IMPLEMENTING THE 2030 AGENDA: A NEW VISION FOR DEVELOPMENT
RAUN 2016-2017 RESEARCH FINDINGS

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* *Acknowledgement* *

Our thanks go to:

United Nations Agencies

Other international organization
The Academic Council on the United Nations System
Vienna Center for Disarmament and Non-Proliferation
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FOREWORD

LAURA ROCKWOOD

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In 2015, the United Nations adopted seventeen Sustainable Development Goals (SDGs). “Achieving gender equality and empowering all women and girls” is the fifth of those goals, building on the 2000 Millennium Development Goal 8 to “promote gender equality and empower women”. SDG 5 “is also part of all the other goals, with many targets specifically recognizing women’s equality and empowerment as both the objective, and as part of the solution” (http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality).

Unfortunately, as reflected in the World Economic Forum’s 2017 Global Gender Gap Report, which looks at the differences between men and women in four key areas: health, economics, politics and education, there has been a downward trend in equal pay: “Men are still being paid much more than women. And their earnings are increasing more rapidly.” The pay gap is widening, rather than decreasing. The report goes on to note that “(t)here hasn’t been any real improvement over the last 10 years, and things are moving in the wrong direction” – this notwithstanding studies that suggest that the global GDP could increase by US$5.3 trillion by 2025 by reducing the gender gap in economic participation by only 25% (http://www3.weforum.org/docs/WEF_GGGR_2017.pdf).

UN Women, the UN organization dedicated to gender equality and the empowerment of women, also recently published relevant and disheartening statistics (http://www.unwomen.org/en/news/in-focus/women-and-the-sdgs/sdg-5-gender-equality):

- Women remain underrepresented in leadership and management level positions in the public and private sectors, with less than one-third of senior- and middle-management positions in businesses held by women.
- As of 2017, only 23.4 per cent of all national parliamentarians are women.
- Women worldwide make 77 cents for every dollar earned by men; at the same time, they carry out three times as much unpaid household and care work as men.
- One in five women and girls aged 15 to 49 across 87 countries reported experiencing physical and/or sexual violence by an intimate partner; 49 countries have no laws specifically protecting women from domestic violence.

The #MeToo initiative, which catapulted itself onto to the global stage in 2017, further focussed the world’s attention on the impact of gender imbalance, encouraging women all over the world to finally speak publicly about their own experiences with sexual assault and harassment.
According to Wikipedia, within the first 24 hours, the phrase was tweeted over a half a million times, and the hashtag used by more than 4.7 million people in 12 million posts, trending in at least 85 countries. Facebook reported that 45% of its users in the United States had a friend who had posted using the term. The movement has revitalized the conversation about the importance – and paucity – of gender equality around the globe. Each year, the Regional Academy on the United Nations (RAUN) offers young academics the opportunity to work on collaborative research projects focused on a particular theme under the guidance of United Nations organizations and other international organizations, and to present the results of that research at the annual RAUN meeting convened during the Academic Council of the United Nations System (ACUNS).

The RAUN theme for 2017-2018 focussed on the prospects and challenges for women and girls in a changing world. The 2018 ACUNS Conference at which the results of those projects were presented highlighted the 2017 “International Gender Champions – Vienna” initiative.

In light of the above, these efforts are timely.

As a female executive, a former staff member within the United Nations system and an International Gender Champion, I commend the students for their timely and thoughtful contributions to the study of a broad range of gender-related issues, including the demographic impact of violence on women, employment of women in the UN system and in developing regions, the role of women in the prevention of radicalization and violent extremism, education, political participation of women, the role of women in sustainable farming and the special complexities posed to women by migration, asylum seeking and reintegration.

Gender equality is not just the right thing to do; it’s the smart thing to do. Improving the health, safety and economic growth of women raises the global economic level. Indeed, gender equality is an essential precondition to the sustainable development of economies and societies, as well as humanity writ large.
PART ONE

TERRORIST GROUPS VS. NON-STATE ARMED GROUPS AND THE ROLE OF THE CRIMINAL JUSTICE
TERRORIST GROUPS VS. NON-STATE ARMED GROUPS IN CENTRAL AFRICA

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Introduction

There have been several conflicts emerging in the Central African region since the end of the Cold War. A large number of terrorist and non-state armed groups are responsible for these conflicts.¹ Very often it is the failure of the state apparatus or other political conditions allowing these non-state armed groups as well as terrorist groups to seize power. Numerous other problems of poor areas serve as a breeding ground for further strengthening of their positions. The motivation which drives these groups can vary from ideological, to political (for example to overthrow the leader of the country), to financial (e.g. unclear financing or financing from illegal trade), to ethnic (e.g. the group’s hatred for other ethnic groups in the region), to religious.²

This research aims at explaining the importance of the differentiation between terrorist groups and non-state armed groups in the Central African region. In the first chapter, the study defines the Central African region, which is mostly based on the definition of the Economic Community of Central African States (ECCAS).

The second chapter is devoted to the concept of non-state armed groups (NSAGs) and terrorism, and their definitions. As this chapter is the crucial theoretical chapter in understanding and defining the problem of differentiation, it deals with the theory of definitions, although there are still some gaps in definitions and though there are some internationally accepted definitions, there is not a universal agreement on one.

Chapter three analyses the counter-terrorism policies of the United Nations, the African Union and chosen national policies of Central African States. This is an essential part in which we exercise deeper policy analysis being used further on.

The fourth chapter, which is the practical and last part of this study, focuses on several case studies which are examined for the final analysis to be more comprehensive. The study demonstrates the need for differentiating between the NSAGs and terrorist groups by identifying and explaining specific cases such as Kony et. al case, DRC and M23 peace agreement, and Gédéon Kyungu Mutanga v Landmark Trial case.

The Central African Region

Central Africa as a region has been characterized in many ways by various organizations. Therefore, it is crucial for this study to clarify how the authors understand Central Africa. Despite this demand, it is important to note that a universally agreed upon and widespread determination of the mentioned region is non-existent, thus there can be a lot of common characteristics according to which we can designate countries as Central African. This difficulty can be approached in very different ways (e.g. geographical, political and economic point of views) which may result in different solutions with regard to the following countries.

The most reliable approach seems to be an economic co-operation, because it manifests itself in an existing international organization established by an international treaty. The Economic Community of Central African States (ECCAS) is currently composed of 11 countries: Angola, Burundi, Cameroon, Central African Republic, Chad, Republic of Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, São Tomé and Principe and Rwanda.³

The Member States of the ECCAS cover a large territory (more than 6 billion km²) with many spill-overs. The common characteristics of these states are that they have experienced many coups d'état, crises and conflicts. In addition to that, porous borders, limited territorial control and weak state authority are permanently existing phenomena in recent decades in these countries.⁴

In summation, the described situation is similar to our chosen region which is the Eastern region of the Democratic Republic of the Congo. In this region, the political crises, civil-military tensions, rebellions and military coups are closely correlated with weak national institutions and


go hand in hand with corruption and lack of transparency and accountability.\(^5\)

**Defining NSAGs and Terrorism**

Non-state armed groups (NSAGs) are a new phenomenon of the recent decades. Their definition might not always be clear, and those which exist might make it very difficult for one to distinguish between NSAGs and other groups with similar characteristics such as terrorist groups, which are perceived as a separate category.\(^6\) Nevertheless, there is a difference, hence, the aim of this study is to determine whether differentiating does or does not matter.

The most precise and universally accepted definition of NSAGs is given by the international humanitarian law (IHL) which states that an NSAG is a dissident armed force or other organized armed group which, under responsible command, exercises such control over a part of the territory of a “High Contracting Party” as to enable them to carry out sustained and concerted military operations.\(^7\)

Terrorism has become an everyday phenomenon and an existing threat in the international community. One of the biggest challenges of the 21\(^{st}\) century is to counter and eliminate it. Despite this global demand of all member states of the United Nations, there is still no universally agreed upon definition of terrorism. From organization to organization and from state to state it is defined differently, thus very different actions are taken against it.

The first effort to define terrorism was taken by the UN Security Council’s Resolution 1566 which states:

> Criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization

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to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts.\textsuperscript{8}

We can say this determination is still very abstract and imprecise. However, the aforementioned resolution established a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, which can be promising.

All in all, because of the lack of a universally agreed upon definition of terrorism, the differentiation between terrorist activities and NSAG activities must be waited for. In addition, the activities of terrorist groups tend to resemble those of NSAGs as defined by IHL which may cause discrepancies in practice.

\textbf{Current Counter-Terrorism Policies}

\textbf{United Nations}

The United Nations’ (UN) primary objective was conflict resolution, the establishment of universal legal norms, and the setting of human rights standards. Later, with acts of terror, the UN started to react and adapt to the new environment. However, the attacks against the United States on 11 September 2001 prompted the Security Council to adopt Resolution 1373, which for the first time established the Counter-Terrorism Committee (CTC). The CTC focuses on various matters concerning countering terrorist activities, such as criminalizing the financing of terrorism; freezing (without delay) any funds related to persons involved in acts of terrorism; denying all forms of financial support for terrorist groups; suppressing the provision of safe haven, sustenance or support for terrorists; sharing information with other governments on any groups practicing or planning terrorist acts; cooperating with other governments in the investigation, detection, arrest, extradition and prosecution of those involved in such acts; and criminalizing active and passive assistance for terrorism in domestic law, and bringing violators to justice.\textsuperscript{9}


The Committee was later consolidated by Resolution 1624 (2005). In 2006, the UN Global Counter Terrorism Strategy was adopted by consensus. It consists of 4 pillars: 1. Addressing conditions conducive to the spread of terrorism; 2. Preventing and combatting terrorism; 3. Building Member States’ capacity to prevent and combat terrorism and strengthening the role of the United Nations system in this regard; 4. Ensuring the respect for human rights for all and the rule of law as the fundamental basis for countering terrorism. The UN General Assembly (GA) strives to keep the Strategy relevant and responsive to changing realities, so it is reviewed every two years, last of which happened in July 2016.10

At the same time, the strategy served as an endorsement for the Counter-Terrorism Implementation Task Force (CTITF), initiated in 2005 by the Secretary General.11 The UN also has the UN Counter Terrorism Centre (UNCCT), established in 2011 to support Member States in implementing the Global Counter-Terrorism Strategy.12

**African Union**

The African Union has, despite its slow start, implemented a progressive counter-terrorism framework that pushes states to close all gaps opened for terrorists. However, the progress of some states in the adoption and ratification has been very slow. The absence of a functioning continental court hinders further development. On the continent of Africa for most of the 20th century the term “terrorism” was tied up with the colonial era. The liberation armies were terrorists to white colonial administrations. Later, the Organization of African Unity (OAU) was called “an umbrella organization of terrorist groups” by former colonial governments. Since the founding of OAU until 1992 the term “terrorism” was used only in relation to the Israeli-Palestinian conflict and South Africa’s apartheid regime.13

The foundations for the continental counter-terrorism policy were laid in 1992, when OAU took a more active role and moved from a policy of non-action to one of non-interference. The very first reaction was to the violence in Algeria through OAU Resolution 213 on the Strengthening of

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Cooperation and Coordination among African States, which forbids any movement using religion, ethnic or other social cultural differences to engage in hostile activities against member states and intended to strengthen coordination among African countries.\textsuperscript{14} Terrorism was for the first time explicitly described as a criminal act in 1994 in the Tunis Declaration on a Code of Conduct for Inter-African Relations. The region was committed to follow international law on the issue with the key counter-terrorism principle aut dedere aut judicare.\textsuperscript{15} Bombings in Nairobi and Dar es Salaam in 1998 forced OAU to toughen up its counter-terrorism strategy in the 1999 Algiers Convention on the Prevention and Combating of Terrorism. It contained a fundamental criminal justice framework for the fight against terrorism in Africa. It also defined a terrorist act and established state jurisdiction over terrorist acts as well as a legal framework for extradition with extra-territorial investigations and mutual legal assistance. Strengthening was needed after the September 11 attacks in the United States. The Dakar Declaration against Terrorism condemned terrorism and labelled it as an unacceptable infringement of human rights.\textsuperscript{16}

In 2002, OAU was replaced by the African Union and its recommendations were made in the Algiers Plan of Action on the Prevention and Combating of Terrorism in Africa. It included various measures such as agreeing to insert advanced security features into identity documents thus making them harder to forge, establishing a ‘Passport Stop List’ of suspected terrorists, and computerising immigration controls to better monitor the arrival and departure of all individuals in a country.\textsuperscript{17} Interest in deeper studies of terrorism was confirmed by the opening of the African Centre for the Study & Research on Terrorism headquarters in Algiers. It was a crucial point in filling the knowledge gap concerning institutional knowledge and independent research.

The most significant step taken so far was the adoption of the Protocol to the OAU Convention on the Prevention and Combating of Terrorism in 2004. However, it only entered into force in February 2014. It’s main goal


was to include an implementation mechanism, which was missing until that point.\textsuperscript{18} The AU developed the African Model Anti-Terrorism Law, a blueprint African countries can use as a template for domestic legislation. The idea was to have an overarching continental policy based on a single blueprint.\textsuperscript{19}

Although the AU policies make a comprehensive counter-terrorism framework, its implementation has serious flaws on both the national and AU level. The AU’s Peace and Security Council noted in its final communiqué that “despite the progress made in developing a comprehensive normative and operational counter-terrorism framework, serious gaps continue to exist in terms of implementation and follow-up, thus undermining the effectiveness of Africa’s response to the threat of terrorism and violent extremism”.\textsuperscript{20}

A milestone of 15 Member States with successful ratification took almost 10 years. Some key actors in the fight against terrorism including Kenya, Nigeria, Somalia and Uganda have still not ratified it. The problem is not only the lack of capacities, but also weak political will. African states carefully safeguard their territorial integrity and sovereignty. Operation outside of state’s borders was highly criticised in the cases of Kenya and Nigeria for committing serious human rights violations in the conduct of their counter-terrorism operations. The AU has not successfully managed to follow up these statements with action.

**National level**

A general assessment shows that the implementation of the national instruments (such as laws and orders worked out by the national parliaments and national governments) on counter-terrorism and against the rebel militia in Central African States is far from complete. On the contrary, this is the most urgent task ahead if the region wants to build an efficient legal regime capable of preventing and suppressing terrorism and taking steps to hinder the non-state armed groups in the organization and execution of uprisings.\textsuperscript{21}


Taking the instruments established by the parliaments under consideration, it shows that those Central African States where the power of the state seems to be the most uncertain (such as in Democratic Republic of Congo, Rwanda, Burundi and Uganda) are not willing to pass counter-terrorism and anti-militia legislation acts. Furthermore, even if they adopt these instruments, they do not oversee compliance with them.\(^\text{22}\)

Studying the laws voted for by the aforementioned states (e.g. criminal legislation), we can consider that they do not make a difference between the terrorist groups and the “liberation” armies at all. In spite of the probable necessity of distinction, they only concentrate on the regulation of the act of terrorism by setting up definitions (see Act. No. 04/016 of the state of DR Congo), which may allow the development and flowering existence of the clan militia and warlords.\(^\text{23}\)

National polices have been influenced by the US effort to create a partnership that will fight terrorism in eastern Africa. In 2009, the Partnership for Regional East Africa Counterterrorism (PREACT), a multi-year, multi-faceted program intended to build counterterrorism capacities and cooperation of military, law enforcement, and civilian actors in East Africa. Five main areas of the partnership were: 1. Reducing the operational capacity of terrorist networks; 2. Developing a rule of law framework for countering terrorism in partner nations; 3. Enhancing border security; 4. Countering the financing of terrorism; and 5. Reducing the appeal of radicalization and recruitment to violent extremism. In 2015 the PREACT was still actively helping the fight against al-Qaida, al-Shabaab, and other terrorist organizations. The programme also functioned as a complement to the African Union Mission in Somalia (AMISOM) and sought to achieve stability in Somalia and East Africa region.\(^\text{24}\)

Regarding the primarily researched country, the DRC has no comprehensive counterterrorism legislation. In 2001, a National Committee for the Coordination of Anti-International Terrorism within the Ministry of Interior was established. Elimination of the Allied


Democratic Forces (ADF), The Democratic Forces for the Liberation of Rwanda (FDLR), and the Burundian national front and the Lord’s Resistance Army (LRA) were identified as the highest security priorities following the defeat of M23 in November 2014. Border control was kept with the help of a UN Stabilization Mission.  

Case study analyses
The Lord’s Resistance Army

The LRA operates in several noted Central African countries, namely, South Sudan, the Central African Republic (CAR) and the Democratic Republic of Congo (DRC). The group’s initial aim was to overthrow President Yoweri Museveni of Uganda and to create a state based on the 10 biblical Commandments. However, its current political goals are not clear since it no longer operates in Uganda.  

Human Rights Watch reports that the group has partaken in large scale human rights violations such as massacres, mutilation and rape. The UN office for the Coordination of Humanitarian Affairs stated that in 2009, the LRA killed 1096 civilians, abducted 1373 adults and 255 children in northern DRC alone. Moreover, the group has participated in the illegal trade of diamonds and ivory as well as human trafficking. The LRA has been designated as a terrorist group as early as 2001 by the United States and an investigation was opened in 2004 with the International Criminal Court (ICC) for war crimes and crimes against humanity. Furthermore, in 2005, arrest warrants were issued by the ICC for the main leaders of the LRA. However, it was only officially designated as a terrorist group by the African Union on 22 November 2011 and simultaneously the Union authorized an initiative to eliminate the LRA. It may be noted that based on the African Union’s differentiation between self-determination/liberation groups and terrorist groups, the Union could not have launched an elimination programme on the LRA without designating it as a terrorist group first or it would risk contradicting itself. The eventual designation of the LRA as a terrorist group by the AU may

very well be attributed to its human rights abuse and other crimes, however, this is unclear since there are many other armed groups who have committed similar crimes in Africa but have not officially been designated as terrorist groups. Thus, the labelling of the LRA as a terrorist group was mainly due to the pressure from affected states to eliminate the group which could not have been achieved without doing so.

Joseph Kony is one of the leading personalities of the LRA and his case in the ICC is a great example of how not labelling a group as terrorist can be contradictory.

**Kony et al. Case**

Joseph Kony is the Chairman and Commander-in-Chief of the Lord’s Resistance Army, a Christian-based rebel group operating in countries including the Democratic Republic of Congo, Uganda, the Central African Republic, and others. It is a rebel group which has a military-type hierarchy, thus it fits into the category of non-state armed groups (NSAGs). Although it could have been recognized as a terrorist group, it has never been included on the Foreign Terrorist Organization (FTO) list.30

Kony has been accused of 12 counts of crimes against humanity and 21 counts of war crimes. An arrest warrant for Kony is now pending. The ICC issued a sealed warrant as early as 2005. The crimes he is accused of include murder, enslavement, sexual enslavement, rape, inhumane acts of inflicting serious bodily injury and suffering, as well as the following war crimes: murder, cruel treatment of civilians, intentionally directing an attack against a civilian population, and pillaging: including rape and forced military enlistment of children.31

This is an exemplary case of a person affiliated with a group which might have been labelled as a terrorist organization. Had the LRA been thusly labelled, the prosecution of crimes Kony and others committed could have been perceived as an act of terrorism and would require different treatment and a different trial process. In such a case, only proven affiliation to a terrorist group (LRA in this case) would be sufficient to prove someone’s direct or indirect participation in crimes committed by the group as a whole. Should their participation be successfully proven,

the person in question would be prosecuted as collectively responsible for the crimes connected to the group.

The Democratic Forces for the Liberation of Rwanda (FDLR)

The FDLR is composed primarily of Rwandan Hutu’s in the east of the DRC. According to the U.S. National Counterterrorism Center, the FDLR is believed to be responsible for about a dozen terrorist attacks committed in 2009. This group has used extreme violence, targeting women and children in the armed conflict, mass killings and sexual violence as part of its activities. Moreover, its communication of fear has extended to the government as well as international organizations. They have partaken in illicit trade of resources in the eastern DRC. In 2013, heated debates between the Tanzanian and Rwandan governments flared up following President Jakaya Kikwete’s recommendation to the Great Lakes states to hold direct talks with their armed opposition including the FDLR to secure peace in the region. However, the Rwandan government has refused to enter any peace negotiations with the group which they have designated as a terrorist group. This designation is argued to be based on the classification by the UN Security Council and other Western governments (the USA). The UN Security Council has never actually classified the FDLR as a terrorist group, although it has attempted to disarm the group by its mandate within the United Nations Organization Stabilization Mission in the Democratic Republic of Congo (MONUSCO). The US State Department has also removed the group from the FTO (Foreign Terrorist Organization) list. On the other hand, the AU has marked the FDLR as a terrorist group. Rwanda has stated that it will not negotiate with a group that was directly responsible for the 1994 Genocide and was outraged that it was suggested that the ‘perpetrators’ of the Genocide go unpunished. As long as the operations executed by the group do not make it a threat to international security, organizations such as the UN will recognize groups such as the FDLR merely as unarmed groups. On the other hand, the FDLR is considered a terrorist organization by the government of Rwanda, mainly due to the country’s history with members of the group. The African Union also treats the

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FDLR as a terrorist group since it is trying to not pressure peace talks on the Rwandan government and acknowledge the groups’ history.

The Anti-Balaka

The Anti-Balaka group operates in the Central African Republic and is primarily composed of extremist Christians. Although the group dates back to the 1990s as village security it intensified to the status of an official armed group opposed to the government in 2013. The group has expressed their intent to eliminate Muslims from the CAR, which is rooted in the recent rise of the predominantly Muslim Seleka group that has partaken in large scale human rights abuses against Christians of the CAR. The Anti-Balaka group has committed violence against Muslims in the country causing many of them to flee. It is unclear whether this group is regarded as a terrorist group by the UN and the AU. Both have condemned the acts of the group and have contributed to the protection of civilians and provided humanitarian aid in response to the group’s attacks, but have not officially designated the group as a terrorist organization. However, the AU troop commander has stated that the group is a terrorist organization and that they will be treated accordingly after the killing of peacekeepers. The AU and the UN have also called for the group to surrender. The group will henceforth be treated as the direct enemy. This highlights the consequential difference between assessing the group as a terrorist group or an armed group. With the latter, the elimination of the group was not the aim of the mission, instead the mission focused on civilian protection and the delivering of humanitarian aid, whereas once the Commander deemed the group to be a terrorist organization, the force directed energy into eliminating the group, taking direct action with little room for negotiation.

The M23

The M23 is made up of fighters of the Congolese army and is named in reference to the peace deal on 23 March 2009. Like other groups operating in Central Africa, M23 has a list of human rights violations, brutal killings and illegal trade deals. However, the group is not a designated group with regard to the AU and the DRC. Thus, according to the Nairobi Declaration, the group is to be reintegrated and granted

amnesty.\(^{39}\) Here, we may note that although the group has displayed similar tactics to many other terrorist groups, it has not been labelled as such, thus allowing amnesty to be given to former combatants which could not be done otherwise. Moreover, it allows for peace talks and the reintegration of former combatants into the country, the government, and into any armies. This does, however, pose a risk since people affected by M23 violence may begrudge the decision to grant violators amnesty and may call for harsher punishment of former combatants. Thus, granting amnesty may leave some citizens disgruntled with the government which may lead to further rebellion.

**DRC and M23 peace agreement**

When rebels from M23 took control of territories in the eastern DRC, mostly the city of Goma in late 2012, the groups’ activity came more to the attention of the international community and the DRC’s government alike. Thereafter, M23 withdrew from Goma and entered into peace talks with the DRC government.\(^{40}\) On 24 February 2013, 11 African states signed a peace agreement which called for the DRC to implement security reforms and for external countries to stop interfering in the DRCs’ internal affairs.\(^{41}\) M23 was not a party to these talks, instead it was involved in separate peace talks with the Congolese government in neighbouring Uganda. These peace agreement negotiations concluded that there would be no amnesty clauses and brought a period of considerable serenity to the eastern DRC.\(^{42}\) However, after six months M23 once again attacked government forces in North Goma.\(^{43}\) In response, the DRC army launched attacks against M23, recapturing Kiwanja and Buhumba. After several offensive attacks by the DRC government, M23 surrendered and claimed that they would seek a political solution. Eventually, in December 2013 a final peace agreement between the DRC and M23 was signed.

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The situation with M23 highlights a consequence of not being labelled a terrorist group but rather a ‘rebel’ group. Since the DRC government viewed the group as externally backed rebel groups, more emphasis was put on Rwandan and Ugandan involvement in the internal affairs of the DRC rather than the nature of the M23 attacks. In addition, if M23 had been considered to be a terrorist group by the DRC, a UN or AU peace agreement would not have been possible and the DRC government would not have been persuaded to enter into political negotiations. This is highlighted by the fact that the UN, AU and EU have not called for or encouraged political talks with (unofficially labelled) terrorist groups such as Al-Qaeda or ISIS. However, simply not labelling the group a terrorist group does not entirely mean that they are not held responsible for the crimes they commit during their rebelling. This is underlined by the fact that none of the peace talks included amnesty for war crimes.

**Gédéon Kyungu Mutanga v. Landmark Trial case**

Another case supporting the need for differentiation between terrorist groups and NSAGs is *Gédéon Kyungu Mutanga v. Landmark Trial case*. Gédéon Kyungu Mutanga is the leader of the Mai Mai Kata Katanga militia group which is linked to debates over the future political status and independence of the Katanga region in the south-eastern part of the DRC.\(^4^4\) By November 2005, the United Nations estimated that 150,000 people had been forced to flee their homes, thousands of women had been raped and hundreds had been killed because of the activities of the Katanga group.\(^4^5\)

Mutanga had been brought to the military court of the garrison of High-Katanga in 2008. In 2009, the judges of the military court found him guilty of crimes against humanity, insurgency and terrorism and therefore, sentenced him to death. Another six defendants, including Gédéon’s wife, were also found guilty of crimes against humanity. Fourteen defendants were convicted of insurgency, and three of them were also convicted of terrorism.\(^4^6\)


As a consequence to these acts that the Mai Mai Kata Katanga group and its members have committed, we can observe that although the group has been labelled a rebel group,\textsuperscript{47} the people affiliated with the group have been found guilty of the act of terrorism which shows that the correlation between rebel militias and terrorism might be possible.

This case, as well as cases previously discussed, demonstrate the need to differentiate between terrorist groups, NSAGs, rebel groups, and others. There is indeed the need for more comprehensive and integrated legislation on the international, regional, and national level. Universal acceptance on definitions of both NSAGs and terrorism is essential, as well. This would result in prosecuting the groups and individuals on clear grounds without doubting their affiliation towards the group.

**Conclusion**

The study of non-state armed groups and terrorist groups provides an explanation and evaluation of whether or not there should be differentiation of the two groups. We used several examples of these groups which currently operate in Central African region.

We first identified what the Central African region encompasses and how we perceive it and use it in our work. Then we also adopted definitions of non-state armed groups and terrorist groups.

This research paper also looks at the current counter-terrorism legislation from the UN, the AU and individual states and tried to use the problem of differentiation to evaluate their effectiveness.

The analysis of individual case studies supported this study’s argument for differentiation between various groups such as terrorist groups, rebel groups and NSAGs. The case of Kony et. al showed the need for a person, who is a leading and founding member of groups such as the LRA, to be found guilty and prosecuted for both the crimes the person committed as well as the crimes the groups is accused of. The case of the DRC and M23 peace agreement shows the irrationality which arose when the rebel group M23 was negotiating peace talks. If it were labelled as a terrorist group, no kind of negotiations or signing of peace agreements would have been possible. The Gédéon Kyungu Mutanga v. Landmark Trial case is the last real-life example which demonstrates that the correlation between rebel groups and terrorism exists. This case also exemplifies the issues of not labelling groups as terrorist groups. The reason is that having the group labelled as terrorist, each person linked to the group could be

accused of committing acts of terrorism (collective responsibility) instead of only several people directly proven to be responsible for the crimes being prosecuted.

The study’s aim was to prove that differentiation between terrorist groups and NSAGs is essential. Cases previously mentioned demonstrate that it is more than inevitable. Though the definitions are internationally agreed upon, universal acceptance is missing in this field. Universal acceptance would avoid ambiguousness during the process of groups’ designation and therefore also any other inconsistencies that may occur when group members or groups are prosecuted.

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List of Used Abbreviations
ADF – Allied Democratic Forces
AMISOM – African Union Mission in Somalia
AU – African Union
CAR – Central African Republic
CTC – Counter-Terrorism Committee
CTITF – Counter-Terrorism Implementation Task Force
DRC – Democratic Republic of Congo
ECCAS – Economic Community of Central African States
FDLR – The Democratic Forces for the Liberation of Rwanda
FTO – Foreign Terrorist Organization
GA – UN General Assembly
IHL – International humanitarian law
ICC – International Criminal Court
LRA – Lord’s Resistance Army
NSAG – Non-state armed group
OAU – Organization of African Unity
PREACT – Partnership for Regional East Africa Counterterrorism
UN – United Nations
UNCCT – UN Counter Terrorism Centre
THE UNTAPPED RESOURCES: THE ROLE OF THE CRIMINAL JUSTICE SYSTEM WHEN DEALING WITH CHILDREN WHO SYMPATHIZE WITH TERRORIST GROUPS AND/OR COMMITTED TERROR-RELATED CRIMES. PREVENTION, PROSECUTION AND RETURN

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1. Introduction

1.1. Children and Youth in the Criminal Justice System

When attempting to unlock the questions of preventing violent extremism and its resultant crimes, it is crucial to examine some of the most important concepts of crime prevention. Throughout the last few decades, various approaches emerged from different authors as to which could be the most effective way to combat criminal activity. The work of Brantingham and Faust\(^1\) is one of the most cited among the latest research about the topic, with three main stages of prevention identified: primary, secondary and tertiary prevention.

The first stage of prevention is closely connected to education and spreading information about potential threats of crime. As the title indicates, this paper gives emphasis to young people who sympathize with terrorist groups and/or committed terror-related crimes. Bringing the focus to individuals with high possibility of being radicalized and committing terror-related crimes is of crucial importance, as “tertiary and secondary prevention share in common a focus on what will inhibit transition from radical opinion to violent actions”\(^2\). The second stage of prevention focuses on developing programs specifically for certain groups at risk, whereas tertiary prevention targets “those who have already succumbed to either criminality or criminal victimization”\(^3\). This is the phase where the Criminal Justice System traditionally enters.

The role of the Criminal Justice System has long been essential in the fight against terrorism, as the global threat to society is seen as one of

\(^2\) J. Liht and S. Savage, ‘Preventing Violent Extremism through Value Complexity: Being Muslim Being British’, *Journal of Strategic Security*, vol. 6, no. 4, 2013, p. 44.
the major forms of violent crimes the international community is bound to face with joint action. However, much criticism was received in the past regarding its effectiveness, emphasizing the shortcomings of its rather reactive nature. The Criminal Justice System, being based primarily on the institution of punishment, many times falls short in dealing with perpetrators of violent crimes such as terrorists. As Wallenstein puts it: “The goal of the terrorist is to do the terrorist act, not necessarily to get away with having done that act.”\(^4\) Therefore, the well-established practices of policing and prosecution might no longer be sufficient. Consequently, many argue that the development of a more proactive approach is needed in Criminal Justice; one that could go hand in hand with the existing traditional methods. Proactive approaches give great importance to cooperation with communities in which individuals are at high risk of becoming involved in crime. The same attitude can be examined in the proactive Criminal Justice System Theory of Hahn, who introduced a three-pillar model based on “expanded concepts of community policing, community-based corrections, and restorative justice.”\(^5\) Such aspirations for coming up with proactive solutions, as well as ideas about the possible ways intended at putting them into practice, are especially important as far as juvenile delinquency is concerned.

When dealing with children within the Criminal Justice System, one should not overlook the fact that childhood is in fact a very vulnerable period in a person’s life: It is considered to be the phase in which one’s self-control has yet to be fully developed. Due to the individual’s impulses, the possibility of tending towards misbehavior and acts of delinquency slowly increases.\(^6\) If we insist on developing a mainly proactive approach and wish to give more importance to preventive methods, a different justice response to young people involved in terrorist activities is needed. Nevertheless, according to Loeber and Farrington: “Over the past decades, the juvenile and adult justice systems have become more intertwined and more juveniles are processed in the adult court than previously.”\(^7\) It is essential to come up with ideas on how children who have been involved in terror-related crimes could be held accountable for their actions – without undermining their protection.\(^8\) Apart from that, possible ways of

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\(^7\) Ibid., p. 8.

prevention should be taken into consideration, with regard to both youth at risk of being radicalized or who have already joined a terrorist group.

Effective prevention and de-radicalization strategies require a thorough knowledge of how the existing measures are implemented to identify possible gaps and room for improvement. However, several recently published studies of the EU Member States appear to include actors from only one specific field in their investigation, without providing an overview of how different stakeholders cooperate and interact to implement the adapted counter-terrorism laws and regulations of the Criminal Justice System. Therefore, this research aims to consider actors from both governments and civil society organizations. Focusing on Austria and Italy, relevant data will be collected using interviews carried out among people with different expertise, to analyze the extent to which new laws and regulations in relation to terrorism are implemented in different EU Member States.

Therefore, the following questions will be addressed:

- How do the criminal justice systems of the EU Member States Austria and Italy collaborate with civil society when dealing with minors who sympathize with terrorist groups and/or have committed terror-related crimes?
- What are the national peculiarities of the prevention and de-radicalization measures which proved to be successful and how can they be improved when the human rights of the child are threatened?

1.2. Terrorism and radicalization: The poststructuralist securitization theory

The analysis conducted in this research is based on the securitization theory which derives from the poststructuralist approach. Securitization represents the intersubjective agreement on an existential threat, which must be identified, and dealt with immediately. Tackling the issue by extraordinary means, counter-strategies may also cross the line of legitimacy to maintain peace and security, including the violation of treaties and the waging of war. Moreover, according to the Copenhagen School⁹, securitization is to be seen as a socially constructed process through which both the existential threat and the threatened object are recognized, resulting in the latter being considered worthy of protection.

As terrorism and radicalization can be categorized as existential threats to peace and security, the securitization theory can thus be seen as an

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appropriate framework to analyze the phenomenon. In order to counter named global challenges both at the national and international level, a variety of extraordinary measures were developed internationally, whereas national security policies have been changed and adapted to address all issues related to them. As there is no limit as to what can be securitized, it is crucial to use an appropriate narrative while dealing with global challenges such as terrorism and radicalization; especially when they pose a threat to groups of society who are deemed to be vulnerable and worth protecting, such as children.

The poststructuralist securitization theory identifies terrorism as a socially constructed threat, resulting in states strengthening their ties both internally and externally to counter it. Since radicalization of young people – especially minors who are considered to belong to named vulnerable groups worth protecting – tends to lead towards terrorism, it poses a potential threat to peace and security. Signs of radicalization demand immediate attention and the implementation of both prevention and de-radicalization measures to protect children and their human rights by all available means.

1.3. International solutions

Cooperation at the international, national and regional level is a crucial precondition in order for counter-terrorism measures to be effective. The United Nations Office on Drugs and Crime (UNODC) will be the focus of the research in this regard, as it plays a significant role in providing legal and technical assistance to the Member States of the United Nations.\textsuperscript{10}

The most recent Resolution 2250 (2015)\textsuperscript{11}, unanimously adopted by the Security Council, urged Member States to consider setting up mechanisms which would “increase the representation of youth in decision-making at all levels”. The quickly developing communication technologies make it easier for terrorist organizations to reach and recruit juveniles, which leads to the common commitment of the UN Member States to cooperate and “prevent terrorists from exploiting technology, communications and resources to incite support for terrorist acts”.\textsuperscript{12} The Resolution highlights the importance of tackling the circumstances of radicalization which, according to the World Programme of Action for


\textsuperscript{12} Ibid., p.2.
Youth\textsuperscript{13}, might be the result of social, economic and cultural conditions. Therefore, the main message of the Resolution is to encourage Member States to create a suitable, supporting, and non-discriminatory environment for the children, while implementing activities which aim to prevent violence, reinforce mutual respect and social cohesion, and educate them to constructively engage in society.

Furthermore, the World Programme of Action for Youth\textsuperscript{14} encourages youth organizations to develop training programs on communication skills, with a focus on avoiding any kind of violent language. In addition, the Report of the Secretary-General on the Plan of Action to Prevent Violent Extremism \textsuperscript{15} recommends Member States to support the reintegration of children and young people who were involved in terrorist activities, and to promote education programs which take into account relevant democratic values, social and cultural diversity, civic education, soft skills, critical thinking, digital literacy, and tolerance.

The Committee on Social Affairs, Health and Sustainable Development of the Council of Europe\textsuperscript{16} has adopted Resolution 2103 (2016) which states that “the phenomenon of ‘home-grown’ radicalisation has seen a significant increase in recent years. Young people, including many minors, sensitive to ideological discourse and the apparent ‘sense of social purpose’ offered to them by radical organisations, are drawn into extremist movements involved in violent conflict, for example in Syria and Iraq, and carrying out terrorist acts, including in Europe”. The urgency of the problem was highlighted in the reaction of the President of the UN General Assembly, Mogens Lykketoft, during the event on the “High-level Thematic Conversation on Children and Youth affected by Violent Extremism”, which took place on 3 June 2016\textsuperscript{17}. He stated that children suffer from terrorist groups’ activities directly by becoming either victims of terrorist acts or easy targets for radicalization due to their vulnerability.

\textsuperscript{14} Ibid, p. 33.
Since the magnitude of the problem has only recently escalated, binding UN conventions specifically addressing the topic of the radicalization processes of children and people under 18 have yet to be implemented.

