exited Eritrea or evaded the national service there were not at risk of persecution if they returned to Eritrea. Formerly, illegal exit and/or desertion had been a basis for recognizing asylum claims by Eritrean nationals. After the release of the report the DIS announced that it would no longer accept asylum claims solely on the basis of illegal exit. However, the report met

26. *Asylum Recognition Rates in the EU/EFTA by Country, 2008-2017*, MIGRATION POLICY INSTITUTE (Mar. 6, 2020), <https://www.migrationpolicy.org/programs/data-hub/charts/asylum-recognition-rates-euefta-country-2008-2017>.

27. Divers, *Number of Eritreans Seeking Asylum in Europe Soars Over Figures For Last Year*, UNHCR (Nov. 14, 2014), <https://www.unhcr.org/546606286.html>.

with strong public criticism, including from two of its researchers and one of the experts it relied on. In response, the DIS quickly backtracked on its earlier statement and effectively announced that operations would continue as before.²⁸ True to its statement, asylum acceptance rates for Eritrean applicants in Denmark did not decrease between 2014 and 2015; they in fact rose slightly from 93.3% to 97.5%.²⁹

However, the DIS' quick volte-face did not contain all the damage. Because rules on refugee status determination in every country are, in theory, derived from the same international law, and because simple factual information on Eritrea is applicable anywhere, agencies in different countries commonly refer to each other's published materials. In March 2015, the UK Home Office (the executive agency responsible for immigration) issued two briefings, partly relying on the Danish report, also suggesting that the risk of persecution for Eritrean nationals upon returning to the country was not as great as previously thought.

This time, the Home Office fully implemented the guidance given in the new briefings, and asylum application acceptance rates from Eritreans in the UK plummeted from 87.1% in 2014 to 47.5% the next year.³⁰ However, acceptance rates recovered after a significant court decision released in October 2016 ruled that the information contained in the March 2015 Home Office briefings was not credible.³¹ Even before that, 87% of applicants refused on the basis of the March 2015 briefings had their refusals overturned by judges on appeal.³² Internal Home Office documents released to the public later revealed that the March 2015 documents were directly related to efforts by the Home Office to reduce the number of Eritreans granted asylum in the UK.³³

28. MST and Others (national service – risk categories) Eritrea CG, [2016] UKUT 00443 (IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), at paras. 35-41, available at: https://refworld.org/cases.GBR_UTIAC.57fc91fc4.html (last visited Apr. 10, 2020).

29. See MIGRATION POLICY INSTITUTE, *supra* note 26.

30. *Id.*

31. MST, *supra* note 28.

32. See Diane Taylor, *Home Office Eritrea Guidance Softened to Reduce Asylum Seeker Numbers*, THE GUARDIAN (Jan. 22, 2017), <https://www.theguardian.com/uk-news/2017/jan/22/home-office-eritrea-guidance-softened-to-reduce-asylum-seeker-numbers>.

33. See *id.*

IV. ERITREAN REFUGEES IN ISRAEL

From 2006 to 2013, approximately 64,000 individuals from Eritrea, Sudan, and several other African countries entered Israel seeking asylum via the Sinai desert.³⁴ Of those, an estimated 34,475 were Eritrean.³⁵ As of the government's most recent reporting, only 32,090 African asylum seekers remain, 22,728 of which are Eritrean.³⁶

Israel is a party to the Refugee Convention. However, as a country which follows a dualist legal approach to international law, as its fellow common law jurisdictions typically do, Israel's "treaty obligations are not directly enforceable in Israeli courts unless and until the Knesset incorporates them into law."³⁷ Israel has not incorporated its obligations under the Refugee Convention into domestic law.³⁸

Until 2013, Israel did not allow Eritreans or Sudanese individuals to access refugee status determination (RSD) procedures at all. Since then, the vast majority of applications have been rejected or are still pending. Out of a total of 17,778 applications to the RSD unit, only 45 (0.25%) have been successful.³⁹ Israel, for the most part, refuses to recognize the claims of what would seem to be perfectly legitimate refugees, and instead maintains the official position that they are "labour migrants" or "infiltrators" of the state.⁴⁰ Instead of legal status, they receive "conditional release" documents. The "conditional release" is from detention and deportation, which the state maintains it may carry out at any time.⁴¹

In practice, the Israeli government stops short of carrying out forcible *refoulement* of asylum seekers, in compliance with the

34. Gerry Simpson, "Make Their Lives Miserable": Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel", HUMAN RIGHTS WATCH (2014), <https://www.hrw.org/report/2014/09/09/make-their-lives-miserable/israels-coercion-eritrean-and-sudanese-asylum-seekers>.

35. Eli Shani et al, *No Safe Haven: Israeli asylum policy as applied to Eritrean and Sudanese citizens* (December 2014), HOTLINE FOR REFUGEES AND MIGRANT WORKERS, <https://hotline.org.il/en/publication/no-safe-haven>.