2. State of the Art Analysis: Counter-terrorism and -radicalization policies in Austria and Italy

2.1. Austria

Due to a variety of terror-related incidents which have occurred in European countries in recent years, Austria’s Federal Office for the Protection of the Constitution and Counter-Terrorism (Bundesamt für Verfassungsschutz und Terrorismusbekämpfung, BVT) argued that the number of citizens engaged in violent extremism and radicalization, specifically in Islamist terrorist groups, continues to rise and thus must be seen as posing a heightened threat to Austria. As of 2015, approximately 259 Austrian foreign fighters have been estimated, with 79 having returned to Austria, and hundreds of people, including juveniles under the age of 18, have been accused of being members and/or active supporters of terrorist organizations.18

By taking over the Chairmanship of the OSCE in 2017, Austria assumes the responsibility of fostering security and stability in Europe, becoming a key player in facing challenges relating to conflict prevention, post-conflict rehabilitation and the fight against transnational threats to peace and security such as terrorism and radicalization. The Austrian Ministry of Foreign Affairs has announced in this regard that the development of preventative, counter- and de-radicalization strategies is the highest priority of the Austrian Chairmanship, with special emphasis on assisting public security and peace around the world.19

In order to counter ideologically and politically motivated radicalization in different contexts, Austria has deepened the general effort in establishing and improving effective countermeasures by creating a strong network of numerous policy-makers, academics, practitioners and frontliners from a wide range of institutional disciplines in this field. In addition, the country seeks to intensify and foster its cooperation at the international level, particularly within the European Union (e.g. the


Radicalisation Awareness Network), with various research and educational institutions as well as intelligence and security agencies.

2.1.1. Legislative and security measures in response to terrorism

Following the approach of de-radicalization and prevention, Austria has developed security, legislative and preventive measures in order to provide capacity building and legal assistance in the global fight against terrorism. However, the increasing awareness of the phenomenon as a transnational threat to peace and security has added new perspectives to controversial debates about the ways in which the EU Member States shall protect human rights, including the rights of children, while countering violent extremism. As the main sponsor of the Resolution “Human rights in the administration of justice, including juvenile justice” at the UN General Assembly and the UN Human Rights Council, Austria considers the rights of the child to be a priority of its human rights policy. To contribute to the Post-2015 Development Agenda of the UN, the rights and needs of children are taken into account in all activities and programs of the country, with special emphasis on the protection of children and juveniles within the Criminal Justice System.\(^20\)

In the context of terrorism and radicalization, the protection of young people ultimately addresses the prevention of radicalization among minors as well as the re-socialization of young foreign fighters and sympathizers of violent extremist groups. This includes special evaluation and treatment of youth crimes, resulting in the maximum prison sentence for terrorist association\(^21\), instruction and provocation to commit terrorist acts, as well as the approval of terrorist activities\(^22\). These are usually cut in half if the suspect is between 14 and 18 years old and thus considered a “juvenile” under Austrian law.\(^23\)

In addition, the Austrian Parliament passed a piece of counter-terrorism legislation in December 2014 which, for instance, states that minors are not allowed to leave the country when suspected of voluntarily participating in violent extremist activities abroad unless they have received parental permission. As a last resort, young people may be prevented from joining an armed group engaged in criminal activities outside the country by confiscating their passports and/or removing their


\(^{21}\) § 278b Abs. 3 StGB

\(^{22}\) § 282a StGB

\(^{23}\) § 5 JGG StGB
Austrian citizenship if the youth offender has a dual nationality. Both juveniles who are suspected of having undergone a radicalization process and/or have already returned from “jihad” (holy war) are monitored by the BVT, which seeks to protect all minors by preventing them from committing violent acts or posing a threat to society and themselves. However, despite the attempt to respect the children’s and juveniles’ human rights in this regard, some of their rights such as the freedom of expression and the right to privacy appear to be at risk of being violated, which raises questions about the extent to which the government should interfere when their actions may stifle the rights of the population.

The main focus of the adopted legislative and security measures is to provide professional support and re-settlement into the social environment before, during and after detention in order to guarantee the minors’ safety. In practice, however, they often pose challenges to the rule of law as well as to the implementation of human rights and thus must be improved to bring them into compliance with human rights standards, specifically with the rights of the child.

2.2. Italy

The Italian Constitution does not contain any provisions referring to the limitation of fundamental rights in order to face security challenges. However, when it comes to terrorism and international threats, the Parliament can enact so-called “emergency legislation”. An important example of counter-terrorism legislation is the law-decree n. 144/2005 which facilitates detention of suspects, mandates arrest for crimes involving terrorism and expedites procedures for expelling persons suspected of terrorist activities.

In 2015, the government drafted a new piece of legislation to amend the Criminal Code on counter-terrorism. A key aspect of the new legislation

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27 Confirmed into statute law n. 155/2005, Urgent measures against international terrorism.
is to strengthen police surveillance powers and process personal data. Furthermore, the preamble mentions the need for improving the criminal punishment framework for individuals or groups involved in acts of terror, and several authorities are assigned with the necessary capabilities to counter terrorist recruitment, radicalization to violence, and networking.

Concerning the rights of children, Italy constitutes a good legislative example with regard to the transposition of international standards. The principle of the “best interest of the child” appears to be the basis of the Italian Juvenile Justice System. Nevertheless, children above the age of criminal responsibility can be arrested, detained and imprisoned. This means that children are drawn at an early age into Criminal Justice Systems that can stigmatize them and damage their long-term prospects and opportunities.

Although the principle of non-discrimination is formally and extensively recognized in the Italian legal system, both in the Constitution and in legislation, its actual implementation is less consistent. In some circumstances, children suffer discrimination precisely because they are “under age”: for example, when children are not granted the opportunity to be heard in respect to decisions which affect them directly.

Almost 25 years after ratification in 1991 of the Convention on the Rights of the Child (CRC) in Italy, one of the main challenges facing its

33 This legal philosophy is very influenced by the Constitutional Court, which in various sentences has reiterated that the best interest of the child and reintegration into society should always be considered before the punitive power of the state. A restorative approach to juvenile criminal justice is therefore encouraged, rather than a coercive one; Available from http://www.cortecostituzionale.it/ricercaFulltext.do, accessed 5 August 2016.
34 According to article 3, Italian Constitution.
35 For example, law 205/93 (Mancino) and law 40/98 (Turco, Napolitano), Available from http://www.gazzettaufficiale.it/, accessed 7 August 2016.
implementation is the fragmentation of competencies and functions between different institutions working with and for children\textsuperscript{37}.

2.2.1. Unaccompanied minors in Italy (UAM)

As the aim of this paper is to investigate the role of the Criminal Justice System when dealing with children who are suspected to or have already committed terror-related crimes, the case of Italy is worth investigating, as unaccompanied minors\textsuperscript{38} represent a very complex aspect of the country’s migratory phenomenon. According to Save the Children Report of June 2015\textsuperscript{39}, at least 3,358 children have arrived without family or guardians since the beginning of the year. The link between the reception of unaccompanied minors, their integration in society, and the prevention of radicalization is of particular interest in this regard.

In order to cope with the current increasing migratory phenomenon, Italy adopted a new law-decree on 30 September 2015\textsuperscript{40} which entitles minors to special services within the reception system. Moreover, the law provides a more structured national reception system by setting out the modalities of first-line and second-line reception as well as a control and monitoring mechanism for the management of reception centers. In Italy, children under 18 cannot be expelled or deported and the police must inform the authorities of the Juvenile Court as soon as possible of their presence.

An unaccompanied minor in Italy has the right: not to be expelled; to be housed in age-appropriate facilities; to have a guardian\textsuperscript{41} who will help while in Italy (in particular with the procedure of international protection);

\textsuperscript{37} Ibid, p. 8.
\textsuperscript{38} According to the Decree of the President of the Council of Ministers No 535/1999, Article 1, laying down the “Regulation on the tasks of the Committee for Foreign Minors (in brief CMS), in conformity with Articles 33(2) and (2-bis) of the Legislative Decree No 286 of 25 July 1998”, in Italy UAM refers to “a minor who does not have Italian or other EU citizenship, has not applied for asylum and is, for any reason, within the territory of the State without care or representation by their parents or other adults who are legally responsible for them under existing Italian laws”; M. Accorinti, Unaccompanied Foreign Minors in Italy: Procedures and Practices, \textit{Review of History and Political Science}, vol. 3, no. 1, 2015, p.60.
to search for his/her family (all the information needed will remain confidential); to attend public schools.

Police Authorities must undertake an initial age assessment\textsuperscript{42} and should report the presence of the minor to the Ministerial Directorate, the Public Prosecutor’s Office at the Juvenile Court and the Guardianship Court. Furthermore, the police have to check the availability of reception facilities within that district. If there is no availability, they immediately inform the Public Prosecutor’s Office at the Juvenile Court and request the Ministerial Directorate to indicate which facilities they may contact for prompt reception. These reception facilities, called bridge facilities, are located all over Italy and take care of the initial phase of reception only\textsuperscript{43}.

3. Methodology

Following the qualitative approach, two social research methods from the qualitative paradigm were chosen based on the extent to which they can contribute to the research. To gain qualitative information about experiences and views of people engaged in the field, expert interviews were carried out. Moreover, a semi-structured format of the interview based on a topic-guide and previously discussed opened questions\textsuperscript{44} is considered as most appropriate for collecting information, as it gives the interviewees the opportunity to reveal more details of relevance connected to their positions and functions.

Due to the possibility of approaching experts from different fields within the time available, the EU Member States Austria and Italy will be focused on in the research. Overall, four interviews were conducted in each country, with most of the interviewees being engaged in a variety of organizations and institutions related to security and counter-terrorism, and to some extent having knowledge concerning the Criminal Justice System of their country. Moreover, taking into consideration the crucial role of civil society and actors who are relevant for de-radicalization and prevention work in particular, individuals from schools, NGOs and advice offices involved in such processes were chosen as interviewees to complete the research. This approach allows the research group to analyze similarities and differences regarding legislations and strategies of prevention and/or de-radicalization between nations, and if or to what extent their practices differ from the UN resolutions in relation to terrorism as well as the Convention on the Rights of the Child.

\textsuperscript{42} Italian Constitution, Section 54; Law 56/2003 Section 7.
\textsuperscript{44} See Appendix 1.
In order to cover all the content relevant for the research questions of the investigation, the interview questions are constructed in a way in which they not only generate long answers, but can also be adapted to the interviewees individually. Based on their positions in the field\textsuperscript{45}, only questions relevant to the person’s special knowledge and experiences will be used to generate the data of the research.

Since all interviews are conducted in German and Italian, transcripts of the interviews cannot be provided. However, for each interview a summary with all relevant information was generated and translated in order to facilitate the understanding of the content\textsuperscript{46}.

Following the framework of the qualitative paradigm, the Qualitative Content Analysis is used in order to identify and adequately describe the main themes of the proposed interviews. The themes analyzed will be categorized in a way in which the similarities and differences of implemented prevention and de-radicalization measures in both Austria and Italy are underlined clearly. Moreover, the categories will address the extent to which the adapted laws and legislations ruling the countries’ Criminal Justice Systems have been put into practice at national level in order to give an appropriate response to terrorism and radicalization.

4. Interview Analysis

The questions raised at the beginning of the research refer to an extremely complex subject, which must be addressed at different levels. Finding the right answer means that every important aspect must be taken into consideration. Therefore, the interviews needed to be analyzed in a way in which it is possible to highlight the crucial processes related to the topic. The categories for the analysis were identified accordingly.

4.1. Radicalization

A vital factor and recurring theme during the interviews was the process of radicalization. The interviewees elaborated on it without exception, which leaves no doubt that understanding the undercurrents of radicalization processes is of crucial importance when dealing with minors who are at risk or have already been involved in terror-related crimes.

\textsuperscript{45} I.e. they either work with radicalized minors directly or tackle the phenomenon through a scientific approach only.

\textsuperscript{46} See Appendix 2 and 3.
4.1.1. Risk factors and main tendencies

The recognition of social inequalities and discrimination can be observed as a basis for radicalization in the case of Austria. According to the experts interviewed, tremendous threat lies in not making efforts to guarantee that all young people receive the same opportunities regardless of their ethnic and social background. Conscious steps in this regard are highly recommended, as “social exclusion and discrimination are determining factors which recruiters take advantage of”. Moreover, other common reasons for young men and women turning towards radicalization could be identified during the interviews, such as the need to belong to a group and to change their living conditions entirely.

Furthermore, some of the experts stressed that prison increases the possibility of becoming radicalized, thereby stressing the urgency to come up with a different Criminal Justice response. Minors in prisons are at risk of delinquency if they do not receive the proper assistance and protection they need as children.

While examining whether there is a gender gap in terms of radicalization motives, the experts came to the conclusion that, in most cases, young women join Islamic extremist groups to get married, or to reject their patriarchal families due to the feelings of injustice and oppression compared to their brothers. Other women aim to play a supportive role for their relatives, who are already fighting in Syria, and feel that their actions are important and meaningful. Key drivers for young men which differ from those of women are the experiences of heroism as well as the possibility of committing acts of violence freely and without limitations, as it is deemed to be legitimate in their radical ideology.

Based on the interviews carried out with Italian experts, the children of migrants and refugees are considered one of the most vulnerable groups when it comes to radicalization. On the one hand, it is due to their young age and the fact that in many cases they are unaccompanied: As unaccompanied minors without a responsible adult looking after them, they can easily become influenced by external forces. On the other hand, even if they arrive with their families, there is a great amount of instability to face in their lives. The lack of education and the absence of a normal school cycle is recognized as a major threat to an appropriate socialization process. Because of their repeatedly interrupted studies, migrants and refugee children might not be able to receive the support of the community, which is crucial at such an early phase of human development and otherwise provided by the education system.

47 Interview with Mr. A., Former Consultant/Trainer at DERAD, Beratungsstelle Extremismus.
4.1.2. **Offered opportunities and a sense of belonging**

Apart from underlining the role of external factors which contribute to the radicalization of minors, many of the experts drew attention to the importance of identifying the motives of young people for turning towards radical groups. One of the most common motives mentioned by the interviewees in this regard is the lack of a sense of belonging: In many cases, young people who are socially excluded and marginalized are looking for an identity and their place in society, with many of them not receiving enough opportunities to gain a perspective in life. It is this problematic situation which extremist groups take advantage of, providing opportunities and a sense of belonging to their group in order to recruit them. By making conscious efforts to satisfy the needs of the groups most vulnerable, Austria and Italy aim to effectively counter the youth’s insecurities resulting from negative experiences with their social and economic environment.

4.2. **Prevention/De-radicalization**

The relevance of a prevention-based approach was highlighted during almost all of the interviews. Most importantly, preventing the process of radicalization and, in the event that it is already underway, de-radicalization measures are needed to prevent or counter acts of violence and extremist behavior.

4.2.1. **Cooperating actors**

Out of the five main components identified within this category, the first one is related to the collaborating actors whose role is essential throughout the process.

Regarding the actors cooperating in Austria, there is a significant amount of collaboration between all institutions related to the Criminal Justice System, civil society organizations as well as education authorities and schools. Actors who work together with the aim of accurately addressing the root causes of violent extremism and radicalization are thus contributing to early detection and prevention. Austria has developed and enhanced a variety of preventative measures in different fields, such as the provision of professional advice by the federal ministries’ established advice and information center “Beratungsstelle Extremismus”, as well as many workshops to assist prison chaplains, police officers, teachers and youth and social workers in identifying signs of radicalization. It appeared in this regard that there is a great demand for these types of cooperation. For instance, as one of the interviewees\(^\text{48}\) pointed out, even after the

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\(^{48}\) Interview with Mr. A, Former Consultant/Trainer at DERAD, Beratungsstelle Extremismus.
dissolution of one of the associations providing the workshops, he still receives requests from schools very frequently. Moreover, since radicalization in prisons is considered a serious threat, relevant actors, who are in contact with radicalized individuals or individuals at risk, are involved in prevention and de-radicalization work.

Regarding Italy, there is cooperation mainly between the executive and judiciary branches as far as counter-terrorism is concerned. What emerges from the interviews is that even if the criminal code is effective, more actors should be involved in the prevention process, especially communities and law enforcement agencies, for it to be successful. Further collaboration can be observed between actors who work with migrants and refugees. For instance, schools with a significant number of children with migration background develop tailored projects which concentrate on preventing children from dropping out of the school system. Moreover, refugee centers collaborate with first aid and the judicial system, noting that the involvement of actors specialized in dealing with children is of crucial importance.

4.2.2. Target groups

Concerning the target groups, Austrian experts emphasized that no real changes can be achieved by only addressing young people at risk of becoming radicalized; the involvement of civil society and the social environment of the youth is equally important. Throughout prevention work, family members and relatives are included to a great extent when first signs of radicalization are recognized. Apart from that, through offered training programs and workshops, all citizens and relevant actors have the opportunity to be educated about not only the threat of extremism and radicalization, but also foreign cultures and religions in a positive setting.

Similarly, schools play a significant role during the prevention process in Italy, as they focus mainly on minors and young adults. The projects connected to state schools mostly aim at fostering the integration process of children through language courses and cultural mediation. When it comes to the Criminal Justice System, returnees accused of having committed terror-related crimes are monitored as a form of prevention, and suspects, especially those who are still minors, receive permanent support.

4.2.3. Prevention approach

The prevention approach observed in Italy is based mostly on integration, with special focus on migrants of all generations. There is a tendency to recognize young migrants as the most vulnerable group. Given their age, there appears to be great potential for success when it comes to
prevention. The most successful examples are when sufficient efforts are made and institutions and civil society manage to work together: schools, the law enforcement agencies, the city council, the government and the judicial system.

When it comes to Austria, educating not only the vulnerable group, but the Austrian population as a whole appears to be a central element. Prevention work is based on efforts to reduce stereotypes and prejudices regarding the Muslim community. On the one hand, negative media portrayals often prevent the non-Muslim population from approaching citizens with Muslim background with empathy. On the other hand, given the negative experiences of social exclusion among minorities, young people specifically tend to associate only negative notions with the Western world. This limited way of thinking obstructs communication between all groups of society, which eventually results in radicalization. Consequently, the prevention approach is designed in a way in which an inter-religious and inter-cultural dialogue is promoted and the needs of young people receive immediate attention in order to contribute to the global efforts to foster (re-)integration and counter terrorism.

4.2.4. Preferred means to achieve goals

The states investigated in this study have many methods in common, yet they also have their unique qualities, each of which might stem from their national and cultural particularities and should thus be addressed. Austria focuses on solving the root causes of radicalization of young children, which are mainly feelings of exclusion and no favourable prospects in their unsatisfactory life, by offering them economic prospects, proper education, protection, supervision, therapy and permanent support (during trial and prison sentences and very importantly also by means of rehabilitation afterwards), with an emphasis on establishing relationships in order to help them find a place in society. Moreover, Austria is committed to providing professional advice through a daily telephone helpline and even personal consultations if needed.

Italy’s methods concentrate on preventing minors from leaving the school system, which is seen as the first crucial step in becoming part of the society. Integration through school is being accomplished through diversified learning modules, which are tailored to individually address the different needs and interests of the minors, offering them the opportunity to join activities such as theatre and dance classes, language courses, workshops, counselling, and cultural mediation. Moreover, Italy has undertaken very important updates of the criminal code in 2015 and 2016 which introduce an increased prison term for those who are recruited to commit acts of terrorism (now up to 6 years), and severely punishes those who organize, finance or promote travel for the purpose
of performing acts of terrorism. These new laws underline the parallel work of the executive and judiciary branches when it comes to countering terrorism.

Both countries seem to recognize that strengthening cooperation with civil society is crucial. In order for prevention to be effective, civil society organizations, the government, the police, schools and families should become involved. Therefore, training programs should be implemented and carried out so that every actor is aware of how to deal with this issue. Moreover, minors and all relevant actors and stakeholders should have access to information regarding extremism, jihadism, radicalization, integration, and democracy. Such sensitization would foster high levels of reflection on the topic, reduce fears and insecurities and deconstruct prejudices and stereotypes. In addition, they would encourage the population to participate by helping them to develop a feeling of solidarity and respect towards each other, and by preventing minors from feeling marginalized and socially excluded.

4.2.5. Difficulties and gaps

One of the main problems reported by experts from both countries is the lack of funding and financial support from the government, which would be necessary to increase the sustainability and comprehensiveness of prevention measures. The attendance of only one workshop or lecture is not sufficient; long-term care and support for minors are required in order to achieve significant results. Another gap is the lack of a gender-specific approach, as many preventative measures have the problematic tendency of targeting only young male migrants, making it difficult for young women to be part of the prevention process. A more holistic approach to prevention, which focuses on all types of extremism and radicalization instead of merely paying attention to Islamic radicalization, and which is directed toward all kinds of groups at risk of committing acts of violence, including young women, is needed for preventative measures to be successful. Furthermore, experts in similar areas (e.g. right-wing extremism) could provide support and expertise and should thus become involved.

4.3. Human rights

Implemented preventative and de-radicalization measures must comply with the rule of law and shall never conflict with the human rights of the children. However, the extent to which the potential violation of children’s human rights can be legitimized while implementing such measures depends on how far the juvenile may pose a threat to society. Although, in Austria, no cases of violated children rights have been reported so far, such possibilities have to be taken into consideration: for instance,
protective measures such as the protection against violence could be at stake; even the act of arresting a person can be very violent and threaten the right of protection of a child. Moreover, the right of privacy can be threatened, although the police and executive branch of government are only allowed to monitor them in case of adjudication. Therefore, it is Austria’s main priority to ensure protection for minors while countering radicalization. To this end, some of the interviewees strongly encouraged the adoption of the legislation mandating that when a suspect is a minor they are not portrayed or treated as any other type of terrorist.

In Italy, granting collective security while protecting human rights is one of the fundamental principles when dealing with counter-terrorism. Nevertheless, the measure of expulsion appears to be very difficult, as the executive branch is not submitted to the same rules as the judicial one when collecting evidence. In addition, the suspected terrorist is sent back to his or her country of origin where law enforcement is well-known for not respecting human rights, which risk indirectly committing torture when expelling alleged terrorists. Criminal law is the branch of the judicial system where human rights could be protected the most: the existence of evidence can be re-examined and the suspect can be freed if such evidence does not show any subsistence. However, certain issues can occur when dealing with freedom of speech or freedom of religion, especially when it comes to public instigation of or apology for any felony related to terrorism (e.g. glorifying terrorist acts that have already been carried out). Therefore, this is yet another area where human rights could be endangered.

5. Conclusions

The aim of this paper was to give an overview of the role of the Criminal Justice System and civil society while dealing with children who sympathize with terrorist groups and/or committed terror-related crimes, focusing on the question of whether or not counter-terrorism measures adequately adapt to the needs of minors, which challenges can be identified, and how they could be overcome.

After analyzing the legal framework at the international level, the authors have proceeded by addressing the ways in which two EU Member States, Austria and Italy, have implemented international laws and changed national legislation in order for counter-terrorism and preventative measures to be effective. Considering the fact that children are often overlooked as distinct right holders, especially when it comes to migration, a number of interviews with different experts were conducted in order to identify which preventative measures proved to be successful and which required improvement.
One of the main challenges detected is the fragmentation of competencies and functions between different institutions working with and for children, and at the same time the importance of prevention programs which encourage dialogue and cooperation between the different stakeholders.

While analyzing the interviews, common reasons for the radicalization of young women and men were identified, as well as the crucial need of the involvement of civil society throughout the whole de-radicalization and prevention process. Moreover, significant gaps in terms of funding were recognized, especially regarding training programs for teachers and police in Italy and for long-term support for minors in Austria.

One aspect which does not appear to receive particular attention is the gender-specific approach of prevention measures, although the reasons for young men and women becoming radicalized can differ significantly. In addition, the need for a more multidimensional approach to prevention was identified, focusing on all types of extremism and radicalization and directed to all kinds of social groups. Despite acknowledging that every minor has individual motives and unsatisfied needs which lead them to turn towards radicalization and that therefore each minor needs to be treated individually, preventative measures tend to target young men with migration backgrounds rather than including minors of all ethnic and social backgrounds, genders, and religions. This is the biggest limitation of prevention programs, especially since the tendency of targeting and criminalizing young male migrants itself could lead to feelings of social exclusion and discrimination and, therefore, foster radicalization. The difficulties and challenges of integration are inescapable, but nevertheless have to be dealt with, as integration is the only true method to prevent young women and men from becoming radicalized.

6. **Recommendations**

Based on the outcome of the analysis, the following recommendations are made:

**6.1. Networking: the need to strengthen cooperation with civil society**

The network among facilities in relation to prevention and de-radicalization needs to be tightened, with special emphasis on strengthening the cooperation with civil society. In order for prevention and de-radicalization measures to be effective, all relevant actors shall be equally involved: the government, the police, civil society organizations, the institutions focusing on the protection of children, youth and social workers, schools, and families. Moreover, more training programs and
workshops shall be implemented and carried out, as education plays a key role in dealing with this issue.

6.2. **Prevention and de-radicalization: a global issue**

Even if both Austria and Italy have implemented international norms effectively, the problem cannot be tackled on the national level alone. A global effort and international dialogue is necessary in order for prevention and de-radicalization measures to be successful.

6.3. **Prison: where de-radicalization demands attention**

De-radicalization measures are essential to help minors who have been imprisoned to re-integrate into society, offering them alternatives to satisfy their needs and, most importantly, relationships and networks after their prison sentence. Taking care of them during their trial and prison sentence certainly will not be enough; permanent and continuous support afterwards is also required.

6.4. **Funding: integration through schools**

From the interviews, it emerged that the best way to improve the integration measures in schools is to have a diversified offer when it comes to learning modules. Depending on the funding, schools can offer children language courses in their own mother-tongue, keep the school open later during the day or during the summer holidays, and provide training programs for teachers. All these measures contribute to making the integration process offered by schools more effective.

6.5. **Ongoing cultural mediation: key role of prevention**

After carrying out the interviews, it was clear that integration is not only about language or beliefs; prevention measures should focus more on inclusiveness and combating stereotypes. Up to this point, young people with or without migration background, Muslims or not, men or women, rich or poor, access or no access to quality education, have proved to be at risk of being radicalized and thus need to be taken into consideration equally when trying to prevent them from turning towards radicalization and terrorism. Only with a different cultural approach, which fosters an inter-cultural dialogue between all minorities and the majority of the population, can young men and women feel fully integrated and acknowledged as part of the same society.
References


Jusline. 2015. Jugendgerichtsgesetz, § 5 JGG.


PART TWO

CHANGING NATURE OF SELECT UN PROGRAMS IN DEALING WITH TERRORISM AND ENGAGING CIVIL SOCIETY IN THE IMPLEMENTATION OF UNCAC
THE CHANGING NATURE OF THE UN’S APPROACH TO DEALING WITH SECURITY CHALLENGES IN MALI

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Ekaterine Nikolaeva (Diplomatische Akademie Wien – Vienna School of International Studies)

1. Introduction

Mali is a landlocked country situated in West Africa with a tumultuous past.1 The country was under French colonial rule from the end of the 19th century until the proclamation of independence on 20 June 1960. The following decades were defined by one-party stability under President Moussa Traoré whose rule ended in 1991 after demonstrations and a military intervention. Democratic reforms rushed in a new era of democratic stability in 1992, but peace would not last. The north, long plagued by tensions and troubles with the Tuareg ethnic minority, broke out in open hostilities in 2006 with al-Qaeda embedding itself in the region shortly after.2 The situation came to a head when the military took control of the state and the Tuareg minority took over the northern part of the country in 2012. The Economic Community of West African States (ECOWAS) stepped in and brokered a deal to restore civilian rule of the country. In 2013, peace was negotiated between the Tuareg and the central government as well as the peaceful election of a new president, the former prime minister Ibrahim Boubacar Keïta.3

Meanwhile, the United Nations (UN) has had an active presence in Mali since the 1990s through various agencies such as the United Nations Office on Drugs and Crime (UNODC) and United Nations Development Programme (UNDP). They have worked on everything from education to terrorism prevention to assist the country in its development. The prompt for this paper comes from the juxtaposition and apparent paradox of these two aspects, the active presence of the UN and the tumultuous history of Mali, especially in light of the recent terrorism crisis.

In other words, “How have the practice and the focus of the UN agencies and the Member States active in dealing with security challenges in Mali evolved during their involvement before, during, and after the most recent crisis?” Our core focus lies on the UNODC.

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2 Ibid.
3 Ibid.
In terms of structure, the first part of this paper establishes the methodological approach used. The second part contains the quantitative study describing shifts in the UN approaches to security and societal development in Mali. The third part focuses on the involvement of the UN in the country, the related mandates, the initiatives and agencies that have been shaping it, as well as the particular activities that form the cornerstones of agency operations in the countries. Finally, in the last part, the authors present and discuss the findings and conclusions and juxtapose them with interviews of actors on the ground in Mali.

2. Methodology

Mali has the somewhat dubious reputation of being a relatively well-functioning state which has also fallen victim to sustained terror. As such, the case of Mali offers a wealth of valuable qualitative and quantitative insights about when a potential shift from soft issues to hard issues started, how the shift developed and to what extent it will continue. We therefore intend to conduct an explorative and inductive research project to take advantage of the data available while being as unprejudiced as possible in our approach to the subject.

Such an approach and such a trove of data also presents its own set of problems, mainly how to analyze it in a disciplined and rigorous manner while focusing on the relevant parts. Our approach has thus been a three-step process starting with a content analysis, followed by a careful reading of key documents, and finally evaluating the results with interviews of actors on the ground.

In the first step, we start out by quantitatively analyzing reports, mandates, plans etc. to discern whether the UN and its agencies have indeed moved towards a focus on harder issues – and in exactly which areas this shift can be discerned. We use advanced content analysis to make a systematic and quantitative tabulation of the documents pertaining to the work of the UNODC in Mali. In the words of Stewart and Grimmer, we seek to make an unsupervised ideological scaling to discern whether there has been a shift in the rhetoric and what that shift has been. In this manner, we are able to take a “systematic and objective
approach to measurement” and thereby avoid pitfalls of subjectivity and human bias. The second step is then seeking to gain a deeper understanding of the quantitative analysis by engaging qualitatively with documents reflecting the UN engagement in Mali and in the Sahel region as a whole.

In the third step we finalize the transition from quantitative to qualitative by conducting open and semi-structured interviews with several experts working on the ground in Mali. These interviews allow for an expert’s perspective on our findings and give us the chance to answer the second part of the research question regarding how the activities are being implemented. In this way, we are able to compare our findings from the documents to the experience of working on the ground.

3. Quantitative Analysis: Detecting Shifts in the Data

For the quantitative content analysis we make use of the computer program Wordfish which relies on word frequencies to analyze documents. The software enables us to tease out the weightiest words in a given body of texts and to identify which words have changed usage. It allows for the analysis of a document’s approach to subjects predefined by the researchers. For a detailed insight, including an explanation of the math involved, please see Slapin & Proksch, 2008⁴ and Slapin & Proksch, 2009⁵. It should be noted that the method relies heavily, in terms of confidence intervals, on the quality, volume, and diversity of the input data. While there is no formal cutoff, as Slapin and Proksch note, “more words reduce the uncertainty surrounding the estimates.” We will be addressing this and other complications in the following sections. Finally, the structure of this chapter closely follows the structure proposed by the authors when using the program.

During our research on the UNODC, we found two useful sources of data: reports and news releases. Upon closer inspection, we decided to focus on the news releases since they were collected in a central database, which ensured that we had all news releases by the UNODC. The reports, while voluminous in terms of words, were scattered across many web pages, thereby preventing certainty as to whether we had found all published information. This choice did prove to come with certain disadvantages. The press releases specifically concerned with Mali were few and far between, forcing us to widen our selection to “West Africa.”

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With this wider selection, we ended up with 15 press releases, covering a period from 2004-2016. According to our analysis, this left us with exactly 1588 unique words, which per Slapin and Proksch leads to a lowered confidence interval for the assessment of the positions of the texts. Furthermore, we decided that it would be necessary to keep a low threshold for word usage to maximize diversity, yet this decision quite clearly also impacts the analysis in a negative fashion. However, since this report is an exploratory study on a subject, the UNODC, where the vocabulary and the dimension are not very well defined, we were always less interested in figuring out the exact movement in statistical terms. Rather we were interested in getting an appreciation of the kind of approaches and practices employed on a conceptual basis and revealed in the choice of words. This initial statistical analysis thus served rather as a guide for the proceeding steps than as an authoritative conclusion – we are convinced the latter simply cannot be supported by our limited source. Finally, we processed the texts in accordance with established practice, for example stemming words to capture essentially similar words as one.

**Results – from “Children” to “MINUSMA”**

Since we have explicitly decided not to consider the positional results of the analysis, we will proceed directly to the word findings. Figure 1 below is a graph plotting the fixed effects against the word weights. Doubling as a robustness check, it shows the words which distinguish between the sources. Words with low scores on fixed effects and weights are associated with and relevant for the documents closer to the first press release from 2004, while low scores on fixed effects but high scores on weights are the same for press releases closer to 2016. We call these two sides the ‘early’ and ‘late’ periods. Meanwhile, words towards the middle of the graph are frequently used throughout the time analyzed. A few words have been highlighted and we can identify some interesting patterns. First, words closely associated with the core mission of the UNODC, e.g. ‘crime’ and ‘terrorism’ not to mention ‘UNODC’, are found towards the middle of the graph. Our model thus manages to capture what is essential to the organization throughout the period. Second, we find the early period focused on the different ‘victims’, whether ‘children’ or ‘girls’. Third, the late period, with the sources obviously reacting to the crisis in Mali, revolves around ‘MINUSMA.’ Figure 2 shows more examples of this schism between the periods with the top 10 words for both sides. Apparent in this table is also the fact that words for the late period can also be associated with a focus on the process and cooperation as

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suggested by words such as ‘alongside’ (referring to a joint visit of the heads of the UNODC and the Department of Peacekeeping Operations) and ‘Japan’ (referring to an action plan for Africa between the UNODC and Japan). A word of caution should be mentioned. The words in the early period are heavily influenced by a single press release from 2007 regarding the trafficking of children which goes into the details about their ill-treatment. These findings are thus not authoritative, but do suggest a change in focus from the victims to the topics of process, cooperation, and the crisis in Mali.

![Figure 1. Words Distribution](image)

<table>
<thead>
<tr>
<th>Early Period</th>
<th>Late Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>children</td>
<td>Malian</td>
</tr>
<tr>
<td>victims</td>
<td>mission</td>
</tr>
</tbody>
</table>
Figure 2. Top 10 words associated with early and late periods (2004-2012, and after 2012)

<table>
<thead>
<tr>
<th>word</th>
<th>child</th>
<th>forced</th>
<th>armed</th>
<th>caught</th>
<th>cote</th>
<th>doing</th>
<th>girls</th>
<th>November</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minusma</td>
<td>alongside</td>
<td>end</td>
<td>regional</td>
<td>minister</td>
<td>Japan</td>
<td>approach</td>
<td>countering</td>
</tr>
</tbody>
</table>

4. The nature of the UN Involvement in Mali: from development to maintenance of security

When analyzing the nature of the UN involvement in Mali, one has to understand how it was initially designed, and how it has evolved over time. From the conceptual point of view, such analysis also reflects the overall shift in the UN approach to dealing with crisis situations. The focus of the UN missions and programs has arguably been increasingly informed by the need to respond to the so-called “hard power” issues, rather than by the need to promote development per se. In other words, one can witness convergence of the soft and hard power approaches. In the case of Mali, we can also witness the evolving securitization of economic and social issues.

In this section, several UN initiatives are covered in order to illustrate, how the organization has been approaching both development and security issues in Mali, starting with 1992. The aim lies with analyzing scale, focus and nature of various UN activities in the field. Thus, we may speak about large-scale reform projects in the development sector under

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the auspices of the United Nations Development Programme, as well as past and ongoing efforts by the United Nations Office on Drugs and Crime (UNODC) that aim at tackling both social and security problems in the country. At the same time, the rapid deterioration of the security environment in 2012 has to be taken into account, because it reflects both the deeply rooted societal problems, as well as more recent security challenges, and marks the change in the UN approach to dealing with soft and hard power issues in Mali. The following table graphically illustrates what kind of initiatives can be labelled as “soft” and “hard” in this research:

<table>
<thead>
<tr>
<th>“Soft” power initiatives</th>
<th>“Hard” power initiatives</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1990s:</strong> UNDP Country Cooperation Framework, and United Nations Population Fund (UNPFA, National population policy), United Nations Educational Scientific and Cultural Organization (UNESCO - research on adult literacy rates, structuring of the national education plan)</td>
<td><strong>2003:</strong> UN Counter-Terrorism Team established its presence (work with governments, as well as with the law enforcement units)</td>
</tr>
<tr>
<td><strong>1990–2000s:</strong> UNODC (trainings for criminal justice practitioners, work with civil society in order to combat crime and trafficking of human beings and drugs)</td>
<td><strong>2012-2013:</strong> United Nations Office in Mali (UNOM) closed, and United Nations Multidimensional Integrated stabilization Mission in Mali (MINUSMA) begun to help maintain peace in the country</td>
</tr>
<tr>
<td><strong>After 2013:</strong> UNODC (work on training Malian criminal justice practitioners to investigate terrorism-related cases), and UNODC (work on gender-related issues, women’s involvement in terrorism prevention in Mali)</td>
<td><strong>2014-2016:</strong> Work of the UNODC, MINUSMA, United Nations Police (UNPOL) to train police officers to seize terrorists</td>
</tr>
</tbody>
</table>
4.1. Background: UN development initiatives in Mali after the 1992 elections

After gaining independence from France in 1960, Mali suffered droughts, political upheavals, a coup, and 23 years of one-party rule until democratic elections were held in 1992. This land-locked West African country is one of the poorest in the world, with an adult literacy rate of around 38%, and a low human development index throughout the last decade. It is only in the 1990s that the country started to experience relative economic growth, while agriculture remained its main economic sector.

Mali was one of the 18 countries selected for the United Nations Development Assistance Framework (UNDAF) pilot project for 1998-2002. The introduction of a democratic process in 1991 and the end of the Tuareg insurgency in 1996 provided the political conditions for the United National Development Programme (UNDP) and the United Nations Population Fund (UNFPA) to intervene in areas such as development of local government structures, and civil society engagement. Nonetheless, economic, cultural, and social differences between the north and south of the country were obvious, and demanded thorough analysis of each situation and the continuous adaptation of the UN strategies.

The establishment of the UNDP intervention areas was based on numerous meetings with state officials, representatives of the UN funds and specialized agencies, local non-governmental organizations (NGOs) and the World Bank, as well as on project monitoring missions. In cooperation with Mali’s government and other partners, including civil society, UNDP has been focusing on two main areas of the first Country Cooperation Framework (CCF): good governance and poverty reduction. Interventions mostly took the form of upstream activities, such as capacity building and policy dialogue, aimed at strengthening of the

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institutions. There were also a few direct interventions on a downstream level, which were carried out as pilot projects.

With regard to the poverty reduction initiative, the UNDP helped the government to formulate its national poverty-reduction strategy (SNLP), which served as the framework and foundation for the UNDP’s endeavor in fighting poverty in Mali. For example, with the guidance of the UNDP, the National Observatory for Human Development and Poverty Reduction was established. The Observatory was designed to undertake studies on matters related to human development, including poverty eradication. It followed the implementation of the SNLP and facilitated interactions between the government, international partners, and civil society. Another example of activities related to poverty reduction has been the work of the UNDP, together with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Bank, as well as with the government, aimed at designing the national 10-year education plan.

In terms of promotion of good governance, the UNDP has been actively involved in policy formulation, human resource development and the strengthening of institutions. The UNDP has been engaged in close dialogue with the government of Mali on policy development, which has contributed to the government’s high degree of participation in enhancing good governance practices. An example of the UNDP’s activities has been the early initiative on decentralization as the central pillar of political reform in Mali. Although debates on the rightfulness of the decentralization processes continue, and the criticism of democratization models is still widespread, democracy remains essential for a long-term settlement of the crisis in Mali, and the existing experience may be of use in the ongoing endeavor to improve the situation in the country. These initiatives illustrate the upstream approach of the UN, based on continuous communication with governmental bodies, and with other institutions in the field. The main aim of such activities has been the establishment of the framework and structure of future reforms.

As for downstream activities, at that time, the UNDP played a demonstrative role, as to indicate how to strengthen links between

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15 Ibid.
policies and the country’s reality. Pilot projects focused on raising labor productivity in the poorest areas, increasing employment opportunities, and on improving living conditions. Some projects also promoted the status of women, as to improve their working conditions and increase their income in rural areas. Importantly, gender equality and participation of women in Mali’s economy and politics have been repeatedly emphasized in the projects and studies under the auspices of the UNDP and other development partners. The issue of women’s inclusion also remains an important aspect of development in the current security context in Mali. Past activities of the UNDP aimed at reintegrating rebels into mainstream society, and at promoting dialogue in the northern region after 1995 have also been remarkable.

In order to understand how the UN has structured its presence in Mali, one also has to address the work of a crucial UN agency, especially, in the field of security and threat prevention – namely, the UNODC. The UNODC has been present in Mali since the early 1990s, and has been dealing predominantly with issues pertaining to societal development – prevention of trafficking in persons and drugs, preventive measures to reduce crime, and promotion of the role of civil society. It was only after the year 2000 that the UNODC started to address terrorism in Mali, in particular. In 2003, a Counter-Terrorism Team was established to develop strategies and measures for combating terrorism in the region (over 20 countries, including Mali). Since then, one of the principal tasks of the UNODC in the region has been to work with local criminal justice practitioners and the government, in order to help them combat terrorism while abiding by numerous international norms and standards, including that of the respect for human rights.

Thus, we can see that UN initiatives in Mali have been of broad nature, covering soft and hard issues, while promoting development. However, the UN has been facing challenges in implementing its development policies in Mali: the need to coordinate various programs and agencies (UNDP, UNESCO, UNODC), as well as to cooperate with other partners (NGOs, and the government); the need to better plan finances and administrative activities; and a very relevant aspect – the need to develop rapid-response capabilities for crisis situations.

4.2. New stage of the conflict in Mali: a challenge to the UN crisis response capabilities

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19 Series of interviews with UNODC programme officers in Senegal and Mali, Vienna, September-December 2016.
Despite international stabilization efforts, Mali has recently been yet again confronted by a profound crisis with serious consequences in the security, political, socio-economic, and human rights spheres. In broader terms, the crisis stems from such structural conditions as weak state institutions, lack of social cohesion, deeply rooted feeling of neglect among communities in the North, and a weak, externally dependent civil society. Economic and environmental factors have also played a role in the conflict escalation. In addition, more recent factors have exacerbated the situation: instability in the region, corruption within the country, nepotism and power abuse, as well as the worsening of the capacity of the national army. The international community and Mali’s government now has to deal with enhanced security threats, stemming from well-established networks of armed terrorist organizations in the region. This became obvious in 2013, when the security situation in the country suffered serious deterioration.

In such conditions, security concerns started to become an inseparable part of long-term development initiatives by the UN and other development institutions in Mali. A rapid response has been required in order to confront militant groups and support the government. As several cases in recent conflict resolution history have revealed, rapid response capabilities can be considered a weak point of the contemporary international community when it comes to dealing with local conflicts. Lack of necessary capacities is one of the reasons as the conflict situation in a country may evolve before a mission is formed.

It is obvious that a long political process precedes any decision to establish an international mission, but an equally important aspect is the actual ability to maintain such missions over time. In the case of Mali, the national army was not ready for the rapidly spreading warfare from the north of the country. The initial intervention was planned at the regional level, with ECOWAS and the African Union (AU) providing forces to counter the militants. In January 2013, France initiated Operation Serval and undertook efforts to involve the broader international community into tackling the Mali crisis.

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21 Ibid.
23 Ibid.
Despite the African and French involvement, serious security challenges remained, including terrorist attacks and continuing military operations.\textsuperscript{25} It is important to understand that even after regaining territorial control, many security risks will continue to plague the country – such as terrorist activities, drug smuggling, and weapon proliferation.\textsuperscript{26} The understanding that these factors will continue to undermine development and governance in Mali has become essential in designing UN strategies for the foreseeable future.

The UN itself became involved in the Mali crisis in April 2013, when the Security Council authorized the establishment of the Multidimensional Integrated Stabilization Mission in Mali (MINUSMA). The mission has been carrying out some tasks traditionally applicable to the UN peacekeeping operations of the latest generation: supporting the political process, carrying out security-related stabilization tasks while focusing on major population centers and lines of communications, as well as protecting civilians, monitoring the human rights situation, the provision of humanitarian aid, the return of refugees and internally displaced persons (IDPs), and the preparation of free and inclusive elections.\textsuperscript{27} For these purposes, the UNDP has adopted a road map for transition in 2013. The document highlights two main goals: restoration of territorial integrity and conduct of free and fair elections. In addition, it also provides a plan for the restoration of the armed forces and the dialogue with the organizations working on preventing terrorism.\textsuperscript{28}

Since 2013, the main efforts of the UN, represented by MINUSMA, were aimed at enabling the transition of the country to a peaceful existence. This has been reflected in the establishment of the National Committee for Dialogue and Reconciliation, and the provision of good offices aimed at facilitating contacts between the government and armed groups. The UN has been monitoring the human rights situation, in particular, serious violations in northern Mali, including collective executions, illegal arrests, and destruction of property.\textsuperscript{29} Although, on average, arbitrary


\textsuperscript{29} ‘The first public report on the human rights situation in Mali’, \textit{The United Nations Multidimensional Integrated Stabilization Mission in Mali}, 20 March 2015,
acts of violence against Arabs and Tuaregs decreased, there has been retaliation against some representatives of these communities who are, allegedly, associated with the armed groups. Another worrisome factor in the human rights reports included retaliatory attacks based on ethnicity.\textsuperscript{30}

In recent years, the UN’s approach to crisis management in Mali can be characterized as an interplay between political and security priorities. A dialogue had to be re-established between various entities in Mali, including the government and armed groups. The UNOM head, David Gressly, had been actively meeting representatives of various communities, such as Timbuktu and Gao.\textsuperscript{31} Although peacekeeping remained an important task of MINUSMA, the crisis was approached primarily as an issue of political and governmental concern. Initially, MINUSMA adopted a ‘lighter footprint approach’, which implied that the part of the mandate regarding “protection of civilians” should focus on supporting political processes and working with national institutions to ensure a secure environment for the population.\textsuperscript{32} However, with time, the UN expanded the mandate of MINUSMA, calling on the mission to extend its presence through long-range patrols, especially in higher risk areas.\textsuperscript{33} Such measures had to do with the ongoing attacks against the civilian population of Mali and against members of the UN mission itself.

To summarize the current priorities of the UN in Mali, one has to take into account the rapid evolution of the conflict and the growing importance of the armed Islamist groups in the region. Thus, a primary goal by the UN was to stabilize the post-conflict situation and provide opportunities to the conflicting parties to negotiate and reach an agreement. The result of this process has been the establishment of the Agreement on Peace and Reconciliation in Mali. Although, political reconciliation was the original goal, in the recent report, the UN officials have affirmed that no lasting peace and stability can be reached without “the deployment of police, justice and correction institutions to protect


the population and ensure the rule of law”. This approach was reflected in the recent project financed by UNDP and Japan in Mali – the initiative aims at strengthening the capacities of the National Police Academy, and supporting the Malian police in delivering its functions of law enforcement and human rights protection. As it stems from the latest Security Council report on the situation in Mali, there is still a need for the elaboration of national security sector reforms, as well as strategies of disarmament, demobilization and reintegration. A core task of MINUSMA in this process is to provide the Malian government with the necessary assistance to redeploy its security and defense forces. The failure to provide tangible security dividends to the population will most likely result in further escalation of violence and vulnerability of civilians, especially, in the northern and central regions of Mali. Security concerns also include the situation with criminal activities within the Malian communities and the inter-communal violence (for instance, in the Mopti and Segou regions).

5. UNODC in Mali: converging the UN approaches to security and structural societal issues

As the evolving situation in Mali suggests, there is still a pressing need for reforms in practically all sectors of the society. However, such reforms can be easily undermined by the growing instability in the region, and by militant groups, which tend to recruit and fund new members from the least developed communities. This phenomenon has been addressed by the international community, and is accounted for in the United Nations Global Counter-Terrorism Strategy (2006). Pillars I and IV of the Strategy, specifically address “conditions conducive to terrorism” and “ensuring of

human rights and the rule of law”. Thus, the UN prioritizes efforts in different directions: from building state capacities to prevent terrorism, to promoting education, inter-religious, and intra-communal dialogue. From the conceptual point of view, we may speak of the so-called securitization of development issues. This is, in fact, in tune with the global perspective: the newly established Sustainable Development Goals (SDGs) include peace and security as part of the global development agenda. Therefore, there is an overall convergence of the UN approaches to security and development issues.

As mentioned in previous sections, UNODC has been active in addressing both practical security-related problems, and structural issues in the Malian society. The UNODC presence in Mali has gone through different stages. Before the coup of 2012, UNODC had a defined action plan to work with Mali’s government and address institutional and security problems within the country. In the period of 2010-2012, however, the Office did not have any direct contacts with government representatives, but performed its main functions through an appointed national coordinator. After partially re-establishing its presence in Mali in 2014, UNODC did not initiate a new agreement with Mali’s government per se, however, it had to operate in a new environment with more than one hundred partners. Moreover, several previous projects related to justice, law enforcement, and capacity building were interrupted by the conflict and Mali had to be viewed through regional lenses – considering the scale of transnational crime and terrorism in the Sahel region. This approach is also reflected in the recent UN Integrated Strategy for the Sahel region, with the main objective to “strengthen the capacity of governments in the Sahel region to combat drug trafficking, illicit trafficking, organized crime, terrorism and corruption, and to enhance the accessibility, efficiency, and accountability of criminal justice systems.” The Sahel Programme, integrated in the Strategy, runs from 2013 to 2017. In the period between January 2014 and November 2015, 47 initiatives were implemented under the auspices of the UNODC in Mali alone. Within this initiative,

40 Securitization of the development issues in Mali has refers to the importance of maintaining security in order to achieve development goals. This term is used based on the opinion of the expert interviewees in this research paper.
42 Series of interviews with UN programme officers in Senegal and Mali, Vienna, September–December 2016.
the UNODC has been cooperating with MINUSMA, and they have jointly trained more than 660 law enforcement officers. The main efforts of this initiative focus on protracting drug trafficking and related organized crime, and creating a viable link between the enforcement efforts in these fields, including seizures on the one hand, and criminal justice on the other.

As reflected in our quantitative analysis, terrorism and violent extremism have become some of the most urgent issues on the agenda of the UNODC in Mali lately. While there are many ways of addressing terrorism, the UNODC’s mandate and accumulated experience have been defining the direction of its efforts. The Office works primarily with law enforcement agencies, criminal justice structures and the government. However, this does not exclude cooperation with the civil society, including NGOs. The measures provided by the UNODC help not only combat the already existing terrorist groups, but also identify new threats and improve surveillance practices. Thus, while providing technical assistance, the UNODC remains active in the social and economic realms of the UN’s work. For instance, the UNODC has been working on triggering an attitude and social change in terms of efforts related to combating gender-based violence. In this regard, the UNODC has been conducting trainings for personnel working with women on the ground (e.g., judges and prosecutors, law enforcement units). While this may be viewed as a security issue, since it involves the well-being of roughly half of the population, as well as action against crime, the training itself represents an initiative pursuing the route towards gender equality, which is generally perceived as a “soft” issue. In terms of terrorism prevention, such initiatives pursue two main goals: 1) to ensure gender-mainstreaming in communities and criminal justice agencies, and 2) to strengthen the role of women in deterring recruitment of terrorists within communities, as well as in detecting emerging terrorism threats. In this manner, both, conditions conducive to terrorism and gender equality, are addressed. As a current Programme Officer of the UNODC Office in Senegal described the approach of the UNODC, the Office does not try to decide whether to pursue a hard or soft strategy in each case, but rather intends to act upon initiatives that are most effective on the ground. This explains, to a great extent, the convergence of soft and hard power.

46 Series of interviews with UN programme officers in Senegal and Mali, Vienna, September-December 2016.
47 Series of interviews with UN programme officers in Senegal and Mali, Vienna, September-December 2016.
48 Series of interviews with UN programme officers in Senegal and Mali, Vienna, September-December 2016.
approaches within the UN bodies, and within the UNODC in particular. After the escalation of the most recent crisis and the coup of 2012, the Office could not increase its presence in the country. On the contrary, for security concerns, it had to close the office, and currently has only one coordinator on the ground. Nevertheless, the work is carried out on the regional level, with UNODC experts coming to the country for different trainings and workshops and with the purpose of assessing the assistance needs on the ground. Moreover, the UNODC also reaches out to other actors in the field of security in order to cope with existing security threats in the most efficient way. Prominent partners in combating crime in Mali are, for instance, the UN department of Peacekeeping Operations (DPKO) and UNPOL. Here, the cooperation is directed at the training of personnel tasked with combating organized crime and drug-related activities. From this perspective, prevention, punishment, and repression of terrorism remain on the agenda, however, with secondary attention.\footnote{UNODC and DPKO collaborate to strengthen law enforcement in Mali’, UNODC, https://www.unodc.org/westandcentralafrica/en/mali---unodc---dpko-partnership.html.} This model of work will continue to be instrumental for the UNODC in Mali; the Office intends to continue cooperation with other partners and “fill in the gaps” in terms of providing responses to terrorism, crime, and development problems. However, more thorough evaluation and assessment will be needed in order to understand the impact of the UNODC’s work on all levels. This is linked to the conduct of research aimed at understanding problems on the local level (geographic regions with the most vulnerable population groups, gender roles in communities, relations between different communities, etc.). Recent UN initiatives, such as the Integrated Assistance for Countering Terrorism (I-ACT) and Counter-Terrorist Implementation Task Force (CTITF) are designed to help evaluate and coordinate the whole process of addressing terrorism and broader security concerns in the country.

6. Conclusion

In the paper, we intended to document whether there has been a shift in the UN’s approach to dealing with security challenges in Mali. Our rationale was based on the existence of multiple UN programs in the country over time, and on the changing security environment in Mali, and in the Sahel region as a whole.

In the first part, the quantitative content analysis revealed a shift in the wording used by the UNODC. Indeed, due to internal and external security threats, the emphasis of the UNODC work in Mali has been modified since 2012. When looking at objective factors (the coup of 2012, escalation of the conflict), this shift is understandable, and fits well into
the context. However, our main goal was to analyze further and detect what the UN initiatives in the country were, and what internal UN rationale governed these initiatives.

In the qualitative part of the research, we addressed various UN activities in Mali from development to police trainings. It is also important, that in early 2000s, the issue of terrorism gained special significance in the context of Mali and the Sahel region. This security threat began to shape further responses by the UN and other international actors. Societal development became impossible without structural measures to combat terrorism and eliminate conditions conducive to terrorism – from a conceptual point of view, this led to the so called securitization of development issues in Mali. This view was emphasized by several UNODC experts on the ground in Mali and Senegal. Thus, we argue about the convergence of the UN’s soft and hard power approaches in the country after 2012. In fact, there is no clear decisive line as to what issues pertain exclusively to development and social welfare, and what problems relate solely to security. A great example of this has been the UN initiative working with women in Mali’s communities. Whereas this initiative contributes to personal security of roughly half of the country’s population, it also shows a way to promote gender-equality and reduce the risk of vulnerable groups joining terrorist organizations. In addition to that, agencies such as UNODC continue to perform tasks that strictly pertain to their mandates, in order to remain efficient in the field with hundreds of other development organizations.

The quantitative content analysis and the qualitative analysis, including interviews, have been instrumental in revealing the convergence of the UN’s approaches to dealing with security threats and structural societal reforms in the case of Mali. However, we do not ascribe any value to the shift in data, since our main purpose lies in documenting and explaining it. In order to systematically analyze reasons and processes behind the convergence of soft and hard power approaches, it would be necessary to further expand the scale of the research, and continue the analysis to ongoing UN initiatives in the region.

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Corruption is worse than prostitution. The latter might endanger the morals of an individual; the former invariably endangers the morals of the entire country.
Karl Kraus

Abstract

At first glance, the implementation of the United Nations Convention against Corruption (UNCAC) by Armenia has been relatively successful. According to the country review report, Armenia has taken the very first steps to harmonize domestic legislation in compliance with the provisions of the UNCAC. However, Armenia has not adopted many of the legislative and other measures mentioned in the UNCAC which are essential for successful prevention of and fight against corruption. Further, as the Armenian anti-corruption agenda is characterized by poor legal framework, the application of legislative measures and rules is of particular importance in order to strengthen the legal and regulatory regimes to fight against corruption. The lack of political will to combat corruption is another important obstacle to overcome. These issues have been raised quite often, especially by civil society organizations (CSOs). This research project explores the extent and effect of corruption in Armenia, and through the analysis of different documents and interviews it develops recommendations for Armenia’s enforcement of the following articles of the UNCAC: Article 6, Article 20, Article 26 and Article 33. It also offers some recommendations on how to make civil society’s engagement in the fight against corruption more active. In general, all recommendations are foreseen to make the implementation of the UNCAC more successful in order to have tangible results in the fight against corruption. In the latter case, this paper emphasizes the role of civil society in anti-corruption efforts, in particular, non-governmental organizations (NGOs). Recommendations have been developed based on literature research, reports by NGOs, a country review report of Armenia and interview results.

Keywords

UNCAC, Corruption, Fight against Corruption, Civil Society, CSOs, NGOs, Review-Mechanism, Country Review Report, Armenia
1. Introduction

UNCAC describes corruption as an ‘insidious plague’ which hinders the economic development of countries, undermines democracy, hinders prosperity and poses other threats to human security.¹ According to the UNCAC, corruption can be found in every country; however, in developing countries it has destructive effects. It still remains a challenging problem for post-communist countries undergoing socio-political transition processes.² In post-Soviet countries some forms of corruption can be considered as a carryover from the communist era, some are culturally indigenous, and others are a product of poverty and poor pay or lax rules and enforcement.³

Following the collapse of the Soviet Union (SU), the socio-political vacuum and disorderliness allowed for lawlessness and an increase in crime and corruption in the post-Soviet space.⁴ According to many scholars and experts in the field, after the dissolution of the SU “the transition process, thus, formed the initial setting for an unprecedented rise in corruption in most of the post-Soviet region”.⁵ Armenia is one of post-Soviet developing countries undergoing the socio-political transition processes. Corruption is not a new phenomenon in Armenia and it is largely widespread. As reported by the United Nations Development Programme (UNDP), the extensive scale of corruption in Armenia is a serious challenge to its further development.⁶ Different manifestations of corruption pervading all levels of society⁷ make it difficult to achieve high development in the country. In 2015, according to the Transparency International Corruption Perception Index (CPI), Armenia was ranked 95th out of 167

⁴ Martirosyan, A ‘Institutional Sources Of Corruption in the Case of Armenia: is it Rules, Blood And Culture, Or Punishment?’ (This grant project was implemented within the framework of a CRRC–MAAC fellowship – the Exploratory Research Based on the 2008 Armenia Corruption Household Survey) (2009) 3.
⁵ Ibid.
⁶ ‘Strengthening Cooperation between the National Assembly, Civil Society and the Media in the Fight against Corruption’, Speech by Ms. Consuelo Vidal, (UN RC / UNDP RR), April 6, 2006.
countries with a score of 35, which was down by two scores from the previous year.\footnote{Corruption Perceptions Index 2015 (Transparency International: The Global Anti-Corruption Coalition website), http://www.transparency.org/cpi2015/results, accessed 29 August 2016.}

Although Armenia has taken the very first steps in aligning its domestic legislation with the provisions of the UNCAC, the studies indicate that there are still gaps to overcome for successful implementation of the UNCAC. The purpose of this research paper is to explore the extent and effect of corruption in Armenia, reflect on the implementation of the UNCAC, reveal existing gaps, and develop recommendations for Armenia’s enforcement of some articles of the convention and for how to engage civil society in the fight against corruption more active.

Our choice of Armenia as the case study country has been made based on several factors. First, as already mentioned above, corruption still remains one of the main problems impeding good governance in Armenia. Second, as Benjamin Olken (2011)\footnote{Olken, B and Pande, R ‘Corruption in Developing Countries’ (2011), 2 (1-49). This paper was originally written as part of the Abdul Latif Jameel Poverty Action Lab’s Governance Initiative, which is funded by Department of International Development, the Hewlett Foundation, and an anonymous donor.} states corruption is high and costly in developing countries. Indeed if one looks at the CPI for 2015\footnote{Corruption Perceptions Index 2015 (Transparency International: The Global Anti-Corruption Coalition website), http://www.transparency.org/cpi2015/results, accessed 29 August 2016.} \(s/he\) can see that countries with higher levels of corruption are developing ones and many of them have been under socialist rule. Thus, it has been assumed that recommendations developed in the Armenian context could be applicable, with possible amendments, to some countries which are going through the same socio-political transition, especially in terms of post-Soviet region (excluding the Baltic States).\footnote{Please note that due to time and scope constraints of the research project this paper does not test this assumption, instead it suggests that the recommendations developed for Armenia could be applicable to those developing countries which go through the same socio-political process and are characterized by the same forms of corruption. This paper could be followed up by further research in order to test this assumption and name a country or counties which these recommendations could be applicable to.} This professional interest has been merged with personal ones since the students involved in this research project come from the post-Soviet region and as the author comes from Armenia. These connections to the region have contributed to the project by facilitating the collection of empirical data through interviews conducted in Armenia.
2. Methodology and Description of Sources

The methodological base of this project is qualitative, covering literature review and interviews. Information was collected from both primary and secondary sources. Of special importance for this project have been the following documents: UNCAC, Report on the Implementation of selected articles of [...] UNCAC in Armenia: 2014-15; Country Review Report of Armenia, and several online articles and reports developed by different CSOs.12

Regarding the method of interview, it is partly characterized by open-ended strategy of data collection which according to Robert Elliott and Ladislav Timulak (2005) “means that inquiry is flexible and carefully adapted to the problem at hand and to the individual informant’s particular experiences and abilities to communicate those experiences, making each interview unique.” 13 Semi-structured interviews are characterized by flexibility and the primary advantage of allowing not only for elaboration on detailed information, but also for some discoveries which the research team has not thought about previously.14 For these reasons, the semi-structured type of interview was chosen as the most relevant one for this research project. This approach also allows for adding or reformulating of some questions, or even dropping questions if the answer has already been provided by the interviewee. The questions have been framed in such a way as to encourage the explanation of the answers to the questions with as much information as it was possible. In general, interviewing has been thought of as one of the most appropriate ways to get first-hand information on issue from experts actively involved in the field. The answers obtained during the interviews and findings elaborated upon from the literature research gradually contributed to a better understanding of the issues at the core of this project and to obtaining some practical hints for solutions to the identified problems, and all this formed the basis for our recommendations developed at the end of this research project.

2.1. Choice of NGOs for Interviewing

The choice of the NGOs was determined first by their active involvement in the fight against corruption in Armenia, and second by their engagement in the preparation of the report on the implementation of selected articles of the International Covenant on Civil and Political

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12 All used online sources are indicated in the bibliography.
13 Elliott, R and Timulak, L 'Descriptive and Interpretive Approaches to Qualitative Research', A Handbook Of Research Methods For Clinical And Health Psychology (1st edn, 2005) 150.
Rights (ICCPR) and the UNCAC in Armenia between 2014-2015. In total, five NGOs were requested to fill in the questionnaire or give an interview.\(^\text{15}\) However, only two of them were responsive to our request and instead of filling in questionnaires, they gave interviews. These NGOs are the Transparency International Anticorruption Center in Armenia, which in order to achieve tangible results in the fight against corruption has defined its long term goal as “empowering citizens to fight for corruption free Armenia”\(^\text{16}\), and Open Society Foundations-Armenia which is also actively involved in the anti-corruption fight.\(^\text{17}\) It is worth mentioning that one of the interviewees is a recognized anti-corruption expert.

2.2. Research Ethics

The interviewees were informed about the context of the research and about the use of information that they would share. The interviewees\(^\text{18}\) gave their consent to be audio-recorded and for their interviews to be transcribed, but only one interviewee\(^\text{19}\) gave his consent to annex the transcript to the paper. The transcript of the other interview has been kept available only within the research team. One of the interviews, which was conducted in Armenian was transcribed directly into English. The resulting data comprises around 14 pages of interview transcripts. Thus, these transcripts have served as the primary sources of data for content analysis.

3. Defining Corruption

Firstly, the term corruption must be defined before proceeding to investigate its effect in Armenia. Secondly, as there are different types of corruption it must be established which ones are the most common in Armenia.

One can find numerous definitions of corruption proposed by known institutions, which try to capture the essence of a corrupt act. The World Bank defines a corrupt act as “offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the

\(^\text{15}\) Those NGOs were contacted via email.
\(^\text{16}\) For more information, please see ‘Mission and Goals’ (Transparency International Anticorruption Center website), http://transparency.am/en, accessed 7 August 2016.
\(^\text{18}\) The interviewees were Gayane Mamikonyan, a program coordinator for anti-corruption programs at Open Society Foundations-Armenia and Khachik Harutyunyan, an anti-corruption expert at Transparency International Anti-Corruption Center in Armenia.
\(^\text{19}\) Harutyunyan, K. Semi-Structured Interview, 15 October 2016, Yerevan, Armenia.
actions of another party.”20 Transparency International (TI), on the other hand, describes corruption in a more simplified way as “the abuse of entrusted power for private gain”21. In literature dealing with corruption, one can also find various interpretations of what constitutes a corrupt act: Kaufmann and Vicente, in their second draft on “legal corruption”, distinguish between legal and illegal types of corruption22, whereas Senior (2006) provides a detailed explanation saying that corruption is “an action to (a) secretly provide (b) a good or a service to a third party (c) so that he or she can influence certain actions which (d) benefit the corrupt, a third party, or both (e) in which the corrupt agent has authority”23. As to the classical definitions of corruption, the one by Colin Nye is worth mentioning here: “behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private gaining influence”24. This definition encompasses behaviors such as bribery (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses).

Nevertheless, there is no official and generally accepted definition of corruption, mainly due to reasons of legal and political nature.25 As a consequence, many governments and CSOs encounter difficulties since it is hard to fight against something which is not defined and accepted by all parties. In order to be consistent throughout the paper, from now on, the definition provided by TI will be used, supported by the fact that this organization is closely collaborating with the United Nations and other NGOs in the fight against corruption. This definition is both simple and sufficiently broad to cover most of the corruption that Armenia faces.

According to TI, when it comes to the scale of corruption, it can be classified as grand, petty and political. Factors which determine the

classification of corruption are (i) the amounts of money lost and the (ii) sector where corruption takes place. Grand corruption is described by TI as an act where leaders or people with high positions in a government use their power for private gain and therefore constitute harm to the public good. Petty corruption, on the contrary, is described as the misuse of power by public officials who are employed in institutions, which offer basic goods, services, and institutions to the public, such as hospitals, police, schools and others. Last but not least, political corruption concerns the “manipulation of policies, institutions and rules of procedure in the allocation of resources and finances by political decision makers”.

Regarding the different forms of corruption, the World Bank mentions bribery as one of the most significant and most common types.

3.1. Corruption in Armenia

The research reveals that corruption in Armenia is described as systemic, which according to Amundsen (1999) is typical of authoritarian and non-democratic regimes. Stefes (2008) notes that systemic endemic corruption has been a destructive legacy of Soviet rule for most successor states of the SU. The Freedom House Nations in Transit Civil Society score depicts Armenia as a semi-consolidated authoritarian regime, where the efforts to fight against widespread corruption remain superficial. According to Croissant and Merkel (2004), Armenia is an example of what scholars describe as a semi-democratic, illiberal or hybrid regime. In regards to the types of corruption typical of illiberal regimes, Amundsen (1999) argues that political corruption usually supported by petty corruption should be considered as one of the mechanisms of operation of authoritarian regimes. It serves as one of the mechanisms

for the authoritarian power-holders to enrich themselves. Furthermore, while discussing the level of corruption and its impact on weak and strong countries, Amundsen (1999) states that strong leaders usually exercise strong control over different forms of corruption and corruption is integrated into the overall control over the state apparatus. It accounts for its predictable and acceptable nature perceived by businesses and the general public. In the Armenian context, the political authority in the realm of the government can be qualified as strong. One of the reasons behind this is that as Payaslian (2011) notes; “upon independence from the SU in 1991, the president held extensive powers that at that time could have been counterbalanced neither by the parliament nor by the judiciary [...].” The strong control of the leadership over formal state structures has reinforced a centralized system of corruption (Stefes 2006). There are different factors which created favorable conditions for the government to impose control over the corrupt structures. First of all, unlike in many newly formed post-Soviet republics, Armenia experienced a smooth transition of power in the early 1990s which allowed Armenia’s political leaders to use corruption to consolidate firm control over the state apparatus. Thus, Stefes (2008) argues that the (re)emergence of a centralized system of corruption in Armenia has been facilitated by this smooth transition of power, called a “negotiated transition”. Further, Stefes (2008) identifies two considerations of systemic corruption: the extent to which it is (a) endemic and (b) institutionalized. Under conditions of systemic corruption, corrupt activities are perceived as the norm rather than the exception and they constitute a part of officials’ routines, and citizens are aware that bribes are crucial even for receiving something that they are legally entitled to.

Relating specifically to Armenia, research has shown that out of the different forms of corruption, the following types are common: petty and political. The latter is used here synonymously with grand or high-level corruption and refers to the misuse of entrusted power by political leaders. Petty corruption, encompassing bribery or kickbacks, is

39 It should be noted there are more factors which have contributed to the emergence of a centralized system of corruption which are not covered in this paper because of space constraints.
widespread throughout society\(^{42}\). The UN Human Rights Committee has expressed concern about allegations of persistent corruption throughout all branches of the government. \(^{43}\) According to Transparency International’s 2013 Global Corruption Barometer\(^{44}\), paying bribes is considered to be a norm among citizens in order to speed up the administrative procedures. Connected to state capture, Stefes (2008) shows how corruption in Armenia is entrenched in hierarchical patronage client networks that extend from top to lower level officials.\(^{45}\) Personal connections play a very important role and can make the difference between getting something done or not. Due to minimal turnover of staff in government institutions, having connections there can be very beneficial. A common way that oligopolists maintain their market power is through the phenomenon of “roofs” or krishas. These are government officials who might have indirect ownership of a business and can formally or informally protect companies that are required to interact with the agencies in which these officials work.

In Armenia the sectors most vulnerable to corruption include justice, police, public administration, etc. These are also the sectors the role of which in the fight against corruption is crucial. According to Svenssen (2005),\(^{46}\) the success of anticorruption activities largely depends on legal and financial institutions, judiciary, police, and financial auditors, which are of crucial importance in order to enforce and strengthen accountability in the public sectors. As to the role of the judiciary institution in the fight against corruption in Armenia, given the tight executive control of the Armenian government over the judiciary branch, the ability of the judiciary to function independently is highly questionable. As it is noted in the ICG Europe Report (2004), “there is a tactic agreement between the executive and the judges”\(^{47}\). This argument is complemented by Stefes (2006)\(^{48}\) who notes that the judiciary


institution should obey the political authority’s orders and in return the government will turn a blind eye on bribes and corruption. Further, according to the Article 95 of Chapter 1: The Foundations of Constitutional Order of the Constitution of the Republic of Armenia, the list of candidates of judges must be approved by the president. The police are often referred to as another important actor which can play a crucial role in combating corruption, but this institution is itself plagued by corruption. As Shahnazarian (2012) notes, “Armenia’s police system is penetrated by corruption and nepotism, which is tolerated by the government because the security organs are helpful in its struggle with the state’s political opposition. The heads of households and small and medium-sized enterprises consider the police and the general prosecutor’s office as the most corrupt of state institutions.”.

In its more than twenty years of independence, Armenia has been struggling to overcome issues of corruption and has been supported in its efforts by CSOs and foreign aid. For example, the United States Agency for International Development (USAID) has continuously supported civil society organizations in Armenia in fighting corruption, monitoring public service, denouncing bribery and raising awareness. It has also contributed to the implementation of international anti-corruption instruments such as the UNCAC.

At first glance, it seems that the Armenian government has become more open to dialogue with Armenian CSOs and is no longer opposed to the involvement of non-state actors. Still, the country struggles with external factors, like Russian influence in political decisions, and internal factors, like Armenia’s inability to come to terms with its Soviet legacy of corruption. Even more so, corruption is widely accepted as a status quo by the population: 39% agree to a great extent with the statement, “Do you agree that the citizens of Armenia consider corruption as a fact of life?”.

At the same time, residents of Armenia report that corruption is

one of the central problems in their country, with 57.8% citing corruption as one of five main issues in the country.\textsuperscript{55}

Interestingly, public perception of corruption also shows that the general public is accepting of engaging in corrupt behavior for the purpose of resolving a problem with a person in power. At the same time, individuals don’t realize the connection between their own corrupt behavior and the over-all national level of corruption. As the Armenian Policy Forum writes, “[…] individuals contribute to corruption even though they consider corruption to have a negative impact on society.”\textsuperscript{56} Ultimately, this also means that individuals don’t feel a responsibility to cease engaging in corrupt behavior and remain passive, making the fight against corruption ever more difficult. Therefore, perception of corruption is an essential element of any analysis and should be reviewed in order to develop a coherent strategy for fighting corruption.

\textbf{3.2. Civil Society in Armenia}

\textit{Corruption can be beaten if we work together. To stamp out the abuse of power, bribery and shed light on secret deals, citizens must together tell their governments they have had enough.}

José Ugaz, (Chair, Transparency International)

In general, civil society is understood as a sphere of social activities and organizations outside of the state, the market, and the private sphere which is based on principals of voluntarism, pluralism and tolerance (Anheier 2004; Diamond 1999; Salamanon, Sokolowski and List 2003)\textsuperscript{57}. As the World Bank\textsuperscript{58} acknowledges, there is no consensus regarding a universal definition of what civil society is because of differing conceptual paradigms, historic origins, and country contexts. However, for the purpose of this research it is important to introduce a specific understanding of this concept to guide the paper. The paper uses the definition of civil society adopted by the World Bank, according to which CSOs are “considered as important actors for delivery of social services and implementation of other development programs, as a complement to

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{55} Ibd:14.
\item \textsuperscript{57} Cited in Patranyan, Y and Gevorgyan, V (2014) Armenian Civil Society after Twenty Years of Transition: Still Post-Communist? 12.
\end{itemize}
\end{footnotesize}
government action, especially in regions where government presence is weak such as in post-conflict situations”. In this context CSOs and NGOs are used interchangeably. Furthermore, following discussions of the definitions of civil society by Paturyan (2009), the definition adopted for this paper can be developed further and complemented as: a sphere of social activity without the involvement of the state that has a normative character, seeks to involve citizens actively, and engages in advancing certain interests based on a set of legal standards. This definition resembles in its core that of Diamond (1999), but adds the normative aspect in order to reflect the fact that CSOs tend to focus their efforts on the progress towards a specific goal.

NGOs depend on public support and this is no different in the case of Armenia: NGOs perceived as unwilling and unable to fight corruption will not enjoy public support. Additionally, NGOs that have greater public support also have stronger ties to the general public. Therefore, before selecting interview partners, a general overview of the involvement of civil society in Armenia shall be provided.

Armenian civil society is considered as a typical case of “post-communist” civil society. The disintegration of the communist block was accompanied by a rapid development of CSOs or as Voicu and Voicu (2003) refer to it by “mushrooming of NGOs”. Initially, post-independence Armenian NGOs were created by political elites and their apparent influence was low. Therefore, the government’s relationship with civil society was rather ambivalent. Today, research suggests that the perception of NGOs is positive, albeit personal involvement is low. A contributing factor is the stalemate in development that Armenian NGOs have suffered since the 1990s. A lack of progress shows that NGOs are often less connected to the general public than they should be in order to work effectively. As for

59 Ibid.
the relationship with the government, Paturyan sums it up as follows, “The state prefers to ignore, rather than control or suppress, NGOs, thus providing them with a certain level of freedom but limiting their impact”. The biggest problem in Armenia is the lack of cooperation between civil society and the government. Additionally, poor coordination of information exchange between state bodies undermines monitoring efforts by civil society organizations. In terms of the business sector, it does not invest in the NGO development.