36. Population & Immigration Authority, *נתוני זרים בישראל* (October 2019), https://www.gov.il/BlobFolder/reports/foreign_workers_stats_q3_2019/he/foreign_workers_stats_q3_2019.pdf.

37. Ruven Ziegler, *No Asylum for 'Infiltrators': The Legal Predicament of Eritrean and Sudanese Nationals in Israel*, 29:2 J. IMMIGR., ASYLUM, & NAT'LITY L. 172, 174 (2015).

38. *Id.*

39. *Id.* at 181.

40. *Id.* at 189.

41. *Id.* at 181-82.

Refugee Convention.⁴² Instead, however, it follows a tactic of making conditions of life for asylum seekers in Israel such that they are “persuaded” to leave on their own.

A central component of this strategy of pressuring Eritreans into leaving has been the immigration detention system. The largest single institution used for this purpose was the Holot facility, which opened in December 2013 and saw the detention of 13,000 male asylum seekers until it shut in 2018.⁴³ Initially designed for indefinite detention, challenges by human rights organizations to the High Court of Justice forced the government to reduce the period of detention or close the facility, leading to one year detention periods.⁴⁴ From 2007 to 2013, Eritrean women and children were also detained in the Saharonim prison.⁴⁵

Additionally, from May 2017, the Israeli government has required employers to deduct 20% of asylum seekers’ wages to be put in a designated fund that can only be accessed if and when the individual leaves Israel.⁴⁶ This resulted in many asylum seekers being paid below minimum wage, undocumented employment, poverty, and working more physically demanding labor.⁴⁷ Furthermore, the employment rights organization which assisted asylum seekers in accessing their funds reported that in 45% of cases, employers had either not deposited funds at all or deposited incomplete amounts.⁴⁸ This provided a further impetus for Eritrean and other asylum seekers to leave the country – although this measure, too, was challenged in court and ultimately struck down by the Israeli Supreme Court in April 2020.

The country also purportedly entered into agreements with

42. *Id.* at 180.

43. Anat Guthmann, *Immigration Detention in Israel: Annual Monitoring Report 2018*, HOTLINE FOR REFUGEES AND MIGRANTS (2018), <https://hotline.org.il/en/immigrationdetentionmonitoring2018>.

44. *Id.*

45. HOTLINE FOR MIGRANT WORKERS, *Detention of Minors and Children Arriving from the Sinai Desert* (September 23, 2012), <https://hotline.org.il/en/publication/detention-of-minors-and-children-arriving-from-the-sinai-desert/>.

46. Anat Guthmann & Noa Kaufmann, *In Broad Daylight: The Deposit Law: Implementation & Impact*, THE WORKER’S HOTLINE (May 2019), https://www.kavlaoved.org.il/en/wp-content/uploads/sites/3/2019/05/Eng-Deposit-Law-Report-HRM-KLO-2019Web.pdf?fbclid=IwAR3g7W2PNksODm5BIazWhp_T5xsogFtdDo2lzoLj8wBz3767u5kVYD_lxoE.

47. *Id.* at 11.

48. *Id.* at 24.

Uganda and Rwanda in 2014 to receive asylum seekers who had “voluntarily” left Israel, to give them a more enticing option than returning to their home countries.⁴⁹ Reports by NGOs have argued that this system is hardly voluntary as individuals are given a choice between indefinite detention and deportation.⁵⁰ These reports also found that those who were transferred to Rwanda and Uganda were not given refugee status nor state protection, contrary to assurances made by Israeli officials.⁵¹

In 2017, the Supreme Court of Israel stated that it would not be a violation of Israeli law to forcefully deport individuals if it was to safe third countries, and subsequently the Knesset voted for a bill to allow for deportations.⁵² However, the UN Committee against Torture has stated that collective deportation, without an objective examination of individual cases in regard to personal risk, would still violate the obligation against non-refoulement.⁵³

In 2018, human rights advocates filed a challenge to the bill in Israeli court. The court demanded that the state attorney produce the agreements with third countries and that the deportations should be suspended until the court can assess the agreements.⁵⁴ The Israeli government failed to produce the agreements and subsequently abandoned forced deportation plans.⁵⁵ Israel's lack of elected

49. The agreements are considered “secret” because their contents have still not been released but it is widely believed that individuals were sent to Rwanda or Uganda. *See e.g.*, Michael Schaeffer, *Rwanda is out, but Israel says it can still deport refugees to — Uganda?*, +972 MAGAZINE (Apr. 4, 2018), <https://www.972mag.com/rwanda-is-out-but-israel-says-it-can-still-deport-refugees-to-uganda/>.

50. Adi Drori Avraham et al., *Where There Is No Free Will: Israel's “Voluntary Return” Procedure for Asylum Seekers*, HOTLINE FOR REFUGEES AND MIGRANTS (2015), at 5, <http://hotline.org.il/en/publication/where-there-is-no-free-will>; *see also* Lior Birger, Shoham & Liat Bolzman, *Better a Prison in Israel than Dying on the way*, HOTLINE FOR REFUGEES AND MIGRANTS (2018), <https://hotline.org.il/en/publication/better-a-prison-in-israel-than-dying-on-the-way/>.