Despite these challenges, the research reveals that Armenian civil society is developing. Moreover, a new type of civil society has emerged in Armenia: “activists (mostly young, urban, and educated) brought together by online networking to participate in protests that gather public support and have impact on policymaking”. In regards to anti-corruption measures, the engagement of CSOs in fighting corruption, and increasing transparency and accountability is increasing. Among the most noteworthy NGOs are Transparency International Anticorruption Centre, HETQ Investigative Journalists NGO, Open Society Foundations-Armenia, etc.

4. UNCAC and Armenia

The United Nations Convention against Corruption (UNCAC) is a multilateral convention adopted by the UN to prevent and control corruption. It is the only legally binding international anti-corruption instrument. It was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The UNCAC covers five main areas: preventive

65 Ibid: 29.
68 For more information on different activities by Armenian civil society, please see ‘Armenia by Iskandaryan, A’ (Freedom House website), https://freedomhouse.org/sites/default/files/NiT2016%20Armenia.pdf, accessed 5 December 2016.
69 Please, note that HETQ is not an abbreviation. It is a word, and it is translated from Armenian in English as ‘track’.
measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. It includes both mandatory and non-mandatory provisions. Mandatory provisions are those that each state party to the convention is obliged to implement, whereas non-mandatory provisions are provisions of which the implementation is up to a state party. In order to understand the difference between mandatory and non-mandatory provisions one should pay attention to the use of the language. For example, in mandatory articles the typical language is “Each State Party shall adopt”, whereas non-mandatory articles usually state: “Each State Party should endeavor to adopt...”, or “Each Party shall consider adopting”. Everyone having ratified UNCAC automatically becomes part of the Conference of States Parties (COSP) which was established to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote and review its implementation.

4.1. Civil Society’s Participation in the Implementation of the UNCAC

CSOs have a key role to play in fighting corruption, starting from monitoring public services, denouncing bribery, and raising awareness, to contributing to the implementation of international anti-corruption instruments such as the UNCAC.

The importance of civil society in promotion and implementation is recognized in the Convention. For example, Articles 13 and 63 (4) (c) explicitly acknowledge the role of civil society and non-governmental organizations in fighting corruption and in the convention’s work. UNCAC Article 13 Participation of Society stipulates that parties signatory to the treaty should take appropriate measures to promote the participation of civil society, in particular “to promote the active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption” and to strengthen that participation by measures such as “a) enhancing the transparency of and promoting the contribution of the public in decision-making processes; b) ensuring that the public has effective access to information; d) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption”. Moreover, some articles call on each State Party to develop anti-corruption policies that promote the participation of society (Article 5), and Article 63 (4) (c) requires that the

73 It should be noted here that many provisions have both mandatory and non-mandatory paragraphs (e.g. Article 37).
Conference of the States Parties agree on procedures and methods of work, cooperating with relevant NGOs.

The UNCAC coalition, established in August 2006 mobilizes civil society action for the UNCAC at international, regional and national levels. It is a global network of over 350 CSOs in more than 100 countries, committed to promoting the ratification, implementation, and monitoring of the UNCAC. According to the coalition, though the UNCAC acknowledges the crucial role of civil society in successful anti-corruption efforts, civil society participation is limited by the UNCAC review mechanisms guidelines. The latter allows discretion to countries regarding the extent of participation in and transparency of their country reviews. The UNCAC coalition offers the following suggestions to ensure CSOs active participation during the UNCAC review mechanism process: CSOs may monitor implementation of the UNCAC themselves and produce a parallel review report as a contribution to the review process, or they may comment on the official country review report and follow-up implementation of the country review report recommendations.

The examination of the documents, such as the “Rules of Procedure for the Conference of the States Parties to the UNCAC” and the “Guidelines for the Participation of Representatives of NGOs at Sessions of the Conference of the States Parties (COSP) to the UNCAC” reveals several restrictions which place limitations on the participation of civil society in fighting against corruption in the framework of the UNCAC. According to the Rule N17 of Procedure for the COSP to the UNCAC, only NGOs having consultative status with the Economic and Social Council (ECOSOC) may apply for observer status at COSP sessions. Thus, consultative status with the ECOSOC is a precondition for gaining observer status. Other NGOs that do not have ECOSOC consultative status may also apply for observer status.

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78 Ibid.


observer status, however the procedure is a little more complicated.\textsuperscript{82} After gaining the status of an observer, NGOs can attend plenary sessions of the COSP, deliver statements, make written submissions and receive the COSP's documents. However, observers cannot participate in the adoption of resolutions or decisions by the COSP.

TI, an NGO with consultative status with the ECOSOC, and the Transparency and Accountability Network, an NGO without consultative status with the ECOSOC, submitted a written statement to the UNCAC Implementation Review Group (IRG)\textsuperscript{83} in which they expressed their concerns regarding restrictions on written submissions and oral statements, exclusion of NGOs as observers in the IRG, and exclusion of NGOs as observers in the Working Groups.\textsuperscript{84} Restrictions placed on written and oral statements limit CSOs’ ability to report on their anti-corruption activities and assessments. For example, written statements are a subject to a word limit. The length of the statement should be in accordance with ECOSOC Resolution 1996/31.\textsuperscript{85} Regarding oral statements, “non-governmental observer speakers are called after the list of Member States and intergovernmental organization speakers has been exhausted and there is no guarantee that they will be called because of time constraints during the session.”\textsuperscript{86}

\textsuperscript{82} According to the Rule 17 (2) “The secretariat shall circulate as a document a list of such organizations with sufficient information at least thirty days prior to the Conference. If there is no objection to a non-governmental organization, observer status should be accorded unless otherwise decided by the Conference. If there is an objection, the matter will be referred to the Conference for a decision.”

\textsuperscript{83} The functions of the Implementation Review Group are to have an overview of the review process in order to identify challenges and good practices and to consider technical assistance requirements in order to ensure effective implementation of the Convention. For more info, please see 'Implementation Review Group of the United Nations Convention against Corruption' (UNODC website), https://www.unodc.org/unodc/en/treaties/CAC/IRG-sessions.html, accessed 25 November 2016.


\textsuperscript{85} ’Economic and Social Council resolution 1996/31’ (the United Nations website), http://www.un.org/esa/coordination/ngo/Resolution_1996_31/, accessed 25 November 2016. Paragraph 37 (d) and (e) limits the written statements by CSOs in consultative status to 2,000 (general consultative status) or 1,500 (special consultative status) words per document including footnotes.

Furthermore, the exclusion of NGOs from IRG sessions and from attending the Working Groups on Asset Recovery and Prevention as observers prevents them not only from following and contributing to the discussions but also from gaining a good understanding of their work. Though UNCAC emphasizes the role of civil society in fighting against corruption, at the same time there are restrictions (listed above) which are incompatible with some of UNCAC obligations. For example, restrictions on written submissions and oral statements are incompatible with UNCAC obligations listed in Article 13 Participation of Society.

4.1.1. Review Mechanism and Country Report

UNCAC became an integral part of Armenia’s domestic law following ratification of the Convention by Parliament on 8 March 2007, and entered into force on 7 April 2007 in accordance with article 68 of the Convention. Armenia is also a part of the Istanbul Anti-Corruption Action Plan of the Organization for Economic Co-operation and Development (OECD) Anti-Corruption Network for Eastern Europe and Central Asia. Armenia is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and joined the Group of States against Corruption (GRECO) in 2004. MONEYVAL aims at encouraging jurisdictions to improve their anti-money laundering measures in keeping with the Financial Action Task Force (FATF) Forty + 9 Recommendations and to enhance international co-operation.

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objective of GRECO is to improve the capacity of its members to fight corruption by monitoring their compliance with the Council of Europe anti-corruption standards through a dynamic process of mutual evaluation and peer pressure. Therefore, Armenia has joined a number of institutions which aim at combating corruption.

The Review Mechanism is an intergovernmental process and its goal is to assist States parties in implementing the Convention. It assists State Parties in the effective implementation of the convention. The mechanism consists of two five-year cycles. The first cycle (2010–2015) covers chapter III on Criminalization and Law Enforcement and Chapter IV on International cooperation, whereas the second cycle (2015–2020) covers Chapter II on Preventive Measures and Chapter V on Asset Recovery. Armenia was reviewed within the first review cycle by Lithuania and Kyrgyzstan in 2013.

The paper will focus on only the articles mentioned in the country review report which are of interest for this research project since based on the literature research, the importance of the enforcement or review of these articles is emphasized by many reports. Those articles are: preventive anti-corruption body or bodies (Article 6), illicit enrichment (Article 20), liability of legal persons (Article 26), and protection of reporting persons (Article 33). It is worth mentioning that there are more articles which

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should be studied further (especially Article 9 Public Procurement and Management of Public Finances)\textsuperscript{97}, however, given the limitation of space and scope, this paper focuses only on the above-mentioned articles in order to be able to provide a detailed analysis. Now, each of these articles and their current state in the Armenian context will be introduced one by one.

Article 6 “Preventive Anti-corruption Body or Bodies” (mandatory article): As to the institutional framework, it includes two bodies: the Anti-Corruption Council\textsuperscript{98} and the Anti-corruption Strategy Implementation Monitoring Commission. The Monitoring Commission is headed by a Presidential Assistant and monitors the implementation of the Anti-Corruption Strategy and internal anti-corruption program\textsuperscript{99}. However, there is little information on its activities. According to the information collected through consultations with local experts within the framework of another project\textsuperscript{100}, the commission exists only on paper. As for the Anti-Corruption Council, it is chaired by the Prime Minister and is tasked with coordinating the implementation of the anti-corruption strategy. The country review report does not mention anything about the conflict of interest connected with the membership of those high ranking officials in the Council. “Public perception of the council is further affected by the reporting of online media outlets not controlled by the government when they publish on alleged government corruption, embezzlement of state funds, corrupt practices in procurement, and the involvement of high-ranking officials and others in businesses.”\textsuperscript{101}. For example, according to the report provided by Policy Forum Armenia (PFA) (2013), Hovik Abrahamyan, the previous chairperson of the Council, is described as

\textsuperscript{97} For more information on the state of Article 9 in Armenia and recommendations for it, please see Annex C.


one of the highly corrupted individuals and who owns lucrative mining interests. He was also one of those high-ranking officials with an abnormally large difference between his declared income and properties revealed by the HETQ Association of Investigative Journalists NGO.102

Article 20 “Illicit Enrichment” (non-mandatory article): According to Chapter I Article 6 of the Constitution of Armenia, generally accepted rules of international law and international conventions that have been ratified and have come into effect shall form an integral part of Armenia’s domestic law and shall override any other contrary provision of domestic law.103 Regarding Article 20 “Illicit Enrichment”, the review report states that “Armenia has considered criminalizing illicit enrichment, but decided not to establish the offence due to constitutional obstacles.”104

The country review report also confirms that the legal system of Armenia is characterized by deficiencies and that “there is a gap in the law”105. In terms of the anti-corruption legal framework, judicial impartiality, and law enforcement professionalism, Global Integrity assesses it as weak, giving it a score of 53 out of 100.106

The HETQ Association of Investigative Journalists of Armenia107, which received an award from the Armenian branch of TI for its outstanding contribution to the struggle against corruption, has revealed cases of abnormally large differences between the reported declarations of income and property of high-ranking public officials who have not been subjected to any criminal prosecution.108 Concerns about poor legal framework for

the anti-corruption agenda of Armenia has been repeatedly expressed by many reports (e.g. by Policy Forum Armenia). Regarding illicit enrichment, the results produced in the frame of the “Parliament Monitoring” project deserve a special mention. In September of this year (2016), the project produced the first thematic summary presenting the results on monitoring property and income declarations of Members of Parliament (MPs). The monitoring revealed that MPs did not comply with the legislative requirement of filing a declaration every year, often not filing for several years.\textsuperscript{109}

Article 26 “Liability of Legal Persons” (mandatory article): According to the review report, Armenia has still not introduced liability of legal persons for corruption offenses. “Armenian legislation does not provide for criminal or administrative liability of legal persons, except for money-laundering.”\textsuperscript{110} As reported in the UNCAC Civil Society review by K. Harutyunyan and V. Hoktanyan, “the legal framework has some discrepancies around the definition of foreign officials and does not provide sufficiently strong grounds for the liability for legal persons, or for trading in influence. The high number of amnesties granted following convictions for corruption offences is also remarkable.”\textsuperscript{111}

Article 33 “Protection of Reporting Persons” (non-mandatory article): According to Global integrity’s 2011 Scorecard, the protection of whistleblowers is also weak.\textsuperscript{112} The Armenian legislature lacks a cohesive framework for the protection of reporting persons. The following figure illustrates clearly why people may feel reluctant to report cases of corruption. According to the answers to the question “which of the following do you personally consider as a reason for not reporting corruption to the relevant authorities?” around 55 percent of respondents believe that “those who report corruption would be subject to retribution/retaliation”\textsuperscript{113}.

\textsuperscript{109} For more information, please see Annex C) Thematic Summary on Monitoring of MPs Property and Income Declarations.


The country review report notes that protection outside criminal law is ensured by keeping the whistleblower’s identity secret. Therefore, anonymous reports cannot be the basis for opening a criminal investigation according to Article 177 Criminal Procedure Code of the Republic of Armenia. In the Article 177 it is clearly stated: “A letter, a statement or other anonymous message about [a] crime, unsigned or with false signature or written on behalf of [a] fictitious person, cannot be a reason for initiation of [a] criminal prosecution.” Furthermore, protection within criminal law is possible “only if the reporting person (whistleblower) will be granted status of witness or victim, then s/he will be entitled to protection mechanisms provided by the Code.”

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114 The analyses presented in the State of the Nation Report 2013 are based on Armenia Corruption Household Survey 2010 database implemented by the Caucasus Research Resource Center.

115 This issue is also indicated in the country review report of the Review Mechanism.


Some of the above-discussed articles have also received much attention in the report on Implementation of Selected Articles of […] UNCAC in Armenia: 2014-2015 provided on behalf of the Partnership for Open Society Initiative\textsuperscript{118} by the following organizations: Armenian Helsinki Committee, Helsinki Citizens’ Assembly Vanadzor, Journalists’ Club Asparez, Open Society Foundations-Armenia, and Transparency International Anticorruption Center. This report is important for this project since it provides civil society assessment on the UNCAC. It reveals its shortcomings and offers recommendations to improve the situation. One of the recommendations worked out in the framework of this report is to establish rigorous and effective mechanisms for the monitoring of the implementation of the 2015-2018 anti-corruption strategy action plan, with special focus on performance indicators and use of inputs from NGOs. Thus, the report also emphasizes the importance of the involvement of NGOs in fighting against corruption.

5. Empirical Data: Findings

The empirical data is obtained from the interview analysis and is accompanied by findings from the literature research.

5.1. Analysis of the Interviews and Development of Recommendations

As the interviews contain rich information, the paper follows Graneheim and Lundman (2004)\textsuperscript{119} and takes the whole interviews as the most suitable unit of analysis for the research. After reading the transcripts several times and “making sense of the data and obtaining a sense of whole”\textsuperscript{120} the next step is made, which is data analysis. In order to analyze the obtained answers to the open-ended questions this research does not turn to any classical way of interview analyses but rather to the inductive content analyses developed by Elo and Kyngas which refers to “an approach based on inductive data moves from the specific to the general, so that particular instances are observed and then combined into a larger whole or general statement (Chinn & Kramer 1999)”\textsuperscript{121}. To put it differently, the general statements will be made based on the main themes which appear quite often in both interviews. The analysis of the


\textsuperscript{119} These authors are mentioned in Elo, S., Kyngäs, H. ‘The qualitative content analysis process’ (2008) Vol.62 No.1 Journal of advanced nursing, 109.


\textsuperscript{121} Ibid: 109.
interviews will be accompanied by quotes from respondents throughout the report in order to add credibility to the information.

The analysis of the interview proceeds from one important theme to another according to the interview questions. The analyses are accompanied by the findings and supporting arguments from the research literature. The analyses are then followed by a list of recommendations developed based on both primary and secondary sources.

5.1.1. Governmental Anti-Corruption Bodies

According to Policy Forum Armenia, Armenia is characterized by the lack of political will to fight against corruption. With this in mind, it can be assumed that any kind of body established by the imitative of the government which is governed by high ranking political leaders cannot be sincere and effective in its attempts to fight against corruption. In this particular case, Anti-Corruption Council was meant. This assumption is further supported by the fact that “since independence, Armenia is characterized by a deep public mistrust in the government and political elite”. Whereas, Caucasus Research Resource Center’s (CRRC) Corruption Survey of Households (2010) has revealed that around fifty per cent of the respondents find “corruption is most common among high-ranking officials”. As already mentioned, this Council is chaired by the Prime Minister of the Country and its members are high ranking officials. One of the interview questions was based on the aforementioned assumption and findings. G. Mamikonyan gave a negative evaluation of the work of the Anti-Corruption Council and K. Harutyunyan mentioned that “in such a country as Armenia, if there is a political will from the top in the country’s government, then this model can work”. According to G. Mamikonyan, there has been much criticism about this

125 Ibid: 6
126 Gayane Mamikonyan (interviewee) is a program coordinator for anti-corruption programs at Open Society Foundations-Armenia.
127 Khachik Harutyunyan (interviewee) is an anti-corruption expert at Transparency International Anti-Corruption Center in Armenia.
council because it does not have any decision making power. “It is a consultative body. Because of this limited power, civil society organizations and opposition factions did not join the council. This body cannot make fundamental changes. It doesn’t have a mandate for decision-making”, says G. Mamikonyan. In Armenia anti-corruption bodies governed by high ranking officials do not enjoy trust from the people and they have restrictive power. According to the Policy Forum Armenia report (2013) the Armenian government cannot be considered as a reliable participant in fighting and overcoming corruption, since it is unwilling to implement an effective anti-corruption campaign.128

It is worth mentioning one of the recommendations made by K. Harutyunyan “civil society must be granted a role both in the selection and appointment of leadership of anti-corruption bodies” 129. Civil society’s involvement in the process of the selection and appointment of leadership of anti-corruption bodies could enhance trust in those institutions. What is also important to investigate closely is how to grant civil society an opportunity to influence the government’s decision-making processes regarding anti-corruption bodies and how the government provides civil society with a space for an active involvement and engagement in fighting against corruption. The argument by PFA stating that “civil society remains the most interested and legitimate actor in promoting anti-corruption measures”130 demonstrates the relevance of the application of the afore-mentioned recommendation.

Recommendation: Article 6 should also include a mandatory paragraph on ensuring civil society’s participation in the establishment of anti-corruption bodies, including in selection and appointment processes of the leadership. The second paragraph of Article 6 states that “Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence [...] and free from any undue influence”.131 One of the ways to secure this independence and avoid any undue influence and conflict of interest could be a development of such a membership policy/process in those institutions which will ensure members’ apolitical stance, impartiality, neutrality, integrity and competence.

129 Harutyunyan, K. Semi-Structured Interview, 15 October 2016, Yerewan, Armenia.
5.1.2. Public Procurement and Management of Public Finances

The first point of the article 9 Public Procurement and Management of Public Finances states: “Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia.”\(^{132}\) G. Mamikonyan states: “procurement is considered as one of the biggest cradles of corruption. Public officials indirectly (such as through personal contacts) establish some companies and afterwards these companies get contracts in public procurement. Fifty percent of public procurement contracts are single sources and this type of contracts contain major corruption risks.”\(^{133}\) Moreover, Article 65 of the Constitution of Armenia\(^ {134}\) forbids members of parliament to own or run a business while in office. However, this ban is very often ignored. This has resulted “…in a significant increase in the assets of an official which exceeds his/her legitimate income and which the official cannot reasonably explain” shares G. Mamikonyan. According to her, the biggest problem here is that the judiciary is not independent. It depends on the executive authorities. Indeed, TI describes the executive branch of the Armenian government as “predominant in Armenia’s state apparatus and despite formal separation of powers, the judiciary is largely subordinate to the executive.”\(^ {135}\) As reported in the project by McDevitt (2013) 70% of citizens of Armenia consider that the government is having a strong influence on the judiciary\(^ {136}\). As it has already been mentioned in the paper, Armenia is doing very poorly in terms of the legal framework for anti-corruption agenda. Global Integrity Scorecard for Armenia (2011) shows a strong contrast between the legal framework and its actual implementation. The legal framework score is 86, so it is described as “strong” whereas the actual implementation score is 39, classifying it as


\(^{133}\) This quotation has been taken from the interview given by G. Mamikonyan. Following, the interviewees request the transcript was not attached to the paper.


“very weak”. Thus, these numbers render an overall combined score as “weak”.

5.1.3. Article 20 Illicit Enrichment

The problem of the criminalization of illicit enrichment in Armenia has been raised by both interviewees. One of them described it as “a very tricky tool which could be manipulated by state authorities for political persecution. For example, when it was introduced in Pakistan, they used this tool to prosecute opposition members.” G. Mamikonyan also expressed the importance of the criminalization of illicit enrichment. What is more interesting is that both of them see illicit enrichment as a tool for political prosecution, especially for opposition leaders: the ruling elite party can use it to prosecute the opposition leaders. Furthermore, one interviewee shared that: “the Ministry of Justice is developing a package of some legislative amendments to criminalize cases of huge increase in the assets of officials which exceed his/her legitimate income and which the officials cannot explain reasonably. However, the legislative amendments foresee criminalization of illicit enrichment only for high ranking officials and officials occupying lower political positions won’t be affected by this law. These high ranking officials can do their business registering them under the name of those low rank politicians or proxies (family members, children, relatives). There is a risk that criminalization of illicit enrichment might be used as a tool for political prosecution.”

A number of notable cases of corruption of high-ranking officials revealed and investigated by HETQ journalists contributes to the argument that “corruption in Armenia directly benefits the very top layers of the country’s ruling elite”. Among those high-ranking officials are the former president Robert Kocharyan, the former Prime Ministers Tigran Sargsyan and Hovik Abrahamyan, etc.

138 Harutyunyan, K. Semi-Structured Interview, 15 October 2016, Yerewan, Armenia.
139 This quotation has been taken from the interview given by G. Mamikonyan. The interviewee gave her consent to making in-text quotations from the interview. However, she requested not to attach the whole transcript to the paper.
142 Please, see Annex B.
Recommendation: UNCAC should make Article 20 mandatory. Armenia should criminalize illicit enrichment.

5.1.4. Protection of Reporting People (Whistleblowers)

Both interviewees have raised the issue of protection of reporting people. According to them, it is one of the shortcomings to be improved. “With regard to non-mandatory provisions, the legislation does not provide a cohesive framework for the protection of reporting persons and does not criminalize illicit enrichment.” The role of whistleblowers in fighting against corruption has been repeatedly emphasized. For example, the Parliamentary Assembly of Council of Europe “referring to its Resolution 1729 (2010)” on the protection of “whistleblowers”, stresses the importance of whistleblowing as a tool to increase accountability and strengthen the fight against corruption and mismanagement”. However, as has already been illustrated in subchapter 3.2. of this paper, the Armenian legislature relating to the protection of whistleblowers can be described as undeveloped.

Recommendation: UNCAC should make the protection of whistleblowers a mandatory article to make the legal systems of the State Parties take appropriate measures to provide protection for reporting persons. In the case of Armenia, taking into consideration the fact that the legislation does not offer a cohesive framework for the protection of reporting persons, the National Assembly, within the scope of its authority as defined by the Constitution, should pass a law which would ensure the same means of protection for reporting persons, which are prescribed for victims, witnesses, and experts by the criminal-procedure legislation.

5.2. Civil Society’s Empowerment

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One of the key preconditions for a successful fight against corruption “would be active and effective cooperation between law enforcement agencies and civil society.” Civil society is described as one of the weakest institutions in Armenia’s National Integrity System and restrictions on civil society have increased. However, despite this fact, as stated in the country report, CSOs are becoming increasingly active in Armenia. As reported by the 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, “there is a growing culture of civic activism” in Armenia. In its previous sections, this paper has already provided overwhelming information on the restrictions which hinder civil society in general from its full and active engagement in the fight against corruption in the frame of the UNCAC. On the basis of the evidence of civil society’s involvement in combating corruption in Armenia, the following recommendations have been developed: the UNCAC should develop a mechanism of shadow reporting to be provided by civil society which would illustrate the understanding of civil society’s evaluation of the fight against corruption. One of the alternatives could also be a recommendation made by the UNCAC Coalition: parallel review reports produced by CSOs as a contribution to the review process.

Paturyan describes the influence of civil society on the Armenian government policies as quite limited. Current research seems to validate the view that the government is reluctant to implement an effective anti-corruption campaign, let alone cooperation with civil society in the field. Thus, as stated in the report by PFA, “civil society remains the most interested and legitimate actor in promoting transparency and

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150 This recommendation has been elaborated on the one made by G. Mamikonyan.


adapting anti-corruption measures”\textsuperscript{153}. One of the ways to empower civil society participation in the fight against corruption is to establish strong civil society institutions, or as K. Harutyunyan \textsuperscript{154} suggested, to institutionalize civil society participation in the fight against corruption, such as by granting civil society a role in both selection and appointment of leadership of anti-corruption bodies. Another way for civil society empowerment in the field could be its inclusion in the UNCAC review process (e.g. as part of a project on enhancing civil society’s role in monitoring corruption in Armenia, funded by the UN Democracy Fund (UNDEF), TI has offered small grants for CSOs engaged in monitoring and advocating around the UNCAC review process)\textsuperscript{155}.

6. Conclusion

Corruption has a negative impact on the development of a country, the allocation of public resources, and the consolidation of democracy. Armenia is one of those developing countries where the problem of corruption still remains prevalent. Among the main obstacles hindering an effective fight against corruption are the lack of political will and the weak judiciary system. Though some progress has been made after the ratification of the Convention, Armenia’s enforcement of the UNCAC has several shortcomings. Furthermore, the weak judiciary system undermines the effective enforcement of legislative measures in general and in particular it impedes the successful fight against corruption. On the basis of the provided evidence, the following recommendations have been developed to contribute to the successful implementation of the UNCAC in the Armenian context:

- Article 6: Establishment of independent anti-corruption bodies void of conflict of interest and with such a membership process which ensures members’ apolitical stance, impartiality, neutrality, integrity, and competence.
- Article 20: Criminalization of illicit enrichment.
- Article 26: Introduction of liability of legal persons for corruption with appropriate sanctions. Armenia should introduce criminal, civil, or administrative liability.
- Article 33: Adoption of a law which would ensure the same means of protection of reporting persons, which are prescribed by the criminal-procedure legislation for victims, witnesses, and experts.


\textsuperscript{154} Harutyunyan, K. Semi-Structured Interview, 15 October 2016, Yerewan, Armenia.

Regarding civil society, one of the key preconditions for an effective anti-corruption campaign is close cooperation between the government and CSOs. There is also a need for strong civil society institutions independent of the government. One of the ways to empower civil society’s role in anti-corruption measures could be their inclusion in the procedure of the establishment of governmental anti-corruption institutions and their involvement in the UNCAC review process.

The results of this study might be beneficial to civil society institutions, to both local and international donors, and to organizations involved in the field. Regarding civil society’s involvement and its evaluation in anti-corruption measures, this research reflects the tip of the iceberg and suggests that this paper might serve as a basis for further detailed research focusing specifically on civil society’s role in the fight against corruption in Armenia.

Finally, this paper invites the reader’s attention to the annexes which offer recommendations (developed by NGOs) and additional data on the issues covered in the paper which are considered of significant importance. This research has not been able to cover other articles of the UNCAC which need to be revised or enforced in Armenia from the perspective of those NGOs. Given the evidence from analysis of the materials which support those recommendations, they have been attached to this paper as important sources for additional and complementary information.

7. Annexes

Annex A) Analysis and recommendations related to anti-corruption fight by Open Society Foundations Armenia

Anti-Corruption Council lacks mandate for investigation and decision-making; membership compromises its independence

Anti-Corruption Council does not function as a specialized preventive, law-enforcement or multi-purpose agency, and is simply meant to consult the government on how to target the most sensitive areas and coordinate implementation of anti-corruption policies. Membership of the high ranking officials in the Council headed by the prime minister compromises its reputation with engraved conflict of interest. Composition of the Council and its limited power has been the reasons why neither civil society organizations nor almost all opposition factions agreed to join the Council.
Establish an independent, specialized anti-corruption body void of conflict of interest, with mandate to tackle corruption through investigation and decision-making. Members of the anti-corruption council shall be appointed through process that ensures of their apolitical stance, impartiality, neutrality, integrity and competence.

**Anti-Corruption Strategy lacks implementation mechanisms**

2015-2018 Anti-Corruption Strategy action plan does not provide for the clear, specific qualitative and quantitative performance indicators for each activity, as well as mechanisms that would enable CS to monitor the progress and effectiveness of implementation of anti-corruption actions towards desired benchmarks.

To establish rigorous and effective mechanisms for the monitoring of the implementation of the 2015-2018 anti-corruption strategy action plan, with special focus on performance indicators and use of inputs from non-governmental organizations.

**Illicit enrichment not criminalized**

Armenia has not committed to criminalize a significant increase in the assets of an official which exceeds his/her legitimate income and which the official cannot reasonably explain. The acting Criminal Code does not provide for the criminal offence of illicit enrichment. Meanwhile, the problem on the ground persists. Declarations of income and property of high-ranking public officials and close relatives affiliated with them reveal cases of abnormally large income allegedly owned by high ranking officials or their close relatives.

Criminalize illicit enrichment based on regional and international experience.

**A separate legislation on conflict of interest not adopted**

Despite legal acts contain provisions to prevent, restrict and regulate conflict of interest, however, wording of them is not always clear and identical, which hinders the uniform understanding and resolution of conflict of interest situations. Particularly, controversial is the main provision regulating conflict of interest for prohibiting engagement in entrepreneurial activity, which has various formulations in different legal acts and for different public officials.

To adopt separate legislation on conflict of interest; determine conflict of interest as a situation incompatible with public service, banning to take any actions or make decisions in conflict of interest situation, as well as stipulate clear mechanisms for regulation and management of conflict of interest;
Generalize the norms that prevent, restrict and regulate conflict of interest for the officials at public functions in all levels of state and local self-government bodies, as well as for all the top officials of state funded and/or community budget funded organizations; Reserve control and coordination over conflict of interest and norms of ethics to a united and independent body that will examine the complaints regarding violations of conflict of interest and norms of ethics, will be authorized to submit them to liability, and will have an obligation to report on crime should there be sufficient ground for it.

The Commission on Ethics of High-Ranking Officials is restrained in its functions and capacity
The Ethics Commission of High-Ranking Officials is responsible for collection and review of asset and income declarations, consulting of high-ranking executive officials on conflict of interest situations, issuing conclusions on their ethical misconduct. In practice, the Commission is restrained in its functions and capacity of investigation into the asset and income declarations of officials and, moreover, has no sanctioning powers in case of data fraud. The Commission does not have proper mechanisms to implement its own decisions and conclusions because its documents lack the mandatory force of law. Members of Ethics Commission are appointed by the President; the President also has the power to terminate the work of any Commission member.

Ensure introducing the institute of declaration of interests, and the requirement for submission of asset and income declarations to extend to the high ranking officials’ parents, underage and adult children, regardless of the fact of their being married and living together; expand the definition of family relationships in the Public Service Law to include up to fifth degree of kinship.
Declare and publish the companies of high ranking officials and the people related to them, which are registered abroad, and the incomes received from them, as well as their entire assets and funds regardless of the price threshold;
Publish the names of the people who pay income or make donations (natural or legal persons), kinship or other relations of those who make donations, the place (country, place of residence) where their real estate is.

The legislation does not provide a cohesive framework for the protection of reporting persons
Protection mechanisms for reporting persons (whistleblower) exist only for participants of criminal proceedings. The most relevant participants are witnesses and victims. This is a problem because reporting person does not get status of witness or victim automatically.

Only if the reporting person will be granted status of witness or victim, then s/he will be entitled to protection mechanisms provided by the
Criminal Code. It is essential to stipulate possibility of granting protection measures to reporting persons immediately at the moment when they report about crime. Otherwise it may be too late.

*Stipulate by law, that the reporting persons (whistleblowers) shall enjoy the same means of special protection prescribed by the criminal-procedure legislation, as the victims, witnesses and experts.*

*In the new Criminal Code prescribe by separate article criminal liability for those persons, who inflict damage to the property or health of the reporting person or his/her affiliated persons for his/her reporting, as well as for those law enforcement officials, who unlawfully shall disclose the reporting person and his/her information.*

**Usage of public resources not effective, transparent and accountable**

Adequate procurement legislation is in place; enforcement of anti-corruption laws in public procurement is very weak. Requirements on conflict of interest in public procurement and their declarations prescribed by law are not controlled. There are numerous single source procurement cases when procurement is conducted with prices higher than market ones. Preferences are given to certain companies and periodically single source procurement is conducted with them. Procurement contracts signed with companies which do not possess licenses or are in the procurement black list at the moment of contract signing; procurement contracts signed with intermediary universal companies which provide wide diversity of services and goods.

*Ban by legislation the companies of high ranking officials and the people related to them from participating in public procurement, public bargaining, auctions, and contracts for use of public resources;*

*Define a requirement for publication of the names of real owners (beneficiary owners) of the companies, including mass media that participate in public procurement, public bargaining, auctions, and contracts for use of public resources;*

*Clarify by legislation the criteria for granting tax privilege in order to avoid arbitrary and doubtful decisions.*

**Annex B) Thematic Summary on Monitoring of MPs Property and Income Declarations**

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156 The document has been provided by the Open Society Foundations-Armenia.
INTRODUCTION AND MOTIVATION

BOX 1. NOTABLE CASES OF HIGH-PROFILE CORRUPTION

Among high-level officials of the current and previous administrations, who allegedly have been involved in large-scale embezzlements and criminal conduct, the former president Robert Kocharyan knows no rivals. A recently-formed “Anti-corruption” NGO put him on the top of the list of the most corrupt individuals in Armenia. Media reports place him on top of a sizable financial and economic conglomerate with assets both inside and outside Armenia, which he amassed during his two terms in office in 1998-2008.

Another famous case involves the former Minister of Natural Resources, a ruling Republican Party MP and the chairman of Parliament’s standing committee on Economic Issues, Vardan Avazyan. According to an international award-winning series of reports by Investigative Journalists of Armenia, during 2001-07 this individual issued several lucrative mining licenses to his family members. He was found guilty by the Southern District Court of New York for demanding a kick-back from Global Gold Mining, LLC and was ordered to pay the company a $37.5 million fine. Another high-level official, who allegedly owns lucrative mining interests is the Speaker of the Parliament, Hovik Abrahamyan.

Recently, the same group of investigative journalists revealed facts of ownership of a Cyprus-based off-shore entity by the current Prime Minister, Tigran Sargsyan. Finally, media reports have linked Head of the State Tax and Customs Agency, Gagik Khachatryan, to massive wealth through the ownership of a major Internet and cable TV service provider, two food-importing companies, one supermarket, a car dealership, a luxury watch store, and a company that has a legal monopoly on supplying paper for cash registers, among other assets.

However, such high-profile corruption cases rarely, if ever, lead to investigations and are even less likely to result in arrests or any serious punishment. Despite ample anecdotal evidence to this effect, no cases of financial fraud or money laundering have been brought to the public’s attention in recent years. When independent media outlets do expose these violations, they are often harassed with phony law suits. Much of the anti-corruption measures that are formally initiated by the authorities (including the Corruption Council) are either purely of legislative nature or, if they have the ability to change the existing status quo, are dead from the start.
Annex C) Notable Cases of High-Profile Corruption

On the eve of 2017 parliamentary elections the "Parliament Monitoring" project is summarizing the results of a five-year monitoring and is presenting the activity of parliament of 5th convocation by main monitoring directions.

The first thematic summary presents the results on monitoring of MPs property and income declarations. "Parliament monitoring" has studied and compared the information contained in the declarations of the MPs for 2012 and 2016. The data have been processed based on information published on the website of the Ethics Committee of the High-Ranking Officials. They were summarized and also posted in the http://parliamentmonitoring.am/declaration.html website as an open database. The database summarized the indicators of "Annual income" and "Monetary resources" sections of the declarations.

The report presents issues related to MPs property and income declaration, legislative regulation of conflict of interest institute, noteworthy facts and trends revealed as a result of examining the declarations.

- As of end of 2015 the most monetary resources were declared by Gagik Tsarukyan - AMD 16 billion 626 million in total, which makes US $34 million 369.9 thousand. The second with monetary resources ranks Samvel Alekssanyan with AMD 4 billion 265.7 million ($ 8.8 million), the third ranks Grigory Margaryan with AMD 2 billion 504.2 million ($ 5 million 176.7 thousand).

- By incomes declared in 2015 Gagik Tsarukyan again has the first ranking with the total amount of AMD 6 billion 287.6 million. Tsarukyan's first source of income (by value) is the dividends of around AMD 3.2 billion. About AMD 2.1 billion he received as a repayment of lending.

- In 2015 monetary resources of Prosperous Armenia and Republican Party factions together made more than 90% of the total funds owned by the 131 parliamentarians, while only Gagik Tsarukyan's funds made more than 1/3 of the total.

- In 2015, 68 MPs indicated the salary as the only source of income.

- At the end of 2015 MPs altogether had credits in the amount of AMD 49.8 billion, $35.9 million and € 25.3 million (given as debt or deposited in banks and with certain interests in return). In AMD denomination it makes 80.5 billion. This amount is almost twice bigger than the monetary resources that the MPs altogether declared at the end of 2015 – AMD 43.4 billion.

- Total income of the 131 MPs in 2015 amounted to about AMD 18.7 billion. As compared to 2012 annual incomes of the NA MPs significantly increased: in 2012 they declared an income of about AMD 13 billion.

- In 2015, 131 MPs received salaries and wages amounting to a total of AMD 914 million, which is less than 5% of the total incomes.

- During 2012-2015 the highest increase of monetary resources - $2.7 million – was of Ashot Arsenyan. In early 2012 he declared monetary resources equal to $1.5 million vs amounts equal to $ 4.2 million in 2015.

- During 2012-2015 the highest drop was in the monetary resources of Gagik Tsarukyan - $23.1 million. In early 2012 he declared $57.5 million vs $34.4 million in late 2015. Moreover, the decrease in Gagik Tsarukyan's monetary resources was recorded in 2015 (in early 2015 he declared monetary resources equal to $134 million dollars).

With the change in monetary incomes the Republican Party has the first ranking with MPs altogether receiving an income being 3 times more than in 2012 (9.5 billion vs. 3 billion).

29 MPs did not declare monetary funds as of end of 2015, including Galust Sahakyan, NA speaker. Five MPs did not submit 2015 declaration at all (Spartak Melikyan, Shushan Petrosyan, Ruben Sadoyan, Vardan Osakanian and Arman Sahakyan).

Persons affiliated with the NA MPs altogether declared monetary resources equal to about AMD 13 billion and incomes of AMD 1.9 billion.

Current issues

- Neither the Law on Public Service, nor the NA Rules of Procedure set out liability for failure to submit property and income declarations, violation of timelines and improper filing of the declared information. In other words, failure to submit declarations does not create any legal consequences for the MPs, senior officials.
- Neither the Ethics Committee for Senior Officials, nor the NA Ethics Committee have any legal leverage of initiating proceedings for not filing a declaration even by qualifying it as a breach of ethics rules by the MPs. During 2012-2015, 13 NA MPs did not comply with the legislative requirement of filing a declaration every year (part of them was due to objective reasons, since they became MPs as a result of additional elections). Moreover, certain MPs did not file a declaration for all 4 years.
- Article 21 of the Law on Public Service provides that the public servant is obliged to file also a declaration of interests as prescribed and in the procedure established by the law. Such declaration enables to find out, if required, to what extent the public servant’s action, decision, behavior in specific situation derives from the private interests of himself/herself or affiliated persons. During this period nothing has been done for declaration of public servants’ interests and this subsystem is not operational in practice.

The report summarizing the results of the monitoring of MPs property and income declarations can be accessed at the following link: [http://www.parliamentmonitoring.am/reports.html](http://www.parliamentmonitoring.am/reports.html).

About the project: The “Parliament Monitoring” project is implemented by “Mandate” NGO. The project implementation and publication of the report is supported by Open Society Foundations - Armenia.

About us: “Mandate” is a team of journalists and experts trying to promote freedom of expression and pluralism in Armenia through various initiatives. The goal of the NGOs is to make the work of state institutions more transparent, make the officials more accountable and the public - more demanding. The website parliamentmonitoring.am is the project of “Mandate” NGO launched in the frames of “Parliament Monitoring” project.
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PART THREE

THE CONTRIBUTION OF THE CTBTO TO THE 2030 DEVELOPMENT AGENDA AND THE ENVIRONMENTAL POLICY RESPONSE IN THE CARPATHIAN REGION
CONTRIBUTION OF THE CTBTO TO THE 2030 DEVELOPMENT AGENDA

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1. Introduction

Between 1945 and 1996 more than 2000 nuclear tests were carried out by the United States, the then Soviet Union, France, the United Kingdom, and China. India and Pakistan also conducted nuclear tests in 1998. Additionally, between 2006 and 2016 the Democratic People’s Republic of Korea also tested nuclear weapons. In 1996, the Comprehensive Nuclear-Test-Ban-Treaty (CTBT) was opened for signature in an attempt to ban nuclear explosions in all environments (underwater, underground, in the atmosphere, and on Earth’s surface). At the time of writing, 183 countries have signed the treaty and by September 2016 it has been ratified by 166 countries including France, Russia and the United Kingdom. However, there are 44 countries that hold nuclear technology, which must sign and ratify the treaty in order to put the CTBT into effect. Currently, the pending ratification of China, Egypt, Iran, Israel, and the USA, as well as the signature and ratification of India, North Korea, and Pakistan prevent the treaty from entering into force. During the CTBT negotiations, these 44 countries appeared to possess nuclear power and research reactors and their commitment not to pursue nuclear testing is crucial for the success in implementing the CTBT.

There is a wide range of areas directly affected by nuclear testing and this research paper will focus on the environmental area. Environmental degradation and resource depletion caused by the use of nuclear weapons could lead not only to irreversible changes in the global environment, but also to conflicts over natural resources. If environmental impacts caused by nuclear weapons can be diminished by banning nuclear tests, it may have direct positive implications on the environment and on the security of individual States. Under these

circumstances, conflicts would be reduced because of a sound internal environment.

**1.1. Aim of the research and research question**

From the beginning, the aim of this research was to find the interrelations between the work of the Preparatory Commission of the Comprehensive Nuclear-Test-Ban-Treaty Organization (CTBTO) and particular United Nations’ Sustainable Development Goals (SDGs). Even though we identified several SDG’s connected either directly or indirectly with the work and mission of the CTBTO, we decided to focus in particular on the environment in connection with the goal 16 concerning peace and justice. The choice of SDG 13 concerning “climate action” was influenced by our interest in the topic of environmental security, and similarly, we decided to link it to SDG 16, in order to establish the contribution of the CTBTO towards peace and justice. Aside from the personal interest of the co-authors, it is important to point out that the CTBTO is, among others, an important instrument of the Global Nuclear Non-proliferation Regime, which is also paving the way towards a peaceful and nuclear-weapons-free world. In light of rising concerns about the impact not only fossil fuels, but also of nuclear testing on the environment, banning nuclear testing would additionally unite efforts in combating environmental degradation and working towards a peaceful environment worldwide.

For this reason, the following pages of this research will address the question of why banning nuclear tests contributes directly to environmental security and to SDG 16 peace and justice. Additionally, the CTBTO’s International Monitoring System is a key element of the Treaty and this study will also address the potential of this System in achieving environmental security, as well as peace and justice. Nuclear testing is quite a complex topic to study. For the purpose of this research paper, we focused only on verifiable physical tests of nuclear weapons.

**1.2. Methodology**

To answer these two aspects – why banning nuclear tests contributes to environmental security and to peace and justice, and what the contribution of the International Monitoring System is in this regard–, a qualitative analysis of available literature related to environmental security and impacts of nuclear testing will be done. To establish a link with SGD 16 on peace and justice, a qualitative review of other international contracts and treaties related to weapons of mass destruction that have been signed and ratified by members of the

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international community will be taken into consideration. Qualitative research regarding the potential of the International Monitoring System in contribution to the aforementioned SDG’s will also be taken into consideration. The research follows a deductive analysis, in the sense that the operation of the CTBT is our starting point, from which we focus on its specific contribution to environmental security and peace and justice. The analysis will then concentrate on the correlation between environment, peace and justice, and the International Monitoring System. Environmental security as a cornerstone of this research was defined against the backdrop of what security entails from a realist perspective of international affairs, as well as from the perspective of the Copenhagen School, also known as Securitization Theory, and its emphasis on security studies. The definition of environmental security within this paper is tailored in regards to the role of the nuclear test ban.

This paper has been written to provide additional inputs related to environmental issues that could be of use to the CTBTO and ultimately for the United Nations System as a contribution for implementing the 2030 Development Agenda. On the other hand, the information contained in this paper has been prepared for audiences that both have and do not have extensive knowledge on how the CTBTO operates, considering that the Comprehensive Nuclear-Test-Ban-Treaty has been identified as a tool that could help civilians better understand climate change. A review on international security and international law has been considered in order to analyse international processes around environmental security, peace and justice. Such analysis would facilitate identifying the connection between the purpose of the CTBT and environmental security. Furthermore, it is of interest to the Preparatory Commission of the CTBT to further consider environmental concerns that could strengthen worldwide efforts to tackle climate change and global warming.

The following research paper is divided into four sections. First, we cover several definitions of environmental security and then we elaborate on a specific definition of this concept, which will be used throughout the research. Next, we explain the impacts of nuclear testing on the environment, and its immediate and long term consequences. As a third point, we analyse the potential of the CTBTO’s International Monitoring System in achieving environmental security and its contribution in achieving SDG 16 on peace and justice. Finally, we close with the conclusions drawn from this research, as well as recommendations for the CTBTO on strengthening the potential of its Monitoring System.

### 2. Environmental Security

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During the United Nations 42nd Session of the General Assembly, the concept of environment and its relation with security was introduced. The General Assembly’s resolution 42/186 of December 1987 states that the development and accumulation of weapons of mass destruction, including biological, chemical, and nuclear weapons could create vast and irreversible changes for the environment on a global scale. Furthermore, this resolution recalls the World Charter for Nature, which declares that nature must be protected from degradation provoked by hostile activities and warfare. Thus, States should continue efforts to ban those weapons that have the potential to modify the environment.

Environment and security is at the core of the United Nations Environment Program’s (UNEP) mandate. According to the UNEP, evidence shows that mismanagement of environmental resources considerably increases the probability of violence and endangers human and national security. Even though environmental stress may not be the principal source of instability, it is nevertheless a contributing factor. The ongoing civil war in Syria demonstrates that pressure on natural resources can play a role in civil unrest as a side cause of the main political causes of the conflict. High pressure on overexploited Syrian water resources caused crop failures and forced farmers to migrate to the cities. Over time this situation contributed to urban unemployment and increased food insecurity, which led the suffering population to publicly expose their grievances and fight, not only because of the government’s poor planning, but also for water systems within the country.

On the other hand, the Organization for Security and Cooperation in Europe (OSCE) has built a substantive partnership with the United Nations Development Program (UNDP) and UNEP in an effort to combine the capacity and expertise of these three institutions and together they

9 Colin P. Kelley, et. al., *Climate change in the Fertile Crescent and implications of the recent Syrian drought*, University of California, Santa Barbara, School of International and Public Affairs; Columbia University, New York and Lamont–Doherty Earth Observatory, Columbia University 2015, Adobe PDF, p. 1, 2.
have launched a strategy known as the Environment and Security Initiative (ENVSEC).\textsuperscript{11} Like the United Nations, the OSCE recognizes that the depletion of natural resources combined with demographic changes have negative impacts on national and international stability.\textsuperscript{12}

Up to this day, a single definition of environmental security has been highly contested because there is no agreement on what “security” entails. From a realist perspective of international affairs, a situation that threatens the security of a state is minimized with military capabilities.\textsuperscript{13} This is because threats have been identified as challenges that require armed forces and a military response. Consequently, other factors, such as the environment, have been overlooked in security issues.\textsuperscript{14} By this reasoning, environmental challenges would then be considered a security matter only if they lead to wars or if they threaten a state’s sovereignty.\textsuperscript{15} The situation in Syria mentioned in the previous paragraph illustrates that in addition to the main political consequences of the conflict, the underlying environmental challenges should have been taken into account as part of the security issues.

To contrast the realist approach, Securitization Theory, also known as the Copenhagen School, defines security as a social and political construction. Buzan and Weaver, as proponents of the Copenhagen School, believe that social constructs determine the characteristics or qualities that make an object a security matter. Within a political speech one could formulate a situation or issue as one of security. The audience listening to it would then agree and eventually it would be believed that such a particular event poses a significant threat to the community in question. Thus, the purpose of securitization is to transform a normal-politics issue to a security-politics issue, whose urgency, because of the threat it poses, requires exceptional measures that could include power centralization. By this understanding, political speeches that have identified the environment as a threat to the survival of the state, have transformed it into a security issue.\textsuperscript{16}

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Despite a lack of consensus on whether to consider environmental issues to be matters of security or not, several related principles have been used to provide a concept for environmental security. For instance, in the 1990s Alan Hecht of the United States Environmental Protection Agency (U.S. EPA) explained environmental security as a process that contributes to achieving national security priorities by means of solutions to environmental problems. International cooperation to prevent and solve such problems allows nations to further political stability, economic development and peace.17

Another proposed concept implies that environmental security comprises the impacts that environmental factors have on security. These factors include natural disasters and human-provoked changes to the environment like climate change, loss of biodiversity or depletion of natural resources.18

A definition that takes cooperation into account has also been considered. It regards environmental security as the most effective response to changing conditions such as resource degradation and scarcity. Such conditions, if neglected, could strain peaceful relations. Eventually, tensions escalate, stability is threatened and conflicts appear.19 As the previous example in Syria shows, conflicts have the potential of making the environment vulnerable and leaving people with less access to natural resources.

Additionally, the Army Environmental Policy Institute (AEPI) of the United States describes environmental security as the condition that takes into account the following elements: the public is safe from natural or man-made environmental dangers, scarcity of natural resources ameliorates, a healthy environment is maintained, environmental degradation ameliorates, and conflicts are prevented.20

It is interesting to note how several of the aforementioned definitions of environmental security clearly recognize environmental stress as a threat and as a source of instability that could strain peaceful relations within a country and among countries. Thus, the political construction of the

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18 Ibid.
19 Ibid.
protection of nature encompasses not only the purpose of public safety but also prevention of conflict and retention of sound environment. It demonstrates that environmental security is no longer overlooked, but that it has been incorporated into the security agenda. Consequently, for the purposes of this research paper and against the backdrop of the previously analysed definitions, environmental security shall be put into the context of banning nuclear testing. Thereby, considering that State Parties to the CTBT are obliged not to carry out nuclear tests of any kind, environmental security would be defined as a process whereby banning nuclear tests contributes to the mitigation of environmental degradation, strengthens stability and reduces the probability of conflicts from happening.

3. The impacts of nuclear testing on the environment

The nuclear tests conducted in the Marshall Islands from 1946 to 1958 illustrate the need to ban nuclear weapons in order to safeguard the environment. Survivors of such tests live to this day with the impacts radiation had on their health and environment. If the detonation of a single nuclear bomb has the capacity to kill more than one million people, the detonation of hundreds of nuclear bombs would certainly wreck the climate on a global scale, leading to agricultural disruption and famine.

The testing of nuclear weapons, together with their actual production and use has had a great impact on both the social and natural world. Since the year 1945, nuclear weapons have been tested in all sorts of environments; in the atmosphere, underground and also underwater. Nuclear testing itself belongs to the most destructive activities for human health and the environment. When speaking about nuclear technology, the environmental consequences can range from contaminated water sources to nuclear winter.

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Every nuclear explosion is different when it comes to the amount of radioactivity it generates, mainly depending on various factors such as the size of the weapon or even weather conditions. According to the Report of the United Nations Scientific Committee on the Effects of Atomic Radiation to the General Assembly of the year 2000, every nuclear test is responsible for the unrestrained release of radioactive materials into the environment that spread out all over the Earth and its atmosphere.\(^\text{26}\)

The nuclear explosion can be divided into three stages. First, the heat wave comes, followed by the pressure wave and radiation. The immediate effect of nuclear testing can be seen in massive fires, which are caused by the heat wave.\(^\text{27}\) Explosions in the atmosphere and on the surface carried out during the nuclear testing spread large amounts of radioactive carbon into the air, which is later absorbed by plants and animals as it returns to the surface as radioactive fallout.\(^\text{28}\) Nuclear explosions create massive blasts, heat, and ionizing radiation effects, which result in the irradiation of all living organisms within the reach and the penetration of them with gamma rays that have lethal consequences. Not only atmospheric, but also underground nuclear testing brings major radioactive contamination to the atmosphere.\(^\text{29}\)

### 3.1. Environmental contamination

A great environmental threat is posed by the explosive components of nuclear weapons, which are made of the highly radioactive elements uranium or plutonium. Together with uranium and plutonium, the manufacture, testing, and use of nuclear weapons releases other hazardous materials like mercury, cyanide, polychlorinated biphenyls (PBCs), and benzene, highly dangerous for the environment and most forms of life.\(^\text{30}\) During nuclear testing in the atmosphere, large amounts of ash are being launched into the air. Since ash reflects sunlight, it can result in a cooling effect for the global climate. Even after many decades,

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the radioactive residues produced by surface tests are still present in the upper atmosphere, which can eventually damage the ozone layer. Small fractions of radioactive particles remain in the stratosphere, possibly even for hundreds or thousands of years.\textsuperscript{31} During nuclear testing, dangerous radionuclides, such as caesium are transferred to the soil and consequently from soil to plants, therefore, hurting not only the environment, but also human health, which is threaten by consumption of contaminated particles within the food chain.\textsuperscript{32}

Even though underground nuclear testing is slightly less dangerous than underwater and atmospheric testing, it still has far-reaching health and environmental consequences. During underground testing, large amounts of dangerous substances like, for example, plutonium or caesium, can infiltrate the local ecosystems through underground leakages.\textsuperscript{33} Therefore, large numbers of atmospheric and underground nuclear weapons tests are responsible for the environmental contamination with radioactive waste. The marine and terrestrial ecosystems become contaminated through the indirect transfer of radionuclides into the geosphere and their accumulation in living cells. Most common is the carbon isotope, which is released into the atmosphere during each nuclear test. It is later integrated into CO\textsubscript{2} and subsequently incorporated into the biosphere through the process of photosynthesis or into the marine environment through the process of the ocean–atmosphere gas exchange.\textsuperscript{34}

As for the ratio of tests in the northern and southern hemisphere, approximately 90\% of all nuclear tests were conducted in the northern hemisphere, which leaves the southern hemisphere with only 10\% of conducted nuclear tests. Therefore, the northern hemisphere is much more contaminated with radioactive isotopes that have been released into the atmosphere during the testing.\textsuperscript{35} For this reason, the North Atlantic belongs to the most heavily contaminated marine regions in the world. Due to the fact that the radioactive contamination is carried by waves and winds, the transmission of radionuclides through ocean and atmosphere is extremely far-reaching and cannot be limited only to the place of the nuclear test. This can be exhibited by the example of the nuclear test at the Bikini Atoll in the Marshall Islands between the years

\textsuperscript{31} Ibid.
\textsuperscript{35} Ibid.
1946 to 1958 that was described at the beginning of this section. According to the measurements after the explosions, an area 160 kilometres away from the detonation epicentre was contaminated with the serious impact on marine life. The primary sources of contamination of the North Atlantic stem from the fallout from atmospheric nuclear weapons testing and fallout from the Chernobyl accident in 1986. These fallout has especially affected sea life, mainly the lobsters and seaweed. When it comes to land regions, the Nevada desert is where 44% of all worldwide nuclear tests were conducted, resulting in a high risk of groundwater contamination with radioactive isotopes. However, high rates of contamination can be also found in Russia, China, Kazakhstan and North Pacific.

The perseverance of a clean environment and protection of life under water as well as on land belongs to the core area of interest for the UN, and together with climate action are main elements of the Sustainable Development Goals. The world’s oceans and their unpolluted, clean state is what drive global systems, which in fact make the Earth habitable for humankind. Human life is inextricably linked with the land and oceans for its sustenance and livelihoods, which means that these essential natural resources should be preserved to the furthest extent possible. Similarly, with their effective management it is possible to counterbalance the effects of climate change.

The Millennium Development Goals also touched upon the area of environmental protection within goal seven regarding the reservation of environmental sustainability. It pleads for the reverse of the loss of environmental resources, as well as protection of ecosystems on land and marine areas. An essential part of human life is also sustainable access to and protection of safe drinking water, which can be at risk of pollution if physical nuclear tests continue. Therefore, uncontaminated soil and waters are crucial for human existence and peaceful cohabitation.

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41 Ibid.
4. The CTBTO’s International Monitoring System and its contribution in achieving SDG 16 on peace and justice

4.1. International Monitoring System

The CTBT verification regime detects nuclear explosions in the atmosphere, underground or under water all around the world. The International Monitoring System (IMS) is a crucial part of the work of the CTBTO. The monitoring system functions by means of various stages, namely the seismic, hydroacoustic and infrasound monitoring together with detection of radioactive residues with help of radionuclide stations. The seismic technology works on the basis of detection of nuclear explosions in the form of shockwaves and distinguishes them from other seismic events like earthquakes and mine explosions. Eleven underwater stations monitor soundwaves in all oceans that are transmitted through water, and infrasound monitoring detects nuclear explosions in the atmosphere. Lastly, the radionuclide network verifies the radioactive particles and noble gases that are released after nuclear test explosions. Therefore, all of these methods combined create a system that is able to determine where and when the nuclear explosions took place, as well as their intensity.42

It can be said that one of the major tasks of the IMS is to continuously monitor the Earth and look for any signs of nuclear explosions. The system proved to be especially helpful in the cases of North Korea’s nuclear tests in the years 2006, 2009, 2013, as well as in 2016 when the monitoring stations were able to detect the explosions and send information to the Member States about their time, location and magnitude even before the nuclear tests were officially announced from the side of the Democratic People’s Republic of Korea.43 However, this unique alarm system can have far wider ranging use aside from monitoring the planet for nuclear explosions. The data gathered from the IMS can also be utilised for the purposes of science and civil protection in the way of natural disaster warning and human welfare promotion. The numerous examples of its usage can include the real-time warnings before any earthquakes, tsunamis and volcanic eruptions and advanced research opportunities regarding climate change, and meteorology or


To begin with, the use for radionuclide technology was demonstrated during the Fukushima power plant accident, when it detected radioactive particles in the atmosphere. The CTBTO Member States were able to accurately inform their citizens, thanks to the data provided by the IMS. Since this incident, the CTBTO also deepened its cooperation with other international organisations like the World Health Organization, the World Meteorological Organization and the International Atomic Energy Agency. Seismic technology finds its application in the issuing of the timely tsunami warnings that are caused by tsunami-generating earthquakes, giving more time to people to escape danger and move to a safer area. That way, the monitoring system not only contributes to sustainable development, but also contributes to saving lives.\footnote{Ibid.} When it comes to infrasound technology, it carries the potential of detection of the ultra-low frequency sound waves that are emitted by volcanic eruptions and therefore of provide real-time warnings about ash plumes to aeroplanes flying through the affected airspace, making the civil aviation safer. And lastly, hydroacoustic technology also contributes to issuing timely tsunami warnings and helps to enhance the security of maritime traffic by detecting underwater volcanic eruptions. All in all, IMS data also helps scientists to better understand the phenomenon connected to climate change, to improve weather forecasts, and to grasp the changing issues of our planet as such.\footnote{Ibid.}

\section*{4.2. SDG 16 on peace and justice}

One fact strengthened by SDG 16 is that the rule of law and development reinforce each other and strengthens steps towards sustainable development. The targets of SDG 16 aim at four main points. Firstly, reducing any kind of violence and death rates is essential. Secondly, national and international rule of law and the equal access to justice for anyone are relevant. Thirdly, institutions at all levels are expected to be effective, accountable, and transparent. Finally, ensuring public access to information and protecting fundamental freedoms are
necessary, in accordance with national legislation and international agreements.\textsuperscript{47}

Although the SDGs are not legally binding, the aim of Goal 16 is to establish national frameworks that ensure compliance. Governments have the task of keeping rules that ensure the quality, as well as the accessible to and timely collection of data. National frameworks for achieving all SDG’s, but in particular SDG 16, are based on analyses that contribute to a review at a global level.\textsuperscript{48}

In this regard, the Universal Declaration of Human Rights (UDHR)\textsuperscript{49} plays a very important role. This Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948\textsuperscript{50}, as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Since this declaration was proclaimed many years before the CTBT was conceived and countries had already signed and ratified the Human Rights Declaration, they should comply with all articles of the Declaration. Especially Article 3, which declares that \textit{everyone has the right to life, liberty and security of person.}\textsuperscript{51} Partaking in any nuclear weapon test is contradictory with this declaration, as nuclear tests are dangerous for human security and life. The UDHR succinctly contains the main principles as to why nuclear testing should be banned and the CTBT details this main principle. As countries have already accepted the UDHR, the pending ratifications for the CTBT to enter into force should not be delayed because states have already been obliged by the UDHR to stop nuclear explosions.

The excerpt of UNESCO’s World Heritage Convention (Convention for the Protection of the World Cultural and Natural Heritage) of 1972, which is included in Annex 1, sheds additional light on the importance of banning nuclear testing to achieving peace and justice. According to the referred articles, countries that have agreed to comply with this Convention shall

not conduct any nuclear testing. It clearly indicates that such tests damage the cultural and natural heritage, which cannot be repaired afterwards. Like the UDHR, this convention should be proclaimed before parties to the CTBT, as it also contains the main principles for banning nuclear weapons. In connection with environmental conservation, CTBT’s aims are also recognized in other widely accepted international treaties, such as:\(^{52}\)

- African Convention on the Conservation of Nature and Natural Resources
- African-Eurasian Migratory Water Bird Agreement
- Convention on Biological Diversity
- Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment
- Convention on Long-range Transboundary Air Pollution (1979)
- Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere (1940)
- Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992)
- Treaties on Environmental Law
- Environmental Treaties and Resource Indicators
- Kyoto Protocol
- North American Agreement on Environmental Cooperation
- North American Commission for Environmental Cooperation
- United Nations Framework Convention on Climate Change

According to the history of banning nuclear tests, on 5 August 1963, the USA, the then Soviet Union, and the United Kingdom signed the Limited Nuclear Test Ban Treaty, following a number of years of negotiations on the provisions. The end of both World War II and the Cold War allowed scientists to develop increasingly powerful atomic bombs, preparing for a new war. However, radioactive deposits were found in milk and wheat in the US, which led diplomats and private sector leaders to emphasize the danger of nuclear tests.\(^{53}\) The public became aware of the danger and more people started to oppose experimentation with new atomic bombs.


In May 1955, the United Nations Disarmament Commission organized a meeting with the Soviet Union, the USA, France, Canada, and the United Kingdom to end the testing of nuclear weapons. However, there were several differences among the countries’ criteria and they hardly found common ground, while the USA and the Soviet Union continued to conduct nuclear tests. John F. Kennedy had opposed nuclear tests since 1956 and also tried several diplomatic ways to stop the underground testing of the Soviet Union without results, but thanks to the efforts of the United States, it did eventually stop nuclear testing on April 25, 1962.54 After the Cuban Missile Crisis, Khrushchev helped President Kennedy to work with the Soviet Union and in 1963 they reached an agreement on a limited test ban, which consisted of: 1) A prohibition of nuclear weapons tests or other nuclear explosions under water, in the atmosphere, or in outer space; 2) Allowed underground nuclear tests as long as no radioactive residue falls outside the boundaries of the nation conducting the test; and 3) Committed signatories to work towards complete disarmament, an end to the armaments race, and an end to the contamination of the environment by radioactive substances.55

The previous paragraph briefly describes the situation prior to the opening for signature of the CTBT 33 years after the limited ban treaty. In the US, President Clinton signed it; however, the Senate declined to give its advice and consent, in part because of concerns regarding stewardship of the United States stockpile of nuclear weapons in the absence of explosive testing. The outgoing administration of President Obama was well-disposed towards the Treaty and expressed its determination to achieve entry into force, but the issue did not progress to Senate consideration. The position of the incoming administration of President-elect Donald Trump is to be determined, but it would arguably be in a stronger position to secure Senate agreement to CTBT ratification than its predecessor if it makes doing so a policy priority.56

The world realizes how dangerous nuclear tests are and considering the humanitarian,57 environmental, and developmental consequences, the international community is still taking further steps in light of the

unsatisfying nature of the previous results. For instance, Norway organized a meeting in Oslo in March 2013 to discuss the humanitarian impact of nuclear weapons, with follow-up conferences held by Mexico and Austria. Additionally, the Austrian government called attention to a legal gap for the prohibition and elimination of nuclear weapons that needs to be filled. However, many people doubt whether there is a real legal gap or just a compliance gap. In 2016, an Open-Ended Working Group on nuclear disarmament (OEWG) met in Geneva, where they recommended the General Assembly ban nuclear weapons in 2017. Austria also strengthened this position and Mexico pointed out that this is the most significant movement in nuclear disarmament in the last two decades. Despite this, some states that do not support the treaty claim that there is lack of specific recommendations for actions and that it also seems to exclude the possibility of other activities by putting the treaty in opposition to security and practical concerns. In reality, this would not be the case since the ban treaty is about security as it aims to give the opportunity to everyone to be free from the threat of nuclear tests. Only 22 states out of 107 did not vote for the treaty, which shows that the plan is internationally supported and that the OEWG could recommend it to the General Assembly.

Whether the use of nuclear weapons could be permitted under international law is something that remains unanswered by the International Court of Justice (ICJ). In 1996, the ICJ explained that in

extreme circumstances of self-defence, states can consider applying nuclear force. However, it can be stated that every war is an extreme circumstance, and in this regard, using nuclear power could be considered to be legal. The ICJ was asked several times by the World Health Organization (WHO) and the United Nations General Assembly (UNGA), but they could not agree on a general statement. The WHO’s question was “In view of the health and environmental effects, would the use of nuclear weapons by a State in a war or other armed conflict be a breach of its obligations under international law including the WHO Constitution?”, and the UNGA’s question was “Is the threat or use of nuclear weapons in any circumstances permitted under international law?”. International Humanitarian Law, also called the laws of war, laws of armed conflict, and the 1977 Additional Protocol I to the 1949 Geneva Conventions, helps us to have a better understanding about the legality of nuclear weapons.65

The first rule of the convention is the distinction under which parties to a conflict may not “employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.”66 For this reason, several weapons – biological and chemical ones – became explicitly prohibited, as they are deemed difficult or even impossible to use without overstepping the rule of distinction. Nevertheless, nuclear weapons are governed by International Humanitarian Law rather than this Convention.

The second rule is proportionality. It declares that even if an attack is against a military objective, it is considered to be unlawful if the effect finds civilians or civilian objects. Due to this objective, nuclear weapons cannot be used without causing huge harm to unarmed people. However, ICJ Judge Stephen Schwebel explains that nuclear weapons can be used lawfully, when, for example, they are used against a submarine far away from the harbours.67

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The third rule is related to precautions in attack, which includes all necessary acts to protect civilian lives in case of an attack. Peter Maurer, president of the International Committee of the Red Cross (ICRC)\(^{68}\) pointed out at a session of the international conference on the humanitarian impact of nuclear weapons in Vienna in 2014, that this rule “does not imply any prohibition of specific weapons.”\(^{69}\)

The fourth rule is the prohibition on means of warfare that cause superfluous injury and/or unnecessary suffering. This rule protects combatants and not civilians, unlike the previous three rules. It was also expressed in the 1868 St. Petersburg Declaration that the only acceptable objective in war is to weaken the enemy’s military forces. So it excludes any other weapons which harm civilian life as that would be against the laws of humanity. The fourth rule contains a requirement to assess alternatives to the planned weapon. Stuart Casey-Maslen, a legal scholar, points out that “should a proposed use of nuclear weapons satisfy both the rule of distinction and the rule of proportionality, a further assessment must be made as to whether alternative, less destructive weapons might adequately fulfil the military task”.\(^{70}\)

The fifth rule now in debate is about the protection of the natural environment. As mentioned throughout this paper, nuclear tests cause widespread and long-term damage to the living organisms, humans, plants and animals on Earth. However, this point is still under negotiation and is especially regarded by France and the United Kingdom.\(^{71}\)

The above mentioned five rules show that International Humanitarian Law would entirely prohibit the use of nuclear weapons in all scenarios. For example, a nuclear attack against a submarine far out at sea would be permitted under the rule of distinction, but it would violate the prohibition against superfluous suffering. Furthermore, there is no less


\(^{70}\) Ibid.

\(^{71}\) Ibid.
harmful alternative of nuclear weapons. Under the disarmament law, nuclear-weapon-free zones were created to contribute to a nuclear-weapon-free world. Currently, more than 100 countries cover more than 50% of the world’s surface and they are parties to international treaties. In the southern hemisphere, 99% is counted to be a nuclear-free zone. There are three main types of these zones: geographical zones covering uninhabited territory, regional zones including states and continents, and single self-declared nuclear weapon-free countries. In these zones the production, reception, storage, testing and use of nuclear weapons and dumping of radioactive materials is prohibited.\textsuperscript{72}

Another important consideration is the Non-Proliferation Treaty (NPT). The NPT is a global disarmament treaty whose goal is to prevent or limit the use of nuclear weapons. It also refers to “the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples.”\textsuperscript{73} Many scholars doubt the influence of the NPT, and the Irish Foreign Minister Charles Flanagan mentions that “not a single nuclear weapon has been disarmed under the NPT or as part of any multilateral process.”\textsuperscript{73} For instance, between the USSR-USA, there were bilateral agreements during the Cold War. Namely, SALT I, II, START I, II, SORT. (SALT = Strategic Arms Limitations Talks, START = Strategic Arms Reduction Treaty, SORT = Strategic Offensive Reduction Treaty), Intermediate-Range Nuclear Forces (INF) Treaty, Presidential Nuclear Initiatives.\textsuperscript{74}

In 1996, the ICJ stated there is “an obligation to pursue in good faith and conclude negotiations leading to nuclear disarmament”. However, the former Prime Minister of the United Kingdom, Tony Blair, argued that the NPT declares that the UK has the right to possess nuclear weapons, which is true as the treaty does not contain any prohibition against possessing nuclear weapons, but against using them.\textsuperscript{75} Thus, there is a legal gap regarding the rules of possession, a situation that is still unsolved.

Although, international law has restrictions on using nuclear weapons, it does not state which nuclear weapons are restricted. There are only

\textsuperscript{72} Ibid.


references to biological and chemical weapons, and that is where the legal gap lies. The UN General Assembly First Committee and the NPT review cycle have set out the following points to be discussed in future meetings:

(1) a comprehensive nuclear weapons convention in which a single legal instrument would provide for prohibition and elimination and in which elimination would precede a prohibition, (2) a framework agreement in which different prohibitions and other obligations would be pursued independently of each other, but within the same broad frame, (3) a step-by-step or building-block approach in which elimination would precede prohibition, and (4) a stand-alone ban treaty in which prohibition would precede elimination.\(76\)

These points are expected to be discussed by the UN in 2017.

From our point of view, using and possessing nuclear weapons are in close connection with nuclear tests. If a state tests this kind of weapon, it might mean it could be preparing to use them at some point. The main obstacle with the previous conventions is that they considered banning only nuclear weapons, but not the possession and testing of the weapons. There are two main reasons for this: on the one hand, there is the possibility of a war-like scenario with the use of nuclear weapons and, on the other hand, there are the aforementioned damages to the environment, which can be irreversible. Most countries have already agreed on banning nuclear weapons, so ratifying the CTBT is the next step, as it will also be a demonstration of their compliance with the previously mentioned conventions. Unfortunately, nuclear weapon holder countries still to this day consider whether they should increase their nuclear arsenal or roll back their programs and comply with the international non-proliferation regime.

In conclusion, numerous international treaties refer to points of view and provisions of the CTBT. No country should be allowed to pursue nuclear tests, according to the reasoning behind the above mentioned articles and taking into account humanitarian, civil, and environmental considerations. The CTBT is an important treaty to ratify. Although some countries disregard it, they forget that they are already obliged by other international instruments not to test nuclear weapons, and by doing so, they breach such additional international treaties.

5. Conclusions and recommendations

5.1. Conclusions

- The previous analysis underlines the importance of environmental security and clearly shows that environmental contamination caused by nuclear explosions and the subsequent deterioration of natural resources and livelihoods pose a significant threat to security. Consequently, this threat has demonstrated that the environment has been transformed into a security-politics issue, which the international community is trying to solve from various sides.

- It is interesting to note that environmental security is an issue that is currently being addressed by States in collaboration with international organizations, such as the United Nations and the OSCE. Together, they collaborate to promote the banning of nuclear weapons, the detonation of which cause environmental degradation, in order to find effective responses and solutions to resource scarcity and environmental problems.

- As it has been emphasized in the research paper, it is crucial to stick to the nuclear test ban as those tests are highly destructive for the environment. Consequently, a polluted environment can have tremendous effects on people as well, through contaminated soil and water. Therefore, in order to preserve the natural resources that are essential for the human existence, the promotion of a nuclear test ban is one of the major steps which needs to be taken.

- On a similar note, United Nations Secretary-General Ban Ki-moon highlighted the work that is done by the CTBTO in his statement: “Even before entering into force, the CTBT is saving lives.” This paper underlines the fact that the CTBTO is not only trying to formally and legally assert the nuclear test ban, but that it also has a substantial real-life contribution for the society and the world as a whole through its International Monitoring System.

- It can be said that many international conventions, treaties and contracts have already included considerations against the use of nuclear weapons. In this regard, countries that have already signed these agreements should fulfil their commitments; however, we are witnessing the opposite, since there are countries that still pursue nuclear tests.

- The Limited Nuclear Test Ban, the Non-Proliferation Nuclear Test Treaty and the CTBT have been good initiatives to stop the threat posed by nuclear weapons. Nevertheless, these instruments were not composed in a way which fully covers the whole spectrum of nuclear
weapons. This is the reason why some countries can argue that the possession of nuclear weapons is not prohibited and what they do with this type of weapon cannot be considered against international law.

5.2. Recommendations

Nuclear testing should not only be eliminated to put an end to the threat of having underwater, underground, terrestrial, and atmospheric nuclear explosions, but because of the multiplying benefits it brings to many SDGs such as, inter alia, those related to the environment, health, life on Earth and underwater, peace and justice, and partnerships. Some recommendations include:

- Eliminating nuclear testing contributes to the reduction of emissions that affect climate change. In view of the voluntary commitments countries have agreed upon to curb emissions, in order to adapt to and mitigate climate change, the CTBT and the Monitoring System could be used as strong negotiating tools in achieving those commitments.

- Strengthening the close collaboration between the CTBTO and individual States in terms of nuclear testing and its impact on environmental security would eventually lead to a broad and perhaps more precise understanding of the concept of environmental security that could provide a clear and specific definition to it. Recalling the Protocol to the Comprehensive Nuclear-Test-Ban Treaty, such collaboration could be achieved by sharing best practices and providing further techniques among countries on environmental sampling and analysis, not only of radioactivity levels, but also of gases, liquids, and solids below and on the surface.