51. *See* Avraham et al., *supra* note 50, at 26.

52. Michael Bachner & Toi Staff, *Netanyahu says Africans slated for deportation “not refugees”*, THE TIMES OF ISRAEL (Jan. 21, 2018), <https://www.timesofisrael.com/netanyahu-says-africans-slated-for-deportation-not-refugees>.

53. UN Committee Against Torture, *General Comment No. 4 (2017) on the Implementation of Article 3 of the Convention in the Context of Article 22*, UN Doc. CAT/C/GC/4, (Feb. 9, 2018), http://www.ohchr.org/Documents/HRBodies/CAT/CAT-C-GC-4_EN.pdf.

54. Nir Hasson, *Israel's Top Court Slams Asylum Seeker Deportation Plan: “Rwanda Denies Deal, What Legal Recourse Will Deportees Have?”*, H'AARETZ (Mar. 12, 2018), <https://www.haaretz.com/israel-news/premium-israeli-top-court-slams-asylum-seeker-deportation-plan-1.5895411>.

55. Maayan Lubell & Ari Rabinovitch, *Israel abandons plans to forcibly deport African Migrants*, REUTERS (Apr. 24, 2019), <https://www.reuters.com/article/us-israel->

government over the last year has prevented further similar bills. “Voluntary” deportations continue, however, averaging about 185 Eritreans per month in 2019.⁵⁶ The government has not published their destinations, leaving it unknown how many are setting up new lives in Canada or beginning a new journey for safety in Africa.

These measures against asylum seekers have been fueled by anti-refugee sentiment in the public and political arenas. In 2018, the Netanyahu government signed an unprecedented agreement with the UNHCR to give temporary legal status to over 20,000 asylum seekers in exchange for the UNHCR resettling 16,250 in its partner countries. Within just a few hours, Netanyahu reneged on his agreement as a result of criticism from Naftali Bennet, the leader of a far-right party within the ruling coalition.⁵⁷ What could have been a model for responsibility sharing in refugee resettlement was lost due to the same illiberal populist elements endangering the lives of asylum seekers globally.

V. CONCLUSION

Thus, Eritreans fleeing repression in their home country have in recent years encountered rising levels of hostility in both Europe and Israel. In both places, populist elements have prompted governments to adopt various measures to both reduce the number of arrivals as well as reduce the numbers already inside the country. These measures have had serious deleterious impacts on the lives and safety of Eritrean refugees there.

The example of Eritrean migrants in this part of the world merely illustrates the impact that populism can have on the experience of any group of immigrants or refugees anywhere. It has made the lives of Eritrean migrants more difficult and less safe. The popularity of hardline anti-immigrant policies and the politicians who espouse them has induced governments to adopt measures to reduce the flow of migration, often in ways that are inconsistent with the humanitarian principles embodied in the Refugee Convention.

However, there is perhaps some small measure of comfort that can be derived in the circumstances. Although these countries have

migrants/israel-abandons-plan-to-forcibly-deport-african-migrants-idUSKBN1HV20Y.

56. Population & Immigration Authority, *supra* note 36, at 4.

57. Isabel Kershner, *Israeli Leader is Forced to Retreat on African Migrant Deal*, THE N.Y. TIMES (Apr. 2, 2018), <https://www.nytimes.com/2018/04/02/world/middleeast/israel-african-migrants-un-resettlement.html>.

2020] POPULISM'S IMPACT ON IMMIGRANTS AND REFUGEES 201

attempted many different ways to circumvent their obligations under the Refugee Convention, none have gone so far as to directly and openly contravene them. The fact that the international refugee law system has been tested but has so far held firm shows that it is serving its purpose. International laws on refugee protection exist precisely because states are often inclined to act differently than how the law prescribes. That this should turn out to be the case is not by itself necessarily alarming or even surprising. Ultimately, where courts have upheld the rights of refugees, those rulings have generally been respected and the rule of law has prevailed.

Further, some coordinated attempts are being made to buttress the international refugee protection system to avoid some of the problems that have arisen in the past few years. For instance, the Global Compact on Refugees was created by UN member states in 2018. Whereas the Refugee Convention sets out the international legal obligations of states towards refugees, the Global Compact focuses on how those obligations can be shared between states. Although it is not legally binding, it hopes to engender the mobilization of political will and international cooperation required to provide effective coordinated protection for refugees globally.⁵⁸

Of course, none of this is of any solace to those who drowned in the Mediterranean. What is more, every attack erodes the system a little further. Today's populists are not the first to direct hostility at the institutions that protect immigrants and refugees and their rights. However, they have certainly inflicted damage upon those institutions. It is unclear if that damage can or ever will be repaired.

58. *Global Compact on Refugees: How is this different from the migrants' pact and how will it help?*, UN NEWS (Dec. 17, 2018), <https://news.un.org/en/story/2018/12/1028641>.