- The role carried out by the International Monitoring System, which is a unique and excellent monitoring tool, has proven to be especially effective not only in detecting nuclear tests, but also in disaster warning and providing useful scientific data. It is thus important to carry on with this good practice and develop the system further, allowing it to expand and to fully reach its potential in its civil and scientific uses as well.

- Accordingly, it may be convenient for the CTBTO as well as for the whole international community to interconnect its work and include broader cooperation with other international organizations that could benefit from obtaining the information generated by the IMS. Aside from its indubitable contribution in tsunami warnings and cooperation with the International Atomic Energy Agency, the World Health Organization and the World Meteorological Organization, it is also significant to include more environmental international
organizations, as well as international non-governmental organizations. That way, the CTBTO can broaden and link the net of international organizations, whose daily task it is to oversee the protection of human lives, as well as the environment.

- The international community’s task and that of the states that have agreed upon previous conventions on banning the use of nuclear weapons would be to have all countries ratify the CTBT and finally outlaw nuclear testing. It would be to the advantage of everyone: countries, citizens, nature, plants, and animals. In other words, the application of CTBT would maintain and improve our environment.

**Annex 1**

**II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE**

**Art.4:** Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

**Art.5:** To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country:

(a) To adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

(b) To set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;

(c) To develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

(d) To take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

(e) To foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.
Art. 6.1: Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property rights provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and preservation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Art. 7: For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

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FOREST FIRES IN THE CARPATHIAN MOUNTAINS
ANALYSIS OF POLICY RESPONSES AT THE REGIONAL AND NATIONAL LEVEL

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Abstract

Climate change jeopardizes forests in the Carpathian region by increasing the risk of forest fires. This qualitative study seeks to develop an integrated assessment of the current regional and national policies regarding prevention and control of forest fires in the Carpathians. The authors have developed a framework of analysis for the policies in force. This analysis conveys the categorization of different national and EU legislation according to ten major mechanisms in forest fire protection. The results of this investigation show that there are more preventive than corrective measures to tackle forest fires in both the Carpathian national laws and EU policies. Categories that require the application of technical advancements and scientific knowledge have received the lowest scoring qualification. This might be caused by a delayed translation of scientific knowledge into the legislative process. Additionally, the gaps between national policies and scientific knowledge in climate change and integrated fire management practices have been identified in the concomitant EU and U.S. legislation, respectively.

1. Introduction

The Carpathian region encompasses a semi-circular 1,500 kilometer mountain system that cuts across seven Central and Eastern European countries: Czech Republic, Hungary, Poland, Romania, Slovakia, Serbia, and the Ukraine. Covering a total area of about 210,000 square kilometers, the Carpathians constitute Europe’s second most extensive mountain range after the Alps and consist of a myriad of natural landscapes of great ecological value.77

Many geological formations can be found in the Carpathians, including gorges, alpine glaciers, karst landforms, inactive volcanoes, and pasturelands. The region is also rich in hydrological resources.78 In addition to an extensive network of rivers (the Danube, the Dniester, the Vistula, and the Oder) that flow to the Baltic and the Black Sea, its

77 Saskia Werners, Future Imperfect. Climate Change and Adaptation in the Carpathians (UNEP/GRID 2014) 12.
78 Maciej Borsa and others, ‘VASICA - Visions and Strategies in the Carpathian Area’ (UNEP 2009) 128.
numerous lakes and water reservoirs supply clean water for communities, including for agriculture and industry.\textsuperscript{79}

The Carpathian Mountain forests cover over 11 million hectares, from which 300,000 maintain natural ecosystems that include the continent’s most extensive areas of virgin and old growth forests. These forests offer extensive biodiversity and provide habitats for many endangered species.\textsuperscript{80} The native flora of the Carpathians comprises approximately 30\% of all European flora with almost 4,000 species and subspecies.\textsuperscript{81} Oak, beech, conifer and mixed forests provide shelter and a large number of plant and animal communities supply a great variety of microhabitats for invertebrates and fungi.\textsuperscript{82} The Carpathian forests are also home to Europe’s main populations of large mammals such as brown bears, wolves, lynxes and bison, as well as rare birds including the endangered Imperial Eagle.\textsuperscript{83}

Changes in climatic parameters are relatively underexamined in the Carpathians.\textsuperscript{84} The Carpathian climate patterns are highly variable making the identification of a prevailing regional climate extremely complex.\textsuperscript{85} This is due to the extended curvature of the mountain chain with its divisions, welcoming air masses from the Atlantic Ocean with a mild oceanic impact, whereas Eastern harsh-continental from Asia, Northern boreal and Southern Mediterranean circulations of air masses have a severe and decisive effect.\textsuperscript{86} The climate of the entire Carpathians is, however, said to be predominantly temperate-continental with many existing local variations.\textsuperscript{87}

Climate data for 16 meteorological variables have been continuously collected over the past fifty years (from 1961 until 2010) in a common Carpathian database.\textsuperscript{88} The opinions of climate scientists of the

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\textsuperscript{79} Michael Appleton and Hildegard Meyer, ‘Development of Common Integrated Management Measures for Key Natural Assets in the Carpathians’ (Study WWF Danube-Carpathian Programme June 2014) 77.
\textsuperscript{80} Ibid 19.
\textsuperscript{81} Werners (n-1) 12.
\textsuperscript{82} UNEP, ‘Carpathians Environment Outlook 2007’ (Report 2007) 244.
\textsuperscript{83} Appleton (n-3) 20.
\textsuperscript{84} Anita Bokwa, Agnieszka Wypych and Zbigniew Ustrnul, 'Climate Changes in the Vertical Zones of the Polish Carpathians in the last 50 years' (The Carpathians: Integrating Nature and Society Towards Sustainability, 2013) 90.
\textsuperscript{85} European Commission, 'Climate of the Carpathian Region' (Technical Specifications Joint Research Centre 2010) 7-8.
\textsuperscript{86} Ibid.
\textsuperscript{87} Ibid.
Carpathian region form a consensus about the prevalence of global warming, which is also indicated by historical data.

A mild increase in temperature and changes in precipitation can prove potentially hazardous to the ecology of the region. Although recorded meteorological data is not always available, several examples can be used to confirm climate change. Though only minor differences are seen regarding the mean air temperature in the last century, in 1961 the maximum air temperature above 850m (TX) in the Slovakian Carpathians was 18.95°C. This increased to 23.8°C by 2010. Temperatures in the Ukrainian Carpathians have also risen. In 1961, maximum temperatures were 21.75°C, but this had increased to 24.33°C by 2010. In addition to increases in temperature, a decrease and unpredictability in precipitation has been observed. These effects are particularly evident in the Carpathians: between 1961 and 1981 the average annual precipitation (PR) ranged between 517.19 mm and 1380.38 mm, whereas from 1982 to 2010 it ranged between 470.97 mm and 1226.18 mm.

Along with the above data on climate change, statistics of the last thirty years on forest fires, compiled by the Food and Agriculture Organization of the United Nations (FAO) and the European Forest Fires Information Systems (EFFIS), serve as evidence of an increasing fire risk in the Mediterranean and anticipate a similar pattern in the mountain areas of Central and Eastern Europe. Thus, the endangerment of biodiversity through the loss of habitats, extinction of species, and proliferation of invasive species stands at the forefront of this forecast. Further consequences include failure to maintain economically valuable forest lands, unemployment, migration of vulnerable communities, and loss of human life.

The risk of increased drought, which raises the amount of dried vegetation that serves as natural fuel for combustion, is one of the numerous environmental threats to the region, aggravating the frequency and severity of forest fires. Wildfires are a natural part of boreal and temperate forest ecosystems, because they eliminate undesired species

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90 ‘Carpatclim’ (n-9).
91 Ibid.
and enhance nutrient availability. However, current climate trends have altered the structure and function of forests. The increase in the occurrence of forest fires causes soil erosion, reduces plant regeneration and accelerates desertification.  

Climate change adaptation policies should be designed and implemented to promote practices that support forest ecosystem resilience. The Carpathian Convention, adopted in May 2003 by the seven Carpathian countries, aims to foster sustainable development and protection of the region. In addition to providing a forum for dialogue, the convention serves as a platform for cooperation and policy coordination, contributing to the implementation of global multilateral agreements. Additionally, the European Union, of which five of the Carpathian countries are Member States, has issued strategies, directives and regulations to address forest protection which include fire prevention and mitigation measures. This investigation attempts to evaluate the current national and regional policies regarding forest fires in the Carpathians, in order to analyze the gaps between the science of climate change and policies affecting these changes. Given the limitations of evaluating the implementation of policies, this study relies strictly on a qualitative analysis of the legislative documentation. The authors have conducted an extensive policy review of the regional and national legislation, and have developed a framework for an analysis of the question: How are the current policies in the Carpathian region tackling the issue of forest fires, and to what extent are they considering the predicted effects of climate change?

2. Theoretical Framework

To analyze environmental issues related to climate change, such as forest fires in the Carpathians, is highly complex, since there are several stakeholders to consider at different levels. In a holistic approach, many theorists and practitioners base the evaluation of the environmental issues within comprehensive frameworks, taking into account the interactions between society and the environment.

Some models, like the Pressure–State–Response (PSR) developed by the OECD, provide an integrated approach in setting indicators for the evaluation of environmental policies. Built upon the PSR model, the Drivers-Pressures-State-Impacts-Responses framework (DPSIR) widely used by the European Environmental Agency (EEA), proposes a causal

94 European Commision (n-12) 45.
sequential model by linking environmental conditions and trends with policy analysis.\textsuperscript{98}

The DPSIR approach considers the drivers of human and natural events, their pressures and alterations on the environmental state, as well as the consequential impacts and society's response to these changes. As a societal response, policy-making aims to influence such variables to ultimately contribute to solving the problem. These responses include formulating and implementing different types of policy instruments, establishing international commitments and institutional strengthening.\textsuperscript{99}

Many researchers have recognized the importance of policy evaluation as an impetus for improvement.\textsuperscript{100} Evaluations can be applied to the whole policy-making process. However, the timing of such assessment impacts the results.\textsuperscript{101}

Pülzl and Rametsteiner\textsuperscript{102} have proposed a methodology to analyze environmental and forest related policies. As a response to the increase of international policies committed to the forestry sector, this methodology follows six steps comprised of policy content assessment; relevance, responsibility and form of the implementation to identify potential gaps, as well as synergies and differences between commitments.

Built upon the previously stated frameworks, an evaluation model has been developed to analyze regional and national policies that deal with forest fires in the Carpathians. The comparison has addressed the gap between forest fire climate science and policy-making, taking into account best practices from North America and Europe.

3. Previous Evidence

Climate change adaptation in mountainous areas is one of the priorities of the environmental agenda of the United Nations Environmental Program (UNEP). Since October 2003, the UNEP office in Vienna has been acting as the Secretariat of the Carpathian Convention to strengthen

\textsuperscript{99} Ibid 37.
\textsuperscript{100} Mickwitz (n-16) 25.
regional cooperation in Central and Southeastern Europe. As a result, numerous projects, including the Carpathian Project, Carpatclim, Carpavia, CarpatCC, S4C Science for the Carpathians, and BioREGIO have been conducted to promote sustainable development and deal with environmental issues in the region.103

Publications resulting from the aforementioned projects are fundamental to this investigation, as they offer valuable information on the Carpathian region including ecosystems inventories, climate change impact assessments, adaptation strategies, capacity-building, monitoring systems and technical tools. A noteworthy example is the Carpatclim project, which offers a database on the climate patterns of the Carpathian mountain region.104

Moreover, forest fire statistics in Europe are compiled by the Joint Research Centre of the European Commission through the EFFIS database.105 This tool is used in the early detection and monitoring of fires, identifying fire risk and analyzing causes and contributing factors. Specific practices to manage forest fires with fire have been evaluated and promoted by the European Institute of Forestry with its Fire Paradox program.106 Furthermore, voluntary guidelines for forest fire management have been issued by the FAO, outlining the need to integrate policy making with fire management practices.107 Forest-related institutions and scholars in Europe, the United States of America and Canada have also highlighted the use of beneficial fires to prevent and mitigate the expansion of forest fires.108

The literature and tools available provide an overview of the Carpathians, its forests and the risks of climate change, as well as forest fire incidence, and scientific and technological information about appropriate practices.

104 ‘Carpatclim’ (n-9).
in fire management. Nevertheless, there is still a lack of an integrated assessment on the regional and national policies regarding prevention and correction of forest fires in the Carpathian region.

4. Research Design and Methods

The aim of this paper is to evaluate the current regional and national policies on forest fires in the Carpathian region. What are the current policies dealing with the issue of forest fires and to what extent are they considering the predicted effects of climate change? To answer these questions, the authors have developed a model for the comparison of the implemented legislation and mechanisms. The following steps give more detailed information about the process for the development of the analytical framework.

**Step 1: Selection of relevant policies.**

The selection process started with an extensive review of a wide range of legal and policy documents that address forest fires in the EU, the Carpathian region and the USA; the sources originate from national authorities, the European Union, NGOs and other stakeholders. The selected policies were categorized as follows:

1) The Carpathian states’ specific national forest laws, acts or codes and their further amendments were chosen as basis and complementary laws related strictly to forest fire legislation stipulated for the country.

2) The EU regulations, directives, decisions and the European Commission’s general legislation published as Commission Communications (COM).

3) The U.S. national legislation that relates to forestry and fire management, differentiating these laws from the federal-specific legislation.

**Step 2: Mechanism categorization and scoring**

Main categories were developed in order to examine the mechanisms of prevention and correction of forest fires used in existing regulatory frameworks. Subcategories were also developed to delineate the basic principles of the mechanisms and describe the concepts surrounding them. These categories serve as the basis of evaluation of the mechanism integration level within the legislation. In this context, the level of integration is evaluated through a scoring system that grades the extent in which a mechanism is considered in a policy. The scoring system implemented adheres to the criteria of the following Table 1.
<table>
<thead>
<tr>
<th>Points</th>
<th>Integration Level</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Fully addressed</td>
<td>Explicit use of the corresponding terminology and alignment of definitions, objectives and/or instruments to the mechanisms of forest fire protection.</td>
</tr>
<tr>
<td>3</td>
<td>Partially addressed</td>
<td>Terms and measures that refer to the established mechanisms of forest fire protection as contained in the policy.</td>
</tr>
<tr>
<td>2</td>
<td>Somewhat mentioned Not considered</td>
<td>Implicit mention to the mechanism of forest fire protection</td>
</tr>
<tr>
<td>1</td>
<td>Not considered</td>
<td>No mention of the mechanism</td>
</tr>
</tbody>
</table>

Table 1. Scoring System of the Policies

Step 3: Policy evaluation

The assessment of the EU and Carpathian national policies was performed after a thorough review and scoring process of the selected policies by conducting a matrix analysis. U.S. policies were also included due to their extensive considerations of climate change-related issues and forest fires. To support the value of our judgment, subcategories and keywords are used to further define the main categories. The model was built based on the aforementioned techniques to show the legislative performance of every country. The results of the extensive matrix analysis were carried out and visualized through radar charts. This comparison unveiled synergies and differences in the policy-making within the Carpathian countries.

Step 4: Assessment of climate change-related measures

The analysis established the congruency of the evaluated policies with the scientific knowledge about climate change. This was performed through a comparison of how specific climate change effects are taken into account in the legislation that addresses forest fire. Additionally, adaptation strategies on the mitigation of forest fires were assessed.

5. Integrated Model for the Analysis of Forest Fire-Related Policies

The model developed in this paper presents an evaluative approach that incorporates scientific practices in the environmental protection against forest fires, and the policy-making process. The revised policies were classified according to legislation type and mechanism. In order to create an objective framework and to minimize the limitations of using self-reporting data, the mechanism categories and subcategories were
developed through an extensive examination of the forest fire legislation in the EU, the Carpathian States and the USA, as well as recommendations for the protection against forest fires from international organizations such as the UNEP, the FAO and the World Bank, as well as best practices from academic, scientific and forestry institutions. The categories identified are presented below.

6. Categorization According to Legislation Type

6.1. National Legislation

The sets of laws of the seven Carpathian countries were classified as listed below:

1. The Basic National Forest Law, Act or Code containing a set of rules enacted by the legislative authority of a country regulating the access, management, conservation and use of forest resources.
2. The Complementary National Regulations, Decrees or Decisions or other document, containing specific measures to implement the forest act in regards to forest fires or related issues.
3. The Specific National Fire Protection Law, Act or Code containing a set of rules enacted by the legislative authority of a country regulating fire safety, protection units and procedures for fire prevention, extinction and rescue.

The evaluated national legislation is presented in Table 2 below.

<table>
<thead>
<tr>
<th>Legislation Name</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Czech Republic</strong></td>
<td></td>
</tr>
<tr>
<td>Forest Act 1995 No. 289/1995 Coll. (Forestry Act) and respective amendments</td>
<td>1</td>
</tr>
<tr>
<td>Fire Protection Act No. 133/1985 Coll. and respective amendments</td>
<td>3</td>
</tr>
<tr>
<td>XXXVII/2009. Law on Forest, the Protection of Forests and Forest Management</td>
<td>1</td>
</tr>
<tr>
<td><strong>Hungary</strong></td>
<td></td>
</tr>
<tr>
<td>4/2008. (VIII. 1.) ÖM (Ministry of Local Government) Decree on Protection of Forests against Fire Hazards</td>
<td>3</td>
</tr>
<tr>
<td><strong>Poland</strong></td>
<td></td>
</tr>
<tr>
<td>Forest Act 1991 and respective amendments</td>
<td>1</td>
</tr>
<tr>
<td>Executive Order No. 11 of the Minister of Environment Protection, Natural Resources and Forestry regarding the issuance of the Statute for the State Forestry Administration-State Forests</td>
<td>2</td>
</tr>
</tbody>
</table>
Table 2. National Legislation

6.2. European Union Legislation

The EU legislation was classified as listed below:

- Regulations are binding legislative acts that must be applied in their entirety across the EU Member States.
- Directives are legislative acts that set out a goal that all EU countries must achieve. It is up to the individual countries to devise their own laws on how to reach these goals.
- Decisions are binding on those to whom they are addressed, either Member State or legal person.
- Other policy documents with no mandatory authority. The Commission takes the initiative of publishing a Communication to set out its own thinking on a topical issue.

The EU regulations, directives, decisions and other documents reviewed in this paper are presented in Table 3 below.
European Agricultural Fund for Regional Development (EAFRD) (Regulation (EU) No 1305/2013)  
EU Land Use, Land Use Change and Forestry (LULUCF) accounting rules (Decision No 529/2013/EU)  
Reinforcing the Union’s Disaster Response Capacity (COM(2008)130)  
EU Strategy on adaptation to climate change (COM/2013/216)  
EU Forest Strategy (COM/2013/659)

<table>
<thead>
<tr>
<th>Table 3. EU Legislation</th>
</tr>
</thead>
</table>

6.3. U.S. Legislation

In order to be able to compare the U.S. national legislation with the ones of the Carpathian countries, it is relevant to distinguish U.S. national laws from federal-specific ones, due to the fact that local divergences could lead to different interpretations. Guided by this principle, the authors analyzed closely nation-related legislation.

By reviewing U.S. national legislation, one national specific forest act cannot be found, as a consequence of the country’s nature, i.e. comprised of fifty states, it is fragmented when it comes to establishing unified and all-embracing legislation. Since the late 1800s, more than 100 laws affecting forestry have been passed by the United States Congress and signed by the US Presidents. In the early years these landmark laws enabled and authorized the administrative institutions for the protection and management of national forests, outlining the basic patterns of forestry. Laws passed in recent years upgrade and regulate the sustainable use of forests and the importance of integrated fire management. All these laws have contributed to the appropriate adaptation of the current scientific recommendations and to the proper use of the latest results.

U.S. decision-makers regulate all aspects of national forestry and firefighting management. Therefore, the mechanism categories of this paper could contain many of the analyzed laws. The legislation analysis of the

U.S. consisted of 40 laws, i.e. approximately 1/3 of the forestry-related legislation.

7. Categorization According to Mechanisms

The mechanism classification was carried out along 10 main points of view with the help of well-defined keywords seen below:

1. **Institutional Framework** outlines the organizational system that regulates forests and fire management. Legislation provides a clear description of responsibilities inside the system to avoid overlapping roles and functions. Examples at the national level include ministries holding the main responsibility for formulation of forest policies, as well as other governmental offices responsible for implementing these policies. Different levels of administration such as regional directorates and superintendencies are part of the governing bodies mentioned above.
   
   Key words: authority, ministry, minister, institution, guard, (fire) brigade, organization, office, agency, body, head.

2. **Financial Instruments** are included in the legislation by fund allocations, fines and other punitive sanctions. Fund allocations can be available in the form of grants and subsidies for programs related to forest protection and prevention of fires. Resources coming from fines and sanctions are used as compensation for damages, firefighting and forest restoration activities.
   
   Key words: fund, allocation, appropriation, sanction, breach (of law), violation, compensation.

3. **Infrastructure** refers to the civil works for building and upgrading fire prevention facilities, transportation networks and water supply systems. Construction of roads, fire stations, water reservoirs and fire hydrants are examples of the infrastructure required in the legislation. The availability of such resources affects the speed, safety and efficiency of firefighting.
   
   Key words: infrastructure, road, water, hydrant, (fire) station, transportation, supply.

4. **Firefighting Preparedness** refers to the working conditions and capacity-building of fire brigades stipulated in the legislation. These measures include an adequate supply of machinery, tools and uniforms for firefighters, as well as training. In this regard, training on the effective use of equipment, fire suppression techniques and deployment of resources is vital to ensure high performance during a fire event.
   
   Key words: firefighting, brigade, suit, unit, clothing, equipment, truck, training, tool, technique.

5. **Protection Plan**: The fire management plan established in the legislation, covers, among other measures, the demarcation of protected areas, fire hazard classifications, camp fire regulations and
fire bans. The classification of forest areas in hazard classes deals with climate, season, vegetation type and other influencing factors, to control potential fire caused by forest visitors or other users. To achieve this purpose, camp fire and fire bans are issued in areas when conditions are prone to cause a fire event.

Key words: plan, class, (fire) hazard, camp (fire), fireplace, regulation, (fire) ban.

6. **Monitoring** refers to data management and surveillance activities for prediction, warning and early detection of fire events. These activities comprise the use of automated technologies and information systems to detect fire risks, remote sensing of active fire data and records of historical data. Several tools to monitor fire risk can be established through the usage of ground-based visual systems, ground-based non-visual sensors, manned or unmanned aircraft and satellites.

Key words: monitor(ing), surveillance, detection, information, (fire) warning.

7. **Fuel Treatment** activities cover the controlled arrangement of flammable vegetation. These activities incorporate selective removal of flammable material to interrupt fuel continuity by using fire breaks, fire strips, livestock grazing and other measures. Further fuel silvicultural treatments include the plantation of fire resistant endogenous species to create patchworks of vegetation with different inflammability levels.

Key words: silviculture, grazing, pastoralism, (fire) breaks, strips, fence, resistant.

8. **Technical Fire** measures amount to the controlled use of fire based on an analysis of fire behavior by qualified personnel under specific environmental conditions. These are divided into prescribed and suppressive fires. Prescribed fire or burning is used to remove flammable vegetation for the reduction of hazardous fuels and to maintain healthy ecosystems. Suppressive fire is used to extinguish fires, by consuming unburned vegetation between a control line and the wildfire front; it can also be used to change the direction or force of the fire.

Key words: technical, suppression/suppressive, burning, prescribed, controlled, integrated (fire management).

9. **Awareness Raising** refers to the activities engaging local communities in order to protect forests through informative campaigns and capacity-building programs. Governments are responsible for issuing flyers and posters, online websites or interactive databases addressed to the public domain. Media campaigns based on scientific knowledge and research intended to spread a message of fire prevention, proper use of fire, as well as to warn of situations of fire danger, are also part of the measures involved in creating the awareness of local communities. For the same purpose, there are national programs to involve the public in the prevention, detection and reporting of fires. School programs can
educate children about forest fires and their impact on ecosystems and natural resources.

Key words: information, available, media, campaign, program, school, education, week (of forests), research, website, database, newspaper, public.

10. A body of **Rehabilitation and Restoration** activities is available to alleviate environmental impacts due to fire disasters. Some of these measures include: planting trees, reestablishing native tree species, repairing damage to facilities such as campgrounds, building fences, and exhibits, restoring habitats and dealing with invasive plants.

Key words: rehabilitation, restoration, reforestation, resilience after (fire).

8. **Evaluation Results and Policy Analysis**

This chapter presents the results of the conducted policy assessment according to the framework and categories developed by the authors. *Figure 1* below illustrates the summary of the analysis about the Carpathian national legislation. The matrixes used to classify the E.U. and U.S. policies are presented in *Annex 1* and *Annex 2*, respectively.

**Policy Evaluation Matrix**

1 – Not considered at all; 2 – Somewhat mentioned; 3 – Partially addressed; 4 – Fully addressed
Figure 1. Radar Chart of the National Carpathian Legislation

9. Legislation of the Carpathian countries

9.1. Czech Republic

The institutional framework for forestry and fire protection in the Czech Republic is stated in the respective Acts. In this regard, forest issues are under the jurisprudence of State Forest Administration Bodies such as the Ministry of Agriculture and District Offices, while the Ministry of Defense is the head of the Fire and Rescue Service. Financial instruments permeate the Forest Act, which provides funding through the State Fund—acquired from fines, sanctions and special fees—for the environment. In terms of infrastructure, the legislation promotes the construction of facilities, roads and water supply systems to combat forest fires. The construction of road networks shall not be infringed upon and must be cleared for firefighting purposes. Related to firefighting preparedness, the Fire Protection Act details the different fire protection units with their obligations, rights and duties. The Act regulates the required training, equipment and stations and it is applicable for urban settlements and forests. Regarding protection plans, the Forest Act establishes a management strategy and guidelines to protect the forests, and establishes prohibitions against starting fires. Nonetheless, rules for an integrated fire management plan, including regional and seasonal fire risk assessment, are not present in the Act. Additionally, this Act establishes a general provision of forest monitoring stations. The Fire Protection Act, on the other hand, establishes measures for early fire detection in forests during high fire risk periods. Fuel treatment activities, such as describing different tools to prevent fires to spread, and the use of technical fires, are not covered in the analyzed legislations.
The Forest Act also promotes **awareness-raising** activities, including scientific research on forest protection. Yet, further awareness-raising activities are needed. Finally, in terms of **rehabilitation and restoration** activities, the Forest Act burdens forest owners with the responsibility of reforesting the land and conducting restoration activities after the occurrence of a fire, as well as to taking measures to increase their resistance. This is facilitated by the provision of funds for such measures.

### 9.2. Hungary

Regarding **institutional framework**, subdivision of duties and responsibilities are well-established among different Hungarian bodies. A Minister responsible for forests is present – currently under the leadership of the Ministry of Agriculture – whose work is being assisted by other Ministers depending on pre-defined specific topics. A national authority, called NÉBIH (National Food Chain Safety Office), was established to cover better forest management targets. In the field of fire-fighting, it cooperates with the National Directorate General for Disaster Management and its regional offices, which are under the authority of the Ministry of Interior. For fire-fighting, Hungarian Defence Forces are also mentioned. In connection with **financial instruments**, procedural costs, financial support of fire-fighting brigades, fines for forest protection are mentioned; however, specified funds or fines related to fires are not clearly established. The importance of **infrastructural** investments for forest protection against fires are a must, though specific numbers and goals are not set up. As part of **firefighting preparedness**, the analyzed fire-specific law lists effective fire-extinguishment containing the importance of a fire detection system, appropriate equipment, the built up of communication system and the systematic use of a National Forest Fire Database. The division of duties in case of fires are well-defined. **Protection plans** consist of clearly separated classification of forest areas in fire hazard classes, fire protection plans – including all the necessary requirements – fireplace regulations and national/regional fire bans. Fire **monitoring** is mostly present through ground-based personal examination and use of historical data (in the National Forest Damage Inventory). With that said, explicit detection types and methods are not described. Regarding **fuel treatment**, fire protection strips, breaks, fences and shrub zones are added as techniques to interrupt fire advancement. Grazing is forbidden in the forests. The use of **technical fires** (integrated fire management) is totally absent in the basic forest code; it appears only in the 4/2008 Decree on Protection of Forests against Fire Hazards. A wide range of **awareness-raising** methods appear in Hungary, including the accessibility of the National Forest Database, the Inventory of Forest Managers, educational opportunities (mostly in vocational schools), research projects and the availability to attend conferences and trainings on forest protection. Ministerial communication about the **Week of Forests** is also present. **Rehabilitation**
and restoration management focuses practically on reforestation after fires and its funding.

9.3. Poland

The legislations in Poland present a clearly established institutional framework for forestry and fire protection. The Forest Act establishes the State Forest Enterprise as the body responsible for forestry under the jurisdiction of the Ministry of Environmental Protection. Additionally, an autonomous section to specifically protect forest against fire hazard is stipulated in the Executive Order No. 11 of the Minister of Environment Protection, Natural Resources and Forestry. The Fire Protection Act establishes the Ministry of Interior as the main authority regulating Protection Units for firefighting. Financial instruments are embedded in the Polish Forest Act, establishing funding through State Budget for protection of the forest, which receives income from donations from the state budget, allowances, fines and sanctions. Measures related to infrastructure are included in the Regulation on Forest Fire Prevention, which implements the Forest Act. This regulation addresses the location of emergency roads for forests, their signalization, and bases with firefighting equipment. Firefighting preparedness measures are covered in the Fire Protection Act. The Act is applicable to the urban environment with some provisions on forests. It details the different fire protection units, their working procedures, tasks and duties and also regulates the special training that shall be provided to all members of the service and voluntary brigades. With regards to the protection plan, the Forest Act sets mandatory forest management plans that include a description and assessment of the state of the forest, objectives and tasks. Available camp areas and prohibitions against starting fires in the forest are also stated in the Act. Furthermore, the Regulation on Forest Fire Prevention provides a detailed classification methodology for the establishment of forest fire risk categories. The Fire Protection Act also designates monitoring measures for early detection in forests, including the development of a National Decision Support Information System with data-gathering. The Regulation on Forest Fire Prevention also deals with additional measures related to patrol observation for early detection of fires in areas of high risk. Awareness-raising activities, fuel treatment activities and the use of technical fire are not set in the analyzed legislation. The Forest Act establishes the responsibility of restoration and rehabilitation activities on the forest owner, who may obtain grants from the central budget allocated to cover the costs associated mainly with afforesting land.

9.4. Romania

Administrative levels of the Romanian forestry sector are clearly defined. As part of the institutional framework, task-sharing is present among the Ministries of Finance, of Interior and of Environment and Forests. A
national authority has been established, called *Regia Nationala a Padurilor Romsilva* (National Forest Administration Romsilva), in order to be able to meet the expectations of sustainable forest management (SFM). Forestry personnel and civil protection are of great importance of the system. In view of financial instruments, the basic forest code is rather stringent: sanctions and fines are well-described for forest crimes (e.g. lighting fires in forests), and reducing the national forest area might be punished by imprisonment or fine. These fines could also serve as allocations for rehabilitation methods after fire. The evaluated legislation underpins that the attempt for committing crimes is also punishable; in addition to this, someone can be obliged to pay fines upon failure to engage in fire-fighting during forest fires. Further financial plans appear regarding fire prevention and firefighting. With regards to infrastructure, the legislation highlights that forestry roads and their construction are in line with best practices agreed by the central authority responsible for forestry. Forest roads cannot affect in any way water quality and the biosphere in the forests. The 307/2006 Law on Fire Safety defines the necessity of roads for firefighting, their maintenance and the stakeholders involved in creating them. In other aspects, such as the creation of fire stations, fire hydrants and water reservoirs, these laws are taciturn. **Firefighting preparedness** consists of the distribution of responsibilities in case of fires and the provision of firefighting equipment. The necessary items for this purpose are not listed. Additionally, Special Fire Safety Training for fire brigades is observed. In the mechanism of **Protection Plan**, the laws consider Forest Management Plans that are mandatory for those managers/owners who own forest areas over 10 ha. Fire Protection Plans are provided not only for forest areas, but also for built-up urban ones. Fire bans are present in the laws, while camp fire regulations are not detailed enough. The basic monitoring principles are available through these laws: they include relevance, communication methods (reporting obligations about a fire event), and duties associated with its maintenance. Any other specified technique is not present to facilitate an analysis. General descriptions can be seen with regards to **fuel treatment**: fire protection strips, firebreaks and windbreaks are commonly used, grazing is prohibited is the forest areas. Information about technical fire is not available. A broad range of awareness-raising possibilities can be found in the Romanian laws: the operation of the National Register of Forest Managers and Owners, the Inventory of National Forests (I.F.N.), the provision of scientific research opportunities that could be implemented in the practice, forestry awareness trainings in secondary schools (the Central Public Authority for Education uses its curriculum to teach fundamental concepts about forests). A National Centre for Training in Forestry (*Centrul Naţional pentru Perfeccionare în Silvicultură*) exists to transfer acquired knowledge for the parties concerned. Similarly to Hungary, the **Week of Planting Trees** is organized every year between 15 March and 15 April. Great emphasis is placed on
media promotion. Finally, **rehabilitation and restoration** techniques contain reforestation as a possible solution.

### 9.5. Serbia

The Forest Law of Serbia details the authorities constituting the **institutional framework** for forestry issues in the country, with the main body being the Ministry of Agriculture, Forestry and Water. The Fire Protection Act establishes the Ministry of Interior as the head of the Fire and Rescue Service. The Forest Law and the Fire Protection Act refer and complement each other. Additionally, both documents set the legislative framework for the Autonomous Provinces and their respective organs. The Forest Law establishes the **financial instruments** that serve as a basis for the Budget Fund of Forest from the budget of the Republic, compensations, fines, donations and other incomes. Construction and maintenance of technical **infrastructure** to combat forest fires, such as roads and water sources are explicitly stated in the Forest Law. **Firefighting preparedness** measures are covered in the Fire Protection Act, which details the organization of the fire departments, their rights, responsibilities and obligations. The Act also regulates special training, equipment and uniforms that shall be provided to all members of the service and voluntary brigades, as well as specific technical measures for firefighting and cooperation responsibility between units. The Act sets the rules for firefighting, generally for urban areas, although it does consider some provisions for forests. With regards to **protection plans**, the Forest Law establishes several types of mandatory management programs that set the rules for forestry protection. Among these, a specific plan for forest protection against fire is included. Available camp areas, prohibitions against starting fires in the forest and responsibilities during a fire event are also stated in the Law. Furthermore, the Fire Protection Act sets the classification of fire risk of the land. Forest **monitoring** activities and data gathering on forests are established in the Forest Law through the National Forest Information System. Moreover, forest owners are obliged to keep record of fire disasters that occur in forests. **Silvicultural fuel treatment** activities, such as fire breaks, fire lines and fire stripes to protect forest from fires are also regulated by the Forest Law. Pasturage is permitted in accordance with forest management plans. The use of **technical fire** is not reflected in the reviewed legislation. The Forest Law lists information dissemination activities to the general public. Further measures of **raising awareness** on forestry-related issues are not considered. In terms of **rehabilitation and restoration** activities, this Law burdens forest owners with the responsibility of reforesting the land after the occurrence of a fire.
9.6. Slovakia

In terms of institutional framework, the Ministry of Agriculture and Rural Development of the Slovak Republic is the main body to cover forestry-related issues. A forestry agency was established by the Ministry on 1 January 2006, called the National Forest Centre of Slovakia (NFC). In fire prevention, responsibilities are divided among the Ministry of Interior, the District Directorate of Fire and Rescue Service, the Slovak Hydrometeorological Institute and the fire brigades. The analyzed legislations consider the Ministry of Defence and the voluntary fire brigades to be relevant stakeholders, too. In connection with financial instruments, the amount of fines generally depends on the seriousness of the violation against forests. Exact fines (in euros) can be found in the law 314/2001 on Fire Protection. There are available funds for firefighting and fire alarm systems. Explicit infrastructural measures appear regarding the importance of road construction and the availability of water supplies in order to prevent forest fires. Forest managers/owners are required to maintain forest roads in a reasonable condition, and in case of emergency, are obliged to ensure cleansed roads for rescue teams. The duty of each municipality is to sustain free boarding areas and roads for firefighting. It is of crucial importance to maintain emergency exits and embarkation areas near forests. These solutions are perfectly complemented by the allocation of locations from which the possibility of reporting fires is assured. The types, numbers and storage of firefighting equipment are present in the laws. The evaluated legislation provides an insight into the firefighting preparedness: evacuation plans, the usage of water courses to extinguish fires, and storage conditions of firefighting assets (e.g. fire extinguisher, emergency lightning, shovels, hoes, axes, rakes, pickaxes and pumpers, etc.) are manifest. Special training on fire prevention and the registry of the technical equipment also contribute to a better fire management. Apart from these, the Law 121/2001 on Fire Prevention contains a Fire Alarm Plan, a detailed list about the firefighting techniques – pipes, hydrants, extinguishers, ventilators, sprinklers, spray, foam, powder and aerosol – and additional opportunities of mobile communication. Regarding protection plans, appropriate camp fire areas and their regulations are installed, forest management plans and fire safety plans (also in increased fire risk period) exist. National bans are either unknown for protecting forests. In the field of monitoring, abundant information can be found: surveillance of forest fires is put into effect through historical recordings, early fire warning system, aircraft and ground-based fire monitoring, and fire and voice alarms. A State Fire Supervision Project deals with fire control and underlying causes of fires.

The fuel treatment category comprises fire breaks, closures and tracks, watercourses and the planting of fire resistant species. Grazing is forbidden in the forests. A great emphasis was placed on the fire-resistance of buildings. Technical fire was not considered, though
legislations mentioned integrated fire management (IFM). Forest Management Records, National Inventory and Forest Monitoring (NIFM), Registries of Forest Guards and Managers all contribute to the awareness-raising of the public. Practical training in forestry (in vocational and high schools) is discussed, as well as education regarding fire prevention for all kinds of schools. Information about the conference, training and other opportunities are generally published on the website of the Ministry of Interior. Restoration and rehabilitation methods include Premature Restoration Plans and Early Recovery Plans after fire. Sustainable forest management (SFM) is mentioned.

9.7. Ukraine

The Institutional framework in the Ukraine clearly distinguishes the rights and duties of each governing body. Ukrainian forestry is under the authority of the Ministry of Agrarian Policy and Food of Ukraine. The State Agency of Forest Resources of Ukraine (State Forestry Agency) is the central executive body whose implementing activity is coordinated by the Cabinet of Ministers of Ukraine through the Ministry. The Forestry of the Autonomous Republic of Crimea, a specialized service of Civil Protection, non-military rescue operations and local authorities are also considered in the evaluated laws. Administrative fees and compensations are described in the field of financial instruments, however, special fund allocations or fines related to fires are not highlighted. Infrastructure mechanism considers the importance of constructing roads to prevent harmful effects on forests – notably, fire is not specified among these effects – and water supply. Related to the area of firefighting preparedness, exact definitions are provided regarding fires, some of these are fire prevention, rescue operation and emergency response. Evacuation plans, special clothing of the fire-fighters and their basic equipment are present. Emphasis was placed on training courses for firefighters and on victims involved in emergency operations who are entitled to receive free psychological assistance. Increased fire hazard periods are mentioned in the laws at the side of civil protection plans in the category of Protection Plan. The Forest Fire Protection Plan is highlighted. Regular monitoring of forests are conducted through the collection of data and ground-based analysis. Surveillance of forests with the help of helicopters and airplanes is also available. How the early and automated detection of emergency situations operate is not specified. Fuel treatment contains only the technique of firebreaks. In connection with technical fire, suppression fire is mentioned in the Code of Civil Protection of Ukraine 3435 of 2013. Awareness-raising refers to the State Forest Inventory, the national programs and scientific research opportunities, whose findings could be implemented in the forestry practice. Training on fire safety and the information/warning of civilians through media are underlined. Lastly, among restoration and rehabilitation activities, reforestation is mentioned after forest fires.
The European Union established a legal framework to protect EU forests from fires in the early nineties. In 1992, the EU regulation came into force for specific measures devoted to forest fire prevention. This instrument, valid until 2002, focused on monitoring fire activities and supported national restoration efforts. From 2002 to 2006, it was replaced by ‘Forest Focus’, which also continued monitoring practices to protect forests against fires. As a reference, the Common Agricultural Policy (CAP), built on the regulation of 1992, consolidated the financing role of fire prevention in rural development. The European Agricultural Guidance and Guarantee Fund (EAGGF) also co-financed forest fire prevention activities and the restoration of forest areas.

The European Union has a number of financial mechanisms to be allocated to protect forests against fires. The EU Strategy on adaptation to climate change proposes a disbursement of 20% of the EU budget for climate change-related issues for the 2014-2020 period. This includes financial support for the LIFE Program, of which 75% of the approximate €3,500 million budget goes towards fire prevention activities as part of an environment sub-program. The EU Strategy also aids European Structural and Investment Funds. The latter includes the European Agricultural Fund for Regional Development (EAFRD), which replaces the CAP and has greatly benefited from the aforementioned: its total budget amounts to around €95 billion, with an estimated 30% going to the protection of the environment and climate change mitigation. This accounts for measures for prevention and restoration of forests damaged from fires. The Communication from the Commission to the European Parliament and The Council on Reinforcing the Union’s Disaster Response Capacity was issued in 2008. This document promotes the mobilisation of financial support through the European Regional Development Fund (ERDF) and the EU Solidarity Fund (EUSF).

Besides financial mechanisms, there are several propositions set by the EU Strategy in order to tackle forest fires. Another component set by the EU Strategy on adaptations to climate change is the strengthening of infrastructure to cope with extreme events and other climate impacts. Subsequently, the EAFRD provides financial support to the construction of protective infrastructure against fires.

The EU Communication on reinforcing the Union’s Disaster Response Capacity also encompasses firefighting preparedness measures. The Communication proposes the creation of a Disaster Response Training Network to further enhance both the preparedness of civil protection services and the capacity of firefighting teams. This policy also foresees the possible financing of EU-level equipment to complement national resources, including fire-fighting aircraft.
Additionally, **protection plans** and actions are addressed in several EU policies. The EAFRD regulation establishes that Member States must undertake preventive actions as part of a forest protection plan with special focus in areas classified of medium or high fire risk. Furthermore, the EU Communication on reinforcing the Union’s Disaster Response Capacity establishes mandatory reporting on forest management, afforestation, deforestation and reforestation for Member States. The EU Land Use, Land Use Change and Forestry (LULUCF) decision, the EU Climate Change Strategy and the EU Forest Strategy further discuss the importance of protective actions against fire.

The EU has listed **monitoring** among the priorities to detect potential hazards in forestry. Since its inception in 1998, the EFFIS platform provides assessment of situations pre- and post-fires and supports fire prevention through risk mapping. The Commission Communication on reinforcing the Union’s Disaster Response Capacity stresses the importance of EFFIS in the monitoring and early detection of fires, and proposes further investment in projects on information and communication technologies to improve early warning and response systems. As one of its focal objectives, the Forest Strategy also emphasizes the increase of knowledge and the amelioration of forest information systems, including current EFFIS improvements. The LIFE program and EAFRD regulations also consider financial support for these activities.

With regards to **fuel treatment** for fire prevention, the EAFRD provides financial aid to silviculture and the use of grazing animals on a local scale. Embedded in this category, the regulation funds the installation of firebreaks and maintenance costs. In accordance with the LULUCF decision on preventing pollution caused by forest fires, these measures must also be included in reports of emission removals pledged by the Member States.

The EU Climate Change Strategy notes the importance of **raising awareness** through capacity building, stakeholder involvement and information and communication dissemination. One of the flagships of the LIFE Program is the financing of these activities addressed to protect forest. The EAFRD also offers financial support for rural communities regarding environmental awareness activities. Within the framework of European legislation, **technical fires** are not included due to their controversial nature. However, technical fires have been examined in depth by the European Forest Institute, proving that their practice is successful for the contention and prevention of forest fires.

The EAFRD also provides financial support in terms of **restoration and rehabilitation** measures. The Commission Communication on
reinforcing the Union’s Disaster Response Capacity further proposes support from the EU Solidarity Fund for the recovery from disastrous fires.

Finally, given that national institutional framework measures are not applicable at the EU level, all policies analyzed aim to reinforce the international cooperation between Member States, in order to provide a common action plan that ensures an integrated EU approach to disaster prevention and mitigation.

11. The U.S. Policy Analysis

In connection with the U.S. institutional framework, the Forest Reserve Act of 1891 (known as “Creative Act” or “General Land Revision Act”) gave the President authority to establish forest reserves from public domain lands. The forest reserves formed the foundation of the National Forest System. Forestry and Fire Management sectors are now under the authority of the U.S. Department of Agriculture. The Transfer Act of 1905 assigns the management of “forest reserves” – now known as national forests – from the General Land Office (within the Department of Interior), to the Bureau of Forestry (within the Department of Agriculture). The Bureau of Forestry was renamed Forest Service and is now operating as an essential agency of the USDA.

The Federal Land Assistance, Management and Enhancement Act of 2009 (“FLAME Act”) shows the financial ability of the country. This act created the Wildfire Suppression Reserve Fund for catastrophic emergency fire suppression activities. The Appropriations Act for Fiscal Year 2010 (PL 111-88) appropriated approximately $2.1 billion to the USDA Forest Service and $795 million to the Department of Interior (DOI) for fire management. Moreover, the FLAME Fund provided an additional $413 million to the USFS and $61 million to DOI to cover costs related to fire suppression. The U.S. infrastructural strength is reflected in the Secure Rural Schools and Community Self-Determination Act of 2000. The act provides financial assistance to rural counties that are part of the National Forest System, in the interest of creating forest-related schools, programs and roads, and maintaining current infrastructure. Among other purposes, these all contribute to the reduction of the threat posed by fires. In the

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112 Ibid.
fiscal year 2015, approximately $252 million were spent on these measures.\textsuperscript{113}

Regarding **firefighting preparedness**, the Federal Fire Prevention and Control Act of 1974 takes into account the American scope at the very beginning of the given legislation (Sec. 2. (3)): “Fire kills 12,000 and scars and injuries 300,000 Americans each year, including 50,000 individuals who require extended hospitalization. Almost $3 billion worth of property is destroyed annually by fire, and the total economic cost of destructive fire in the United States is estimated conservatively to be $11,000,000,000 per year.” The cited act describes the training of firefighters, the appropriate clothing, the firefighting equipment and the fire monitoring system. The Fire and Aviation Management Program is an integral part of the U.S. Forest Service that leads cutting-edge computer-simulated fire management, aviation technology, rescue operations and fire research.\textsuperscript{114}

**Protection plans** include Environmental Assessments (EAs) and Environmental Impact Statements (EISs) required by all federal agencies and clearly defined in the National Environmental Policy Act of 1969 (NEPA). More fire-specific plans include the National Fire Plan, whose basic premise focuses on investing in an optional firefighting force, reducing hazardous fuels, and protecting the overall community. In this way, these provide for immediate protection and future cost savings. The plan is described in the Federal Wildland Fire Management Policy of 1995, 2001 and 2009. The federal agencies emphasize the implementation of the written ideas into practice.\textsuperscript{115}

**Monitoring** techniques are best tracked in the aforementioned Federal Fire Prevention and Control Act of 1974. These techniques have already been implemented in practice: besides the ground-based inspection, the usage of common helicopters and airplanes, the National Aviation Safety Management System was created to better cope with fires,\textsuperscript{116} and the Unmanned Aircraft Systems (UAS) is currently under testing.\textsuperscript{117} The Modular Airborne Fire Fighting Systems (MAFFS) can provide immediate assistance during severe wildfires: these military C-130 aircrafts are able to discharge their entire load of up to 3,000 gallons of retardant in less than 5 seconds, covering an area of ¼ of a mile by a width of 100 feet.

Once the load is discharged, it can be refilled in less than 12 minutes. Additionally, the Active Fire Mapping Program operates with the help of MODIS and VIIRS Satellite Imaginaries.

**Fuel treatment** is available in the Healthy Forests Restoration Act of 2003 (HFRA). Hazardous fuel reduction and forest restoration projects operate in line with the National Fire Plan and the Healthy Forests Initiative. Notable, also, is the possibility of pastoralism in the States of Oregon and Washington, where the vegetation can be renewed by the usual and abundant rainfall. This exception is provided in the Forest Service Organic Administration Act of 1897 (Organic Act).

In the recent decades, special emphasis has been placed on the use of **technical fires**, highlighting the positive effects of fires. The mentioned HFRA Act underpins the strategic use of prescribed and suppression fires to further modify fire behavior. A case study shows the implementation of the technique: the *Carpenter 1 Fire* started by lightning in 2013 was suppressed by technical fire. Lightning-ignited fires are another threat to consider from the viewpoint of suppression fires when detection and response times could significantly vary. Besides climatic effects, factors including vegetation characteristics and fire management policies could also influence the fire regime. There is a need for a fine balancing act to address fire protection, which could be fulfilled in the Emergency Wildland Fire Response Act of 2008.

**Awareness raising** mechanisms include a wide range of activities: the establishment of state forestry agencies to broaden the cooperative efforts (*Clarke - McNary Act of 1924*), the forestry research program for colleges and universities (*McIntyre-Stennis Act of 1962*). Though agricultural subsidies (*Farm Bill of 2002*) are more common nowadays, groups who plant trees, and provide conservation education are also welcome to join.

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121 Ibid.
Finally, rehabilitation methods have been elaborated in accordance with the Endangered Species Act of 1973. Financial and technical assistance are given to reforestation solutions, alongside the requisite involvement of other agencies and organizations. In the fiscal year 2004, $25,000,000 were distributed for such scope, defined in the HFRA Act of 2003. Practical applications of the legislation include the improvements of habitat, the hazardous fuel reduction near communities, the achievement of fire-resilient communities, the rehabilitation of roads and fire lines, the survey and treatment of non-native and invasive species, and the enhancement of wildlife habitat.123

12. Climate Change Specific Strategies

Climate change effects on the increase of forest fires are seldom addressed in the main Carpathian National Forestry or Fire Legislation. In the Czech Republic, the reviewed Acts take into consideration that greenhouse gas emissions are damaging to the forest and that measures of restoration are needed. In the Hungarian legislation, a mere desire for decreasing the negative effects of climate change appears, while any connection between climate change and forest fires is not established. The Polish Regulation on Protection of Forest from Fires estimates the risk of forest fires through the monitoring of a climatic parameter. However, adaptation strategies to control fires and increase the resilience of forests are not embedded in the respective Acts. In the Romanian national forest code, the mitigation of the impact of climate change on forests is explicitly mentioned and the adaptation of forests to climate change is detected.

In Serbia, the Forest Law and related amendments concern the effects of climate change in the increased frequency of forest fires. In 2012, Serbian forests experienced severe droughts, which resulted in the drying of many species and the ignition of over 3000 ha of forest. The current legislation aims to improve adaptation mechanisms in order to mitigate the adverse consequences of climate change and the rehabilitation of affected areas. In the Slovakian forest code, parameters related to climate change were not discovered. However, the 121/2001 Fire Prevention Law contains information about emergency fire events when meteorological conditions are monitored, in the interest of providing immediate responses to fires. The Slovak Hydrometeorological Institute could provide further support for doing so. In the analysed Ukrainian laws, palpable information about climate change was not available.

European Union legislation recognizes the increased fire risk due to climate change. Besides acknowledging the importance of forests due to

their CO₂ removal capacity, the EU addresses the risk that emissions from forest fires further contribute to climate change. Additionally, the increased occurrence of disastrous forest fires in the Southern regions of Europe has stressed the need for stronger adaptation strategies that tackle this issue. EU efforts to address climate change and its adaption measures for forest fire prevention are significant. In this regard, its support for scientific activities to increase knowledge on climate change effects on forest fires is pivotal. This is a recurrent subject in the entirety of the analysed EU legislation, focusing on monitoring, research and raising awareness actions. This aims to develop adaptation practices to increase forest resilience to extreme climate events.

In recent years, the climate change policy of the United States has been strongly divided due to conflicting economic and environmental interests, with the country signing the Kyoto Protocol and not ratifying it or withdrawing from it. Despite this, there have been many initiatives for accepting an Act related to climate change e.g. the Global Warming Pollution Reduction Act of 2007, a bill designed to amend the Clean Air Act, but which remained only in an introductory phase in the Senate. The Climate Protection Act and the Sustainable Energy Act, both proposed in 2013, also failed. These were experiments for funding R&D on geologic sequestration of CO₂, setting new emission standards for vehicles, and replacing coal-based power generation. The evaluated U.S. legislations monitor climate change by gathering information on the emissions of greenhouse gases. The impact of climate change on the increase of fire frequency is usually suggested by research in global climatic warming.¹²⁴

Scientific research related to the Federal Wildland Fire Management Policy ¹²⁵ highlighted that CO₂ released from prescribed fires is progressively removed by the subsequent regrowth of vegetation. Lower intensity prescribed fires – which are needed in the ecosystem – emit far less CO₂ than high-intensity fires. Therefore, there is an intention to increase prescribed fires to reduce the high-intensity. The use of fire for ecosystem management and fuel reduction is consistently perceived through policies, such as the Healthy Forests Restoration Act of 2003 and the Federal Wildland Fire Management Policy of 2009.

13. Conclusions and Recommendations

The overall national legislation of the Carpathian countries sets in a detailed manner the institutional framework and responsible authorities for forestry issues and fire protection. Similarly, financial instruments of

funding for forest protection, including fines and other sources, are clearly established for most of the countries in the region, apart from the Ukraine.

In connection with infrastructure, national decision-makers have recognized and emphasized the relevance of forest roads and other structural improvements. Firefighting preparedness in terms of brigades, equipment and training is well established in the general Fire Acts of all Carpathian countries. Protection measures established in the forest management plan include fire protection strategies. These plans contain all the necessary measures to perform before, during and after disastrous events.

Information Systems for monitoring and coping with fires are compulsory in Poland and Serbia. Ground-based detection and the collection of data on forest fires are common monitoring methods for all Carpathian countries.

The implementation of fuel treatment measures is mostly based on cost-efficient solutions. The use of technical fires is not included in any national Forest Code. However, some provisions for controlled and suppressive fires activities are set in Hungarian and Ukrainian fire-specific laws.

Most of the Carpathian countries make use of awareness-raising activities – they operate several databases, newspapers and websites, for example, to disseminate forest protection solutions and a sustainable use of forest reserves. However, these opportunities – being a noteworthy contribution to a better handling of forest fires – mostly remain outside of the public gaze. According to the authors, this category would be further fostered by the national forest programs, forestry strategies and afforestation programs already in place in various countries with the support of the European Union. Rehabilitation and restoration methods contain the concept of reforestation plans and their financing, but further elaboration appears to be needed. For instance, the main aspects are delineated, but consistent strategies to further prolong the existence of forests remain scarce.

To conclude the conducted analysis, the authors have encountered more preventive than corrective measures with regards to forest fires in the Carpathian countries’ legislation. In relation to categories 1 to 5, the Acts of the countries have received higher qualifications due to the traditional nature of the measures. On the contrary, categories 6 to 10, which require more technical and up-to-date knowledge, have received a lower qualification. This may be due to a delayed translation of scientific knowledge into the legislative process. At the same time, while the impact of climate change on the frequency of forest fires is acknowledged, the
Carpathian National Laws have yet to integrate adaptation strategies to control fires and mitigate their consequences.

The European Union legislation establishes the allocation of financial resources for the protection of forests. Adaptation strategies to increase forest resilience to fire are strongly supported, as the EU has long been committed to international efforts to tackle climate change. Prevention mechanisms are also emphasized over correction mechanisms. In this regard, most of the categories, except for technical fires, are enforced in the existing regulatory framework of the EU. It is noteworthy that monitoring and awareness-raising mechanisms are repeatedly highlighted as pivotal to meet the regulatory objectives in the development of climate change adaptation practices.

These results indicate that even though most of the countries comply with the EU legislation and benefit from its programs, there is room for improvement in the vertical integration from the EU policy framework to national and local administrations. Furthermore, the existing links between civil protection and environmental policies should be reinforced based on a more cohesive institutional coordination to expand the outreach of preventive measures. Finally, as U.S. policies provided an in-depth insight into the practical realisation of novel fire technologies in legislative decisions, it would be advantageous to acquire knowledge on integrated fire management, fire-resilient communities and monitoring strategies in Carpathian national legislations.

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PART FOUR

HUMAN RIGHTS
SAVING YES TO SAFETY? THE DECISION-MAKING PROCESS OF SYRIAN REFUGEE PARENTS IN THE ZA’ATARI CAMP

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1. Introduction

Syria’s Civil War is the worst humanitarian crisis of our time. Half of the country’s population has been killed or has been forced to flee their homes. The majority of Syrian refugees, more than 4 million individuals, has sought refuge in neighboring countries such as Lebanon, Turkey and Jordan.¹

According to the United Nations High Commissioner for Refugees (hereinafter: UNHCR), Jordan is currently hosting 654,400 refugees of which a quarter is female and under the age of 18 years.² Three years into the conflict, official statistics show that these young girls have not only become victims of the Syrian Civil War but have also been subject to sexual harassment and early, unlawful, ‘religious’ (co-)marriages. While child marriage existed in the region before the onset of the conflict, “the proportion of registered marriages among the Syrian refugee community where the bride was under 18 rose (...) as high as 25% in 2013”.³ There is no conclusive evidence that Syrian refugees are marrying earlier or at a higher rate in Jordan than in Syria, however, a study on early marriage in Jordan from 2014 by the United Nations Children’s Fund (hereinafter: UNICEF) points out that “a new sense of urgency is undermining the thoroughness of the investigations that Syrian families would usually make into the character, qualifications and family background of potential husbands for their daughters”.⁴ Most parents explained that they felt obliged to marry off their children as soon as possible due to economic fears and a lack of security. Moreover, “the challenges of living

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in exile are weakening other coping mechanisms”. Even though child marriage violates a girl’s right to health, education and opportunity, it has been a long-accepted practice in Syria, to the point where it provides a greater number of guarantees and protections than child marriages in other countries. However, the current crisis has eroded many former safety guarantees and placed additional pressure on families to find matches with greater urgency. This has come at the expense of properly knowing the groom’s family, leading to an increase in the abuse of young girls. Moreover, because of the situation that Syrian families find themselves in, marriage to a certain extent has lost its symbolic value in uniting two families. Instead, it has become a means for refugee parents to potentially find a safe haven for their daughters and/or to obtain money. As a result, child marriages among Syrian refugees in Jordan have become much more dangerous for girls than before the start of the Syrian Civil War. A combination of incomplete knowledge of the groom’s family with the existing security concerns and economic fears, results in the practice of child marriage accruing fewer benefits for Syrian parents than what they were accustomed to before the Syrian Civil War.

While there has been an adequate amount of research on child marriage in Jordan, the majority has been published by NGO’s in the form of policy papers or studies, which are mostly addressed to a non-academic audience. The case of child marriages among Syrian refugees is a missing element in the existing academic literature, which is why our research wants to concentrate on the decision-making process of Syrian refugee parents living in the Za’atari camp in Jordan. By characterizing the necessary tools that they need to make such a difficult decision, we hope to present patterns that indicate that the parent’s decision to marry off their child is not based solely on cultural traditions, but also on insecurities caused by the Syrian crisis. Within the framework of human security, our research concentrates on the safety of underage girls, who are forced into marriage. Since this form of alliance is initiated and managed by the parents, we view it as an arranged marriage that follows the rules of social exchange and can, therefore, be analysed with economic theories. According to the Thaler and Sunstein’s Nudge theory, decisions cannot be made purely rationally, due to people’s resort use heuristics, fallacies, and the influence of social interactions that facilitate predictable mistakes. To make good decisions, Thaler and Sunstein state that people need experience, good information, and prompt feedback. Our research adopts this assumption to analyse how the decision-making process of Syrian refugee parents in Za’atari camp has changed due to the Syrian civil war, and what factors have influenced this change.

5 Ibid 11.
The relevance of this paper lies mainly in its emphasis on the importance of knowledge-transfer in refugee camps, and its aim to start filling the gap in the existing academic literature. Refugee camps are no longer temporary places, but rather “the cities of tomorrow,” as Kilian Kleinschmidt, one of the world’s leading authorities on humanitarian aid, has put it. According to a study of the UNHCR, the average duration in a camp “has increased from 9 years in 1993 to 17 years in 2003”. Generations that grow up in refugee camps will eventually have to contribute to the future of the states in which they are located.

2. Za’atari Camp

Jordan currently has four refugee camps, of which the Za’atari camp in Mafraq Governate is the largest, housing around 80,000 people. Located 12 km south of the Syrian-Jordan border, the camp extends 8 km in the dry desert land. It was set up in 2012 as the Syrian crisis intensified with large influxes of refugees entering Jordan. Though refugees were initially issued tents, the camp quickly evolved into a permanent settlement. Today, the Za’atari camp is the second largest refugee camp in the world and the fourth largest city in Jordan. According to the UNHCR, “the 530-hectare camp costs (…) $500,000 per day to operate”, which is paid for by the United Nations, its partner organizations, and the government of Jordan.

2.1. Protection of Refugees

Jordan is not a signatory to the 1951 Refugee Convention or its 1967 Protocol. Therefore, there is no national legislation for the protection of asylum-seekers in full accordance with international standards. However, “Jordan remains bound by the customary international law prohibition on refoulement”, which is “also reflected in Jordan’s memorandum of understanding with the UNHCR (MOU)”, and therefore “gives the latter

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the right to conduct refugee status determination and requires it to provide for their protection”. However, even though the Jordanian Public Security Department provides police forces, security is still a primary concern, especially for women and children.

According to UN human rights expert, Maria Grazia Giammarinaro, who visited Jordan in January 2016, human trafficking in Jordan involves not only Jordanians, but also migrants and refugees. She also mentions in her report that human trafficking “mainly involves labour exploitation of non-Jordanians, to the neglect of other forms of trafficking including trafficking for sexual exploitation, begging and organ transplant.” Not only are refugees victims of human trafficking outside and the camps, but they also face victimhood in the encampments themselves. Kleinschmidt, a former UNHCR Camp Manager of the Za’atari camp, notes in an interview with the New Yorker that “smugglers hardly stop working when they go to the camp.” According to him, there is simply a shift of organized crime from places close to the Syrian-Jordan border to the Za’atari camp, which meanwhile has all kinds of black markets and unofficial chieftains. The existence of human trafficking groups in the camp poses a serious challenge to the UNHCR’s ability to ensure the safety of women and children. Since 2014, the media has already been covering several stories of women and children, who were victims of gender-based violence and exploitation. While media coverage has decreased, the situation has not changed considerably.

Allegations that the police are somehow involved in the criminal activity makes it even harder to implement solutions. The Jordanian Director of Syrian Refugee Camps, Wadah al-Hamoud, denies that officers take bribes to smuggle refugees and cites the low number of officers who have been disciplined as proof. Journalists, such as Khandaji and Makawi (2014), continue to report on the coordination and payment between smugglers and security forces as a normal occurrence. They indicate that although the acceptance of bribes is a crime for Jordanian officers, there is no written law against smuggling people out of the Za’atari camp, so no criminal penalty can be enforced.

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12 Ibid 1.
Unfortunately, human trafficking is not the only risk that women and children have to face within the Za’atari camp. Many refugee families are marrying off their daughters to protect them from rape. Dr. Manal Tahtamouni, director of the Institute for Family Health, a local NGO funded by the European Commission, reports that from the 300 to 400 cases her women’s clinic in the Za’atari refugee camp receives in a day, “100 are female victims of violence, mostly domestic violence”. But officials are unable to state the number of rape victims, because “most women will not admit to being raped. They will say they have seen others being raped”.

The Preservation of honour often prevents them from reporting sexual assault, because in Syrian communities, very similar to the majority of Arab societies, “the honour of a family is usually centred on the sexuality of the female family members”. As a result, “a girl’s virginity is important and should be protected”. A report by the International Rescue Committee published in 2014 further identifies female Syrian refugees as being unsafe from sexual and domestic violence in Jordanian refugee camps.

### 2.2. Consequences of child marriage

Formal or informal marriage before the age of 18 is referred to as child marriage and constitutes a form of gender-based violence, as well as a violation of human rights. When it comes to child marriage among Syrian refugees, the argument is raised that as it existed in Syria before the start of the conflict, its causes are thus blamed on Syrian traditions and customs. The legal age of marriage in Syria is 17 for girls and 18 for boys, but judges can reduce the age down to a minimum of 13 and 15. Hence, child marriage is indeed not something new, but the Syrian crisis has exacerbated the practice at an alarming rate. In 2011, 12% of registered marriages among Syrian refugee communities in Jordan involved a girl under the age of 18, while in 2012 this figure increased to 18%, in 2013

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17 Ibid.
19 Ibid 105.
to 25% and reached almost 32% in the first quarter of 2014.\textsuperscript{22} What is even more alarming is the fact that 16% of these girls had to marry men who are 15 years older, 32% married men 10 to 14 years older, and 37% married men 5 to 9 years older than themselves.\textsuperscript{23} Girls often do not have a choice, because “marriage customs in Syria essentially make all marriages arranged marriages, insofar as the bride has no legal voice in it: the marriage contract is signed by the groom and the bride’s male guardian”\textsuperscript{24} and often is officiated by sheikhs known to both families.

In Syria, families were traditionally accustomed to collect information about the potential groom and his family. However, the current crisis has forced them to displace themselves from their customary practices, thereby depriving them of the time or resources necessary to conduct such due diligence or background checks. Moreover, the sheikhs in the refugee camps are unknown to the families. These strangers who perform the marriage ceremony may also not know the groom’s family and can thus take advantage of the situation. Even when the sheikh is working to achieve the best outcome for the bride’s family, neither the family nor the sheikh may be aware of the intentions of the groom, increasing the risks for Syrian girls being subject to sexual abuse or human trafficking.\textsuperscript{25} One form of human trafficking, for instance, is the practice of “temporary marriages” (\textit{Nikah al-Mut’ah}) for prostitution and other forms of exploitation. Temporary marriages are religious marriages where women are abandoned shortly after the marriage is consummated. According to the 2015 Trafficking in Persons Report of the U.S. Department of State, “Arab men reportedly visit refugee camps in Jordan in search of Syrian brides”.\textsuperscript{26} These visitors offer false promises of security and welfare to parents in exchange for the hand of their daughter. Due to economic and security woes, fathers often consent to marry their daughters to men they do not know as part of a religious marriage. These girls are then either abandoned or fall into a world of prostitution.\textsuperscript{27}

\begin{itemize}
\item \textsuperscript{23}Ibid.
\end{itemize}
In Jordan, the minimum age of marriage is 18 for both girls and boys, however, in particular cases, the Chief Justice may lower the legal age to 15 when the “early marriage is deemed to be in the best interest of the young bride or groom”. Although Jordanian laws are based on French civil code and Islamic law, the matters concerning personal statuses, such as marriage or divorce, are under the jurisdiction of Shari’a courts. However, according to Article 19 of the Personal Status Law, “a woman can stipulate conditions in the marriage contract provided that the conditions are not unlawful and do not affect the right of any other person”. Like many Jordanian women, the majority of Syrian refugee women are unaware of their (newly attained) rights.

Although in Syria the marriage is not recognised until it is registered with the Civil Registry, sheikhs often perform wedding ceremonies without the couples receiving the marriage certificate. This is specifically problematic when Syrians enter Jordan, because couples that do not have the necessary documents cannot prove that their marriage is legitimate, and without it, their “children are believed to be conceived out of wedlock”. The same applies for refugee couples that undergo a religious marriage officiated by a sheikh without applying for a marriage certificate from Jordanian Shari’a courts. Such marriages are called ‘informal’ marriages and are illegal in Jordan. Children of those couples are excluded from accessing resources, such as healthcare or education, which in turn increases their risk of exploitation and abuse. Syrian practices regarding marriage are different, and thus most refugees are unaware of the consequences of such unregistered marriages. Parents in refugee camps often do not plan ahead, because they are unaware of the legal background regarding marriages in Jordan. The majority of parents state that they only want to protect their children in

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an insecure environment and to retain their “honour.” This mindset drives their decision to marry off their children even before they turn 18. Fragility and conflict, however, can influence the perception of safety, which is why “child marriage and teen pregnancy appear to be particularly high in insecure environments (and) nine of the top 10 countries with the highest rates of child marriage are considered fragile states”. In such volatile conditions, young girls are often more vulnerable to harm than other members of the population and are therefore classified as “at-risk groups”. Syrian refugees in the Za’atari camp are aware of such conditions and therefore believe that marriage can provide security for their daughters.

3. Theoretical Framework

To analyse the decision-making process, it is important to first understand the underlying causes of child marriage in such circumstances. The human security approach provides a practical framework to identify a wide range of threats in each crisis. It implements a people-centred approach, considering that a lack of organized security can lead to individuals and/or a group of individuals to act independently to maximize security. In Syrian culture, child marriage is one way to provide protection for young girls. Since parents make this decision, it is important to elaborate on the extent to which child marriage can be viewed as an arranged marriage that is based on a subjective cost-benefit analysis. According to the social exchange theory, security in this sense can be viewed as a good that is exchanged. This paper adopts both approaches for the analysis of the decision-making process of Syrian refugee parents in the Za’atari camp.

3.1. Human security paradigm

Living in an environment of peace and safety is fundamental for people, and if such conditions are not provided, human security shall be the foremost priority to be safeguarded by the international community. Such precedence is indispensable considering people have “the right to live in freedom and dignity, free from poverty and despair (...) with an equal opportunity to enjoy all their rights and fully develop their human potential”.\textsuperscript{38} This is the core principle of the human security paradigm that has evolved to challenge the traditional notion of national security. The principle of Human Security emerged, because traditional security studies were unable to explain

“a situation in which the state was unable or unwilling to protect its citizens, when threats were not of a military nature coming from other states, but consisted of gross violations of human rights practiced by the state itself or of underdevelopment that the state did nothing to correct”.\textsuperscript{39}

According to the United Nations Trust Fund for Human Security,\textsuperscript{40} threats to human security vary considerably across and within countries and range from poverty and ethnic violence, to climate change, sudden economic downturns and human trafficking. At its basis, human security is intended “to protect the vital core of all human lives in ways that enhance human freedoms and human fulfilment”.\textsuperscript{41} Human security connects three types of freedom:

- Freedom from want (right to an adequate standard of living),
- Freedom from fear and
- Freedom to take action on one’s behalf.

The paradigm offers two general strategies to achieve human security: protection and empowerment.\textsuperscript{42} Protection is a top-down approach and involves procedures that are set up by the state, international or regional

\begin{itemize}
\end{itemize}

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agencies, the civil society, NGOs or the private sector in order to shield people from threats.\textsuperscript{43} Empowerment strategies, on the other hand, enable people to cope with the identified threats and strengthen their resilience to severe conditions.\textsuperscript{44} To respond to human insecurities, both strategies are required in most situations. However, if policies are not put in place to help people cope with the lack of security, then grass-roots efforts to provide at least some level of protection will emerge.\textsuperscript{45} Displacement can be a significant symptom of human insecurity.\textsuperscript{46} It would seem intuitive that refugee camps offer a remedy for insecurity, considering they protect from war. However, people often overlook the fact that refugee camps are not rigid structures, but a fluctuating system. If the camp’s infrastructure is not developed to match the influx of refugees, it can cause a “breeding ground for organized criminal groups”.\textsuperscript{47}

Currently, only 45\% of Za’atari camp’s required budget is funded.\textsuperscript{48} This shortage leaves Syrian refugees in danger of receiving vital support. The crowded living conditions mostly affect children and women, because more than 40\% “spent significant amounts or even all of their time inside the home (provided shelter)”.\textsuperscript{49} Since the perceived security risks are often too high, many females cannot leave their home without a male family member. Such an insecure environment can be a decisive factor in opting for child marriage, which is perceived as a protective measure.

\begin{footnotes}
\item[44] Ibid. 7-12.
\end{footnotes}
3.2. **Social Exchange Theory**

In many countries, child marriage is a traditional practice that happens simply because it has happened for generations. Since usually the father accepts or selects the groom, the majority of child marriages can also be described as forced or arranged marriages. Even though it is said that future spouses still have the last word on whether to marry the partner chosen by their families, Huda states that a suitor can still coerce a woman “by subjecting her to relentless pressure and/or manipulation, often by telling her that her refusal of a suitor will harm her family’s standing in the community”. The father or the suitor, both male members, decide the fate of the bride, which effectively turns women and girls into commodities. Relationships that result from child marriages are therefore often based on a subjective cost-benefit analysis. The parties involved hope for economic and/or social outcomes, which is why their behaviour can be explained with the social exchange theory. According to Qin, the theory is based on the cost-benefit analysis people make with the resources available to them, aiming at maximizing their benefits, while reducing their costs to the fullest possible extent. These resources can be equated “with notions such as companionship, love, status, power, fear and loneliness, as opposed to tangible assets, like money”.

By applying social exchange theory to child marriages, it is possible to detect various notions in such exchanges. For example, if we put aside the motivation explaining why men would choose an underage bride, we can recognize that loneliness and status (i.e., that of being married) are driving forces that might provide a partial explanation for male suitors. However, while it may be simpler to examine the motivation of the suitor, it is quite complicated to analyse the decision-making process of the parents, especially when child marriage occurs in the context of armed conflict and displacement. Under such circumstances, women and girls face a higher risk of sexual violence, which puts additional pressure on the parents who have to retain the “honour” of female family members. Therefore, child marriage in this context may be perceived not only as an

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act of tradition, but also as a safety precaution that refugees take to protect their family from sexual violence. Parents try to reduce the costs of their children remaining alone, i.e., the costs of fear, exposure to sexual abuse and harassment, while trying to increase the benefits, i.e., safety, security and the presumed well-being of their children. Without considering children as economic goods, financial reasons (the costs of raising a child) may also be taken into account. Among Syrians, it is also custom to pay a dowry to the bride’s family; this might further incentivise refugee families that are facing economic hardship.

By marrying off their underage child to a man of legal age, parents give up legal guardianship of their children, thus transferring the responsibility and the financial cost of the child’s upbringing and development to the new husband. Following the social exchange, parents might feel that their children are now safe from the risks mentioned above. However, since the perception of security, in this case, depends on the availability of information about the groom and his family, the decision-making process cannot be seen as a purely rational calculation.

4. Research design

This part of the article discusses the methodology that will be applied to the case of child marriages among Syrian refugees living in the Za’atari camp. The method is based on Cass Sunstein and Richard Thaler’s Nudge theory, which is an alternative to the rational decision-making model that economists use. While the rational decision-making model relies on the assumption that every decision maker has “complete information, is able to identify all the relevant options in an unbiased manner, and chooses the option with the highest utility”, Sunstein and Thaler are convinced that most decisions in the real world do not follow this type of structure. According to the latter, human beings make predictable mistakes when confronted with a choice. They use heuristics, fallacies, and are influenced by their social interactions. In their book, “Nudge”, they describe two systems that characterize human thought: the “Reflective System” and the “Automatic System”. While the former helps us to make deliberate and self-conscious decisions, the latter is “rapid and is or feels instinctive, and it does not involve what we usually associate with the word thinking”. The heuristics occur due to the differences between these two systems. In general, people are free to choose what they desire (libertarianism), but in a practical sense “choice architects try to influence people’s behaviour (paternalism)”, by influencing the way

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56 Ibid 5.
options are presented. Choice architecture describes a certain arrangement of choices, so that individuals can be influenced (“nudged”) in a certain way without taking away their freedom of choice. Sunstein and Thaler use their notion of nudges within the context of choice architecture to propose policy recommendations in the areas of finance, health, the environment, schools, and marriage, which they believe are in the spirit of libertarian paternalism. According to them, these problems can at least be partially addressed by improving the choice architecture.\footnote{Ibid 105.} In addition, the authors state that “people make good choices in contexts in which they have experience, good information, and prompt feedback”\footnote{Ibid 9.} and do “less well in contexts in which they are inexperienced and poorly informed, and in which feedback is slow or infrequent”.\footnote{Ibid.}

Since the aim of the paper is to find out how the decision-making of Syrian refugee parents in Za’atari camp has changed due to the Syrian civil war and what factors have influenced this change, it is necessary to analyse whether their choice architecture provides Syrian refugee parents with:

- Good (useful) information
- Experience
- Immediate feedback.

The paper relies on the personal accounts and perceptions of Syrian parents who live in the camp, to determine their choice architecture. Since we have lacked the time and the financial capacity to conduct the necessary interviews, this paper relies on different studies and reports that were published by the UNHCR and its partner organizations between 2012 and 2016. According to the UNHCR Syria Regional Refugee Response Website, the organisation currently works with 21 partner organisations in the Za’atari refugee camp. Although these organisations have published many reports and studies on the Syrian refugee crises, only four reports specifically investigate the subject of child marriage in Jordan and include experiences of refugees in the Za’atari camp:

• “Gender-based violence and child protection among Syrian refugees in Jordan, with a focus on early marriage”\(^{62}\) published by UN Women.

• “Findings from the Inter-Agency Child Protection and Gender-Based Violence Assessment in the Za’atari Refugee Camp”\(^ {63}\) jointly published by the UNHCR and its partner organizations.

There is one additional report, which was not published by a UNHCR partner organisation, that is relevant for the analysis: “Registering Rights: Syrian refugees and the documentation of births, marriages, and deaths in Jordan”\(^ {64}\) published by the Norwegian Refugee Council. Although it does not specifically address the subject of child marriage, it provides relevant information regarding its legalization.

The documented statements of Syrian refugees found in these five reports form the basis of our results. The information provided in these reports was categorised according to good (useful) information, experience and immediate feedback. This will be presented in the following chapter. The interviews in this report only cover the choice architecture of refugees in the Za’atari camp and are not representative for all Syrian refugees.

5. Decision-making process of Syrian refugees

The decision-making process of Syrian refugees starts with the gathering of information and the evaluation of available options. According to participants of the UNICEF study, education is usually seen as an alternative path to child marriage and even viewed as “an either/or proposition”. \(^ {65}\) Furthermore, respondents claim “good academic performance might provide a disincentive to early marriage, whereas leaving formal education seems (…) to constitute a reason to hasten a girl towards marriage”. \(^ {66}\) However, education options in the Za’atari refugee

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\(^{66}\) Ibid 26.
camp are not widely available or of a decent quality. Some Syrian children face years without formal education or attend classes with 120 students and only one teacher. These circumstances change the choice architecture of Syrian parents. When education is not a viable alternative, the option of child marriage becomes more attractive. It is also important to note that unlimited quality education will not necessarily end child marriage. The relationship is not linear, as some parents may nonetheless decide to marry off their children, whether or not their children receive a quality education. Thus, the decision-making process is rather more complex and based on the information, experience and feedback that Syrian parents receive.

5.1. Importance of Awareness

Although various humanitarian agencies, government entities and other organisations provide refugees in the Za’atari camp with information regarding the consequences of child marriage, the majority of refugees indicate that the main sources of information are their friends, neighbors and family. They are more aware of services regarding health, food and education. The distance, the permission of the family or the stigmatization associated can be a hindering factor for girls and women. Consequently, their choice architecture is mainly shaped by information available in their close environment.

Girls and parents seem to have different information. While underage girls state that they know about other girls their age, who got married in the camp, the majority of women and men asked by the UNHCR in 2013 stated that they “did not know of any children from the camp that have married or were planning to get married since the opening of the camp”. Their unawareness of child marriage, however, cannot be considered

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69 Ibid 2.


representative for all refugees: on the one hand, the number of early marriage cases inside and outside the camp has increased since 2013, and on the other hand, all analyzed reports stated that early marriage has been increasingly popular as a coping mechanism for displacement. Common perceptions seem to underscore that the camp does not provide adequate security or stability. The most common solution to this lack of security has been to resort to early marriage or house arrest. Those refugees who reported a fear of sexual harassment, mostly stated early marriage as a solution. An early marriage to someone living outside the camp carried a particularly positive connotation, as it allowed the girl and her family to leave the confines of the camp.

When asked about the negative consequences of child marriage, the majority of Syrian refugees in Jordan, both male and female, do not mention potential mental, physical or social consequences. While mental and physical consequences of child marriage are not country-specific, Syrians are not necessarily aware of the social consequences within Jordan, unless they are informed by humanitarian agencies or government entities. In interviews and focus group discussions, Syrian refugees have shown a lack of knowledge of marriage and registration processes in Jordan. The majority of refugees report “stories of high fees and arduous administrative requirements”, which prevent them from registering a marriage and discovering the negative consequences of unregistered marriages. Women, who had been subjugated to an early marriage themselves, and parents, who have daughters who had married before the age of 18, are most common to report the negative consequences of child marriage. However, only women who have information about the negative effects of child marriage or who believe that Syrian girls are being perpetuated as easy and cheap, seem to openly

73 Ibid 5.
oppose child marriage, unless the girl is not in a special circumstance, which includes “extreme poverty, large family size with many daughters, or an abusive home situation.” The majority of Syrian refugees believe that the greatest risk posed by temporary marriages is by opportunists, who take advantage of the situation by presenting themselves as sheiks.

To summarize, the Syrian refugees in the Za’atatari camp seem to believe that they have the same choice architecture regarding child marriage that they had before they entered Jordan: as a traditional custom. Although most parents are not able to conduct a background check on the groom or are ill-informed regarding marriage processes in Jordan, they seem unaware of the possible negative consequences. Though related information is provided by NGOs or governmental entities within the camp, Syrians mainly turn to family members or friends, who are most likely to have the same kind of information as their own. However, participants of an awareness-raising session at an activity centre in the Za’atatari camp show that once new information about negative consequences is disseminated, Syrians tend to change their mind about marrying off their daughters. Moreover, the participants of another focus group discussion concluded that it was precisely this lack of information that had contributed to “bad decisions;” they believed that awareness-raising programmes would reduce child marriage practice.

5.2. Sharing experience

Those most likely against child marriage include parents with related experiences, such as women who had married early or parents whose daughters had married early. Women married before the age of 18

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80 Ibid 10.


report on the negative impacts that child marriage had on their lives, and state 19 or 20 as the appropriate age for a girl to marry.\textsuperscript{84} However, even though many women suffer from the negative consequences of child marriage, not enough Syrian refugees are aware of this yet. One reason may be that Syrian refugees are reluctant to speak about incidents of gender-based violence. The UN Women report concludes that “approximately 30% of respondents refused to respond or claimed not to know about where physical, psychological, or emotional violence might take place, and twice as many refused to respond to the same question about actual places with a high risk of sexual violence”.\textsuperscript{85} This can be explained by the fear that survivors of gender-based violence face of disgracing their family honour.\textsuperscript{86} In case they decide to report any form of violence, they would rather go to their family members, like their mother or grandmother, instead of the police or NGO’s.\textsuperscript{87} As such, if experience is shared, it is mostly between the female members of the family, which may explain why more women and girls express concerns about girls getting married before they turn 18 than do men.\textsuperscript{88} However, as long as the information is distributed only between the women, the practice of child marriage will not be stopped, as the final decision still remains with the pursuing man or father of the bride. Once experience is shared with fathers, they too are less likely to marry off their daughters before they turn 18.\textsuperscript{89}

\subsection*{5.3. Immediate Feedback}

As established in the previous chapter, girls are most likely share their experiences with other female members of the family. Hence, feedback is mostly given to the mother or sister. Those mothers who have received negative feedback or observed negative consequences state “that they had initially been proud to see their daughters take an important step in life at a young age. Many, however, said that they regretted the decision after

\begin{footnotesize}
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\item[84] Ibid 10.
\item[86] Ibid.
\end{footnotesize}
seeing the difficulties their daughters encountered”. Negative feedback can, therefore, be seen as an important aspect of awareness-raising measures. It is more effective when the negative feedback is given to the decision-maker of the house, who can then prevent another child marriage if he has another daughter or possibly shares his experience with other men, who are thinking of marrying their daughters at a young age. However, mostly older women, who have been married as a child, are more likely to give feedback about the negative consequences of child marriage compared to younger participants. This may be caused by younger girls’ fear of disgracing the family honour or necessity for “more time to assess what was a relatively recent experience for them”. Yet if the feedback arrives too late, its impact is weakened.

6. Conclusion and recommendations

One of the key results of this paper is that the choice architecture, as well as the available options regarding child marriage for Syrian refugee parents have changed due to the Syrian crisis. While in a secure environment the option to marry off their daughter at a young age would be bound to an investigation of the groom’s family, in the Za’atari refugee camp, the decision-making process is strongly influenced by potential harm the daughter could face in the form of sexual harassment. However, while parents notice the insecurity in the camp, they seem to be unaware of the additional risks that come with child marriage in refugee camps. The analysis shows that the majority of refugees receive their information about child marriage from their family, neighbors and friends, which in most cases have the same information as they do; the best example is their lack of knowledge about marriage registration procedures in Jordan. The majority of Syrian refugees report to know about the need for registration, but instead of seeking more information from NGOs, believe rumors about requirements that are impossible to meet. This example shows that Syrian refugees are aware of their changed choice architecture, but know little about the additional risks engendered by child marriages in camps; therefore, they still perceive the option of child marriage as an escape route. While the insecurity of the camp is widely known, the negative consequences of child marriages are not shared with decision-makers.

Furthermore, bad experience, as well as feedback regarding gender-based violence in the new household is mostly shared with female family members, if at all. Young girls seem to be afraid of dishonoring the family

92 Ibid.
pride and therefore keep negative experience private. However, if men are kept out of this information circle, child marriages will continue to be perceived as a solution to minimize the risk of sexual harassment in the camp. If fathers, however, are included in the information circle and receive more experience and feedback, they may gauge the possible risk of sexual harassment and gender-based violence in the camp. Women that were married themselves before the age of 18 or parents whose daughters had married early are largely against child marriage. Also, women who had married their daughters’ young, but received negative feedback about their well-being after the marriage, soon regretted their choices. Although it is not sure that all men will certainly oppose child marriage once they have the information, our research shows that there is a strong tendency to do so upon personal experience and feedback about the negative consequences of the practice. However, to make statements regarding the generalizability of the decision-making process of Syrian refugees, further research with a specialized approach is needed.

Despite existing limitations, we perceive our research as a valuable contribution to both researchers and international organizations, such as the UNHCR. Our research extends the existing body of literature by combining the data from different studies to describe a decision-making process that has widely be seen as a continuity of traditional customs. Our research addresses issues relevant for NGOs operating on the ground. Interagency efforts are already underway to improve the situation of child marriages, but we hope to have shown what areas should be prioritized, namely the availability of information regarding negative consequences of child marriage for Syrian parents and the inclusion of men and fathers into the decision-making process.

7. **Recommendations**

- Allocate resources to promote community-based programmes that disseminate information provided by NGOs and international organisations, to family networks, to reach a greater percentage of refugees living in the Za’atari camp.
- Invest in programmes that work with religious and community leaders to raise awareness of the requirements, legal status and customs of child marriage in Jordan and its differences with Syrian practices.
- Fund and support community-based initiatives that specifically engage men by promoting a targeted exchange of information whereby women can share their experiences regarding the negative consequences of child marriage.
- Promote an interest among members of the community and family members to request feedback from brides on the impact of child marriage, to raise awareness.
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INTERNAL LABOR MIGRATION OF YOUTH IN ETHIOPIA: A GENDER PERSPECTIVE

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Abstract

This paper addresses the question if migration from rural to urban areas empowers young and single women. Socially- and culturally-acceptable roles for men and women concerning what they can and, more importantly, cannot do are very strictly framed in Ethiopia. Such frameworks are formed and upheld through deeply-rooted traditions based on various ethnic, religious, and cultural backgrounds. Unfortunately, many if not most of these frameworks are disadvantageous and oppressive to girls and women in the region. Early marriage is one example, but women in rural areas also traditionally participate in unpaid or informal labor practices, which puts them at risk as they are not subject to adequate protection under labor laws and regulations. Moreover, women who are unmarried, divorced, widowed, or abandoned face strong social stigmas concerning owning or cultivating their own land, and which are only strengthened by an obsolete legal environment. Women have been historically left out of academic migration research, assumed as “tied-movers” who migrate only with their fathers or husbands. Therefore, this paper focuses on young women migrants and attempted to cover this scientific gap. Using Lutz’s three levels of analysis, the paper derives the hypothesis that changes in female gender roles will change on the macro, meso, and micro level post-urban migration. The research implements a mixed-methods approach, combining quantitative data analysis and qualitative expert interviews. Specifically, it relies on the explanatory sequential mixed method model.¹

Introduction

Migration is an important global phenomenon that has become increasingly relevant in today’s international environment. Though people have been migrating internationally and within the borders of their

respective countries for centuries, recent migration trends and forecasts reveal that migration today is predominantly urban.\textsuperscript{2} Increased levels of migration are key contributors to the rapid urbanization of major cities in developing countries. Thus, the ability to understand and anticipate internal and international migration is essential for governments to achieve the UN’s sustainable development worldwide; the latter include overcoming poverty, achieving gender equality, and reducing economic inequalities.\textsuperscript{3} To address these goals, our research investigates how gender and migration are interlinked; specifically, it examines the factors that influence women to migrate, and women’s experiences during the migration process and in the point of destination. Most importantly, the research investigates if migration has an impact on the transformation of gender roles, resulting in greater empowerment of women and rising gender equality in the new country of destination.

Past migration literature has had a tendency to overlook or overgeneralize female migration, classifying women as \textit{tied-movers}: women as followers of their migrating husbands or fathers. However, young women are increasingly economic migrants in their own right. There exists little research on how female migration affects gender equality and women’s empowerment. With this in mind, our research question is as follows: \textbf{How are gender roles (both as a determinant and outcome) linked to female migration in Ethiopia?}

The link between gender roles and female migration is of paramount importance for the United Nations Industrial Development Organization (UNIDO), as one of the main pillars of UNIDO’s work is the inclusivity of marginalized groups in development, specifically sustainable industrial development.\textsuperscript{4} Vital to ensure the inclusivity in development, is the safeguard of equal opportunities for and empowerment of women. Many UNIDO programs address the importance of such empowerment, especially amongst young women. In kind, our research seeks to assist UNIDO in understanding the interlinkages of gender and migration, and illuminate if migration promotes or inhibits opportunities for the empowerment of young women. Moreover, our research may contribute to UNIDO by identifying the factors that drive women to migrate and the capabilities gained through migration – thus, enabling UNIDO to address such problems faced by women in rural environments. Our paper may


\textsuperscript{3} Ibid.

\textsuperscript{4}“Inclusive” in this context means that industrial development must include all countries and all systems, and offer equal opportunities and an equitable distribution of the benefits of industrialization to all stakeholders. The term “sustainable” addresses the need to decouple the prosperity generated from industrial activities from excessive natural resource use and negative environmental impacts. See https://isid.unido.org/about-isid.html.
serve as a basis for special services and programs in rural areas of Ethiopia, in order to respond to the situation faced by a certain vulnerable groups and achieve the goals of the 2030 Agenda for Sustainable Development.

Ethiopia experiences high levels of urbanization and its accompanying challenges. It is a young country and “has one of the highest urban unemployment rates worldwide, at about 50 percent of the youth labor force”.

Of these urban migrants, most are young men and women who have moved from the surrounding rural areas in search of a better economic future. However, the motivations, opportunities, and challenges that men and women face throughout the migration process differ. “Gender is deeply embedded in determining who moves, how those moves take place, and the resultant futures of migrant women and families.”

Gender - unlike sex which is a biological difference between male and female – “refers to masculine and feminine, that is to qualities or characteristics that society ascribes to each sex.” Thus, gender is shaped by culture and society, and informed by religious traditions and ethnic beliefs, which change over time and space. In Ethiopia, traditional gender roles persist: women remain marginalized, have lower social status than men and boys, and face greater health risks. Young women, for example, are motivated to migrate to escape early marriage.

Through a mixed-methods approach, we investigate if women in Ethiopia are motivated to migrate to escape from these oppressive gender norms and traditions to experience greater freedom, agency, and empowerment in their place of destination. We combine quantitative data analysis and qualitative expert interviews.

The remainder of the paper is structured as follows: the next section introduces the legal and theoretical frameworks, and highlights the relevance of our research for the Ethiopian setting. Moreover, it explains existent research on migration and gender in Ethiopia. Thereafter, the paper explains the research methodology. Finally, it outlines the research findings and presents relevant conclusions.

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Legal Background

Before outlining the theoretical framework, it is crucial to address the definitions and terms employed in this paper.

According to the IOM, **internal migration** is “a movement of people from one area of a country to another for the purpose or with the effect of establishing a new residence”\(^8\). Between the core features of internal migration, the most significant is the process of urbanization, which is especially high in African countries, in comparison to other regions of the world.\(^9\)

Legally, the definition of labor migration, according to the IOM, reflects the movement of people from one state to another for the purpose of employment. Though this definition usually refers to international migrants that are in search of work opportunities, this paper will apply the definition to internal, rural to urban migration in Ethiopia.

**International law** sets standards to protect migrant workers’ rights under several conventions and humanitarian agreements within human and fundamental rights frameworks. These documents provide the theoretical basis for the protection of migrant workers against anti-discrimination issues. In practice, however, only a **few of the host countries** have **legislation** designed to protect migrant workers. What is more, there exists little official recognition of the problems faced primarily by women employees.

As this research focuses on Ethiopia, this paper addresses the Ethiopian legal background. Ethiopia has ratified various international agreements regarding human and labor rights. International documents for the protection of human rights establish the equality of women and men work as a fundamental principle. These documents also set the principle of “same wage for same work” (e.g. Article 23 of the Universal Declaration of Human Rights) and other regulations to ensure equality between women and men in the workspace. As these international law instruments have been accepted and ratified by most of developed and developing countries, these should be respected and implemented (or applied without implementation) in national law. As mentioned, Ethiopia has ratified such documents [ILO’s C111 - Discrimination (Employment and Occupation) Convention of 1958, entered into force in Ethiopia on 11 June 1966; and the International Bill of Human Rights was ratified by

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Ethiopia on 30 September 1995]. The practical realization of the protection of human rights, labor law principles, and gender-equality, however, remain unfulfilled in Ethiopia.

Therefore, official policy should regulate conditions of women migrant workers and protect them in a more effective way. Following, are the most important proposals outlined by Ghosh10:

- Ease the legal barriers constraining the access to migration of women;
- Make the laws and policies on internal and cross-border movement more gender-sensitive;
- Encourage more public awareness and recognition of the important productive roles played by both paid and unpaid women’s work, especially in the context of migration;
- Regulate and monitor recruitment agencies and broaden the access of women migrants to other channels. Ensure the access of all migrants to basic rights in practice, too;
- Encourage international recognitions of degrees and qualifications earned in sending countries;
- Make health monitoring systems more gender-sensitive and
- Provide access to information about rights and legal redress to women migrants.

**Theoretical framework**

The research combines theoretical concepts to aid our understanding of the linkage between migration, the change in gender roles, and female empowerment. Migration is a phenomenon embedded in the social fabric of a society; it “is part of social structures, and migration movements are consistent with social norms and rules”11. Some aspects of the social fabric of a society are the norms, rules, and conventions assigned to each gender. Gender should not be seen as one aspect of migration analysis, but rather, as argued by Lutz12, as as “a central organizing principle in migration flows”. With this in mind, we will use Helma Lutz’s intersectional approach as our theoretical guide to studying migration and gender, approaching our analysis from three levels: macro, meso, and micro.

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At the macro level, analysis is required of how the labor market is gendered, what kind of work is considered masculine and what work is feminine. Lutz uses the examples of construction work for men and domestic work for women. In rural Ethiopia, women and men carry out different agricultural duties and are culturally assigned to differing roles. Although women are allowed to possess land, it is culturally unacceptable for them to cultivate it; thus, living off the land without male assistance is nearly impossible. “Cultural, physical and capital constraints bar women from ox ploughing, the dominant mode of production.” As for non-agricultural work in Ethiopia, men usually work in a variety of formal economic sectors, while women are mainly relegated to the domestic or care sectors, which are often part of the informal economy. Workers are better protected in formal sectors, where activities usually fall under government-regulation, taxation, and observation. Thus, workers experience rights and benefits that are not available to informal workers. The informal sector of the economy is largely occupied by women, “since it is a major employment outlet for a

15 Informal sector was defined as an “unregulated and characterised by negative aspects such as tax evasion.” (Bacchetta, Ernst & Bustamante, 2009, cited in Mwaba, 2010).
16 According to Martha Alter Chen (Coordinator of WIEGO and Honer Professor of Kennedy School of Government) “Women are overrepresented in the informal sector worldwide. This basic fact has several dimensions. Firstly, the informal sector is the primary source of employment for women in most developing countries. Existing data suggest that the majority of economically active women in developing countries are engaged in the informal sector. In some countries in sub-Saharan Africa, virtually all of the female non-agricultural labor force is in the informal sector: for example, the informal sector accounts for over 95 percent of women workers outside agriculture in Benin, Chad, and Mali.[...] Secondly, the informal sector is a larger source of employment for women than for men (UN 2000). The proportion of women workers in the informal sector exceeds that of men in most countries.” (Martha Alter Chen, Women in the Informal Sector: A global-picture, the global movement, 2000).
considerable number of women both in rural and urban areas”\textsuperscript{17}. In addition, “in many African countries, almost all women in the informal sector are either self-employed or contributing family workers. [...] Compared to the male informal workforce, women in the informal sector are more likely to own account workers and subcontract workers and are less likely to be owner operators or paid employees of informal enterprises”\textsuperscript{18}. These gender-based differences in employment status tend to leave women more vulnerable than men in the labor market. This vulnerability is one of many push factors for young women migrants.

On the meso level of analysis, Lutz explains that how and in which ways labor is organized is also important for the gendered analysis of migration. Whether work requires full-time regular hours, seasonal commitments, or flexible rotations are examples of the meso level organization. She includes the example of the male-dominated sector of construction work, which requires full-time regular hours, compared to the female-dominated sector of domestic work, which require flexible and rotating schedules. According to Lutz\textsuperscript{19}, how work is organized “is strongly linked to gendered models of care and family organisation.” Put differently, how work is organized has an impact on the roles family members play. How work is organized is strongly linked to who fulfills the role of caregiver and who fulfills the role of the breadwinner, which in Ethiopia as well as other patriarchal societies is divided along gender lines. These enabling or restricting cultural expectations on both a macro and meso level influence the formation and shaping of opportunities, roles, and identities of women, and will be integral to our research on how migration, changing gender roles, and empowerment are linked.

Lastly, Lutz’s framework addresses migration and gender at the micro level, meaning the experience of the individual. This is informed by one’s identity, which can be formed and influenced by factors such as age, class, ethnicity, and marital status and the role they take on in a familial setting, e.g. mother, father, spouse, sister, etc. Specifically, marital status is of great importance for women migrants. Gugler and Ludwar-Ene found that although permanent, rural to urban migration is still less common than temporary migration in most of Africa, women who are single, widowed, divorced, separated, or abandoned were more likely to settle permanently in the urban areas. Class also plays an important role in migration trends. Women who were working in “blue collar” jobs in urban areas were much less likely to desire a return to their rural roots upon retirement than men working in blue collar jobs. They reasoned

\textsuperscript{19} Lutz, ibid., p.1658.
that the women who were primarily working in the domestic sector as cleaners or gardeners would have a much more difficult time “seeking out a living on the countryside” than men who were more likely to work as skilled workers, for example carpenters, masons, and plumbers\textsuperscript{20}. These findings reveal that women and men not only experience gendered work opportunities at a macro level, but also at a micro level: such micro factors, particularly marital status, greatly influence migration trends and suggest women may feel less attachment to their rural roots.

Using Lutz’s three levels of analysis, we derive the hypothesis that transformations in female gender roles will occur on the micro, meso, and micro level post-urban migration. Firstly, on the macro level, we hypothesize that women will face less gender-based divisions and constraints in labor tasks in urban areas, and adversely, will experience greater economic opportunities once settled in an urban area. This decrease in division and increase in opportunity experienced in the urban area will result in more women participating in the workforce, increasing economic independence, and resulting in greater empowerment and agency. Secondly, on the meso level, we anticipate that there will be a reorganization of familial roles upon urban migration. Based on the work of Harvey, Garwood, and El-Masri\textsuperscript{21}, we expect women will take on the role of breadwinner once settled in the urban area; however, we also anticipate that these women will not shed the role of caregiver, thus resulting in carrying a “double burden.” To clarify, although a woman’s role may change by taking on financial responsibility for the family, a man’s role does not change from breadwinner to caregiver – women, therefore, must bear the weight of both responsibilities. Additionally, we expect that although women may increase their participation in the economic sector, this does not necessarily transfer to greater equality and empowerment in their household or familial roles. Lastly, on the micro level, we expect that women who are single, divorced, separated, or widowed, are more likely to migrate to urban areas than married women. What is more, we expect single women to experience greater changes in gender roles than married women, thus engendering greater feelings of empowerment.

\textsuperscript{20} Gugler and Ludwar-Ene: ibid., p.264.
Previous Evidence

The UN has prepared several documents and papers addressing migration, such as the *International Migration Report*, *World Youth Report 2013: Youth and Migration*, and *Migration and Youth: Challenges and Opportunities*.

Related specifically to our topic, is the publication, “Migration and Gender Empowerment: Recent Trends and Emerging Issues” by Ghosh (2009). The paper examines the latest trends in women's international and national migration. It discusses that migration patterns are highly gendered, and outlines the causes and consequences of migration. Though there are several reasons behind the migration of women, significant are those of marriage and the moving of their husbands. Another reason for migration is the issue of work, which is clearly demarcated for male and female labor. After moving, male migrants tend to be concentrated in production and construction sectors, while female migrants can be found working mostly in domestic work and entertainment work, and care sectors. Other motivations for female migration include education, forced migration due to wars and natural calamities.

At the destination, migrant women are often subject to different kinds of discrimination. This is especially apparent in labor markets, because of highly gendered notions of what is appropriate work for women and what requirements and conditions are needed in order to enter the particular workforce (skills, knowledge, expertise, etc.). Many of these women are not provided with the relevant information about employment opportunities and their rights. This may cause situations in which women migrants experience lower wages than male workers in the same position.

Problems of labor migration, in light of gender and empowerment, are also the focus of academic analysis within different socio-economic disciplines. Erulkar et al. 22 studied urban to rural migration of adolescents and young people in Ethiopia. The research used data from a population-based survey of 1,000 adolescents, aged 10-19 years, in slum areas of Addis Ababa. 23 percent of boys and 45 percent of girls migrated to the city mainly for educational or work opportunities. Almost one quarter of female migrants moved to escape early marriage in their rural homes. Female migrants are particularly vulnerable, as the majority are employed in the poorly-paid domestic work sector, and few are reached by existing empowerment programs for young people.

Atnafu et al\(^{23}\) (2014) explored the relationship between poverty and rural-urban migration in Ethiopia. The paper analyzed migration from a poor rural district in northern Ethiopia, to the city of Bahir Dar and the capital, Addis Ababa. They found that male migration, on average, starts at the age of 18, while that of females’ starts at the age of 15. Poverty and lack of opportunities (educational and employment) in rural areas are the key drivers of rural out-migration. Before migration, male migrants were mainly engaged in farming, carpentry, daily labor, shepherding, peddling and family in business, while and female migrants were mostly students or household helpers. After moving to the city, most of them work in construction and domestic work.

Existent studies focus on general rural-to-urban migration, and that related to youth. Their findings reveal that poverty, lack of education and employment possibilities often are the main drivers of youth migration from rural to urban areas\(^{24}\). In the case of Ethiopia, agriculture variables, such as famine and droughts, represent an important cause; others are patriarchal traditionalism and culturalism. On the one hand, rural Ethiopia is one of the most traditional societies, in which many features of rural life have remained unchanged for centuries; on the other hand, the effects of external influences, in the form of values and economic opportunities, are increasingly conspicuous today. This causes societal tension, especially in the rural population, and can also be understood as a factor facilitating migration.\(^{25}\) While some studies also indicate that males are more mobile than females, there is a considerably larger influx of female rural-urban migrants in Ethiopia\(^{26}\) (Ezra & Kiros, 2001).

To our best knowledge, there is limited research on the link between migration, gender roles, and women’s empowerment in Ethiopia. Therefore, the paper will contribute to filling the gap in the existing


literature. The first gap includes gender roles distribution: gender roles distribution among youth, how young men and women are satisfied with gender roles distribution, and whether gender role distribution can act as a push-factor for migration. The second gap involves ethnic and religious beliefs in Ethiopia and its connection to gender roles. The third gap is related to the new roles of women in urban areas, which includes how they cope with the new challenges, how gender roles change after their migration into cities, and whether this whole process results in greater empowerment.

**Research Questions**

The identification of the research gap allows us to formulate the research question that will guide this paper.

**How are gender roles (both as a determinant and outcome) linked to female migration in Ethiopia?**

The analysis of this problem will be structured by a number of supplementary questions, such as:
1. Does dissatisfaction with gender roles distribution appeal to be a push-factor of youth to migrate, in order to find a better position in the labor market?
2. Because Ethiopia is a multi-ethnic and multi-religious state combining different cultures and languages, could ethnic belonging and religious beliefs be considered as a variable that influences the perception of gender roles?
3. To what extent are female youth migrants capable of accepting new responsibilities and facing challenges that accompany life within an urban area?
4. How does internal migration affect gender equality and women’s empowerment?

**Methodological Design**

We implement a mixed-methods approach, combining quantitative data analysis and qualitative expert interviews, for the research. Specifically, we rely on the explanatory sequential mixed method model. The overall intent of this design aims at explaining and expanding generalized quantitative results by qualitative findings. As Creswell and Plano Clark state, “[i]n this model, the researcher identifies specific quantitative findings that need additional explanation, such as statistical differences among groups, individuals who scored at extreme levels, or unexpected

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27 See: Morse: ibid.; Creswell and Plano Clark ibid; Creswell ibid.
28 Creswell and Plano Clark ibid., p.72.
results. The researcher then collects qualitative data from participants who can best help explain these findings”.

Consequently, our research commenced from a quantitative phase, analyzing numeric data. The qualitative fieldwork was subsequently conducted, thus giving a deeper understanding of the statistical results. Hence the purpose of this approach is to provide a general understanding of the research problem by the quantitative analysis, and then shift from confirmatory quantitative logic to explorative qualitative by recruiting and asking experts who work or have relevant experience in the field.

In order to receive both representative and generalized conclusions regarding the involvement of Ethiopian women in labor, migration, relationships with the opposite gender, household keeping and agriculture, we used the Ethiopian Socioeconomic Survey (ESS) dataset by the World Bank and Central Statistics Agency of Ethiopia. The given dataset was collected in 2013-2014 and counts 5,262 observations that provide up-to-date and statistically significant evidence about the above-mentioned issues on the national level, including urban and rural areas.

The data analysis used two out of five questionnaires: household questionnaire and community questionnaire. The first provides information regarding variables, such as “basic demographics; education; health (including anthropometric measurement for children); labor and time use; partial food and non-food expenditure; household nonfarm income-generating activities; food security and shocks; safety nets; housing conditions; assets; credit; and other sources of household income”.

The second variable, community data, describes community organization, key social events, transitions and the other changes within a community and contains variables of the socio-economic indicators, describing socio-geographical areas where the sampled households reside. Fortunately, the data structure gives the opportunity to analyze relevant socioeconomic variables on the community level using female gender as a control variable.

However, the survey data cannot address all research questions of the given study and will dominantly provide the statistical description of women’s engagement in labor and migration. Therefore, the main rationale to employ the explanatory sequential model of mixed methods is to overcome the limitations that occur due to the lack of relevant variables and confirmatory (hypothesis testing) nature of quantitative analysis. The topics of women-developed capabilities, women’s motives

29 Ibid.
30 World Bank: ibid., p.3.
behind migration, and empowerment of women engaged in the labor migration will be further considered within the qualitative explorative study. The combination of both quantitative and qualitative methods will fortify the foundation of the research, and lead to well-substantiated conclusions about the relative phenomena.

As previously mentioned, the explorative part of the research is represented by the method of expert-interviewing. Due to the large number of limitations, such as field access and language difficulties, questions regarding developed-capabilities and empowerment cannot be directly addressed to Ethiopian women who were engaged in the labor migration from rural to urban areas. As an alternative solution, the experts who worked in the field can be considered as potential informants. The sample size counted employees of NGOs and international organizations located in Ethiopia and Europe. The list of questions for the interview as well as experts list can be found in the Appendix.

Following Creswell’s (2013) recommendation for mixed-method model description, we should also mention that qualitative and quantitative parts of this research have independent levels of interaction and equal weight. The timing of both quantitative data analysis and expert interviews, as prescribed by the chosen model, was sequential (i.e. data analysis followed by interviews). At the final stage of interpretation, the conclusions obtained in the course of quantitative data analysis and expert interview findings were merged.

Data Analysis

The first dataset in the ESS is household data that counts 26,158 observations. From this file, we extracted a subsample of female respondents that counts 13,168 observations. We started our analysis with the basic descriptive statistics exploring how the reasons to migrate vary from one female group to another. As we are mostly interested in the female youth (15-35 years old), we decided to recode the age variable into three groups: children (<15), youth (15-35), and adults (>35). The results are presented in the contingency table below.
In light of the youth group, the majority of women migrate because of marriage (38%). Seeking employment counts for 22% of the sample and assumes a secondary position within the young female subsample. Better education assumes the third place in the list of motives to migrate (17.1%). Interestingly, although such reasons as searching for work and marriage share 2 and 3 places for the adult female audience (count 14.5%), they are significantly less important compared to cases when women migrate to a new place following their family. On this comparison, we can conclude that young women typically leave their households either to marry, or to look for work and study. On the other hand, the prevailing majority of adult women move to another place together with their families. In light of both audiences, however, these three reasons to migrate remain as the dominant ones.

At the next stage, we were interested in predicting factors influencing decisions of women to migrate. In order to examine this issue, we built the logistic regression model considering a variable “migration yes/no” as dependent, and such variables as location, marital status, and religion, and motives to migrate, as predictors. The overview of the model is presented in the tables below.

| Dependent variable: Migrate_yes/no |  
|-----------------------------------|---
| Religion: Protestant              | -4.565*** (0.581) |
| Religion: Muslim                  | -4.445*** (0.451) |
| Marital Status: Single            | -3.573*** (0.294) |
As we can see, the likelihood of the model characterized by Nagelkerke pseudo-$R^2$ is moderately high reaching 0.370 out of 1. It is also important to notice that we identified statistically significant effects of age, religion, marital status, and geographic location on the probability to migrate. Due to the lower values of standard errors, the regression coefficients of the model are either precise or highly precise. Thus, we can conclude that the elaborated model is reliable and provides an accurate reflection of the distribution in general population of Ethiopian females on both rural and national levels.

As the model consists of categorical variables, the effects were calculated in comparison to the reference group. As such, for religion it was Orthodox, for marital status – monogamously married, for age – young women in the age between 15-35 years old, and for geographical location urban location was a reference category. Based on the model coefficients, we can state that odds of Protestant and Muslim women to migrate in comparison to the Orthodox are lower by 99% and 98.8% correspondingly. Moreover, single and divorced women are also less likely to migrate in comparison to the married women, as the odds ratio is lower by 97.2% and 98.6% respectively. In the perspective of age, the odds for female children to migrate are by 88.3% lower, whereas for adults older than 35 years the odds to migrate are by 92% lower. Finally, those women resided in the rural location are by 16.7% likely to migrate than those who already reside in urban areas.

Therefore, we can draw a portrait of an Ethiopian woman with the maximum likelihood to migrate: it is a young woman, monogamously-married, Orthodox, residing in the rural area. However, the probability of this hypothetical respondent to migrate accounts only for 38.4%.

At the next stage of our research, we will shift from the household dataset to the community dataset. Community data was collected from 5,262

<table>
<thead>
<tr>
<th>Marital Status: Divorced</th>
<th>-4.300*** (1.004)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age &lt;15</td>
<td>-2.144*** (0.088)</td>
</tr>
<tr>
<td>Age&gt;35</td>
<td>-2.527*** (0.155)</td>
</tr>
<tr>
<td>Rural Location</td>
<td>0.983*** (0.099)</td>
</tr>
<tr>
<td>Observations</td>
<td>13168</td>
</tr>
<tr>
<td>Pseudo-$R^2$</td>
<td>0.370</td>
</tr>
</tbody>
</table>

*Note:* *p<0.1; **p<0.05; ***p<0.01

**Table 2. Logistic Regression Model**
respondents providing the information regarding socio-economic indicators of 433 communities all over the country, including both urban and rural areas. In this regard, we built the regression model in order to gauge how different factors influence the share of adult female participation in coop/microenterprise projects. As independent variables, we will include the dominant religion in a community, the percentage of polygamous households in a community, the location of a community, and seasonal migration out of a community. Hence, we aimed at examining how migration, location, type of marriage and religion affect the engagement of female in labor activities. The model summary is presented in the tables below.

<table>
<thead>
<tr>
<th>Dependent variable:</th>
<th>Participation of women in microenterprise (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of Polygamous Households</td>
<td>0.190** (0.084)</td>
</tr>
<tr>
<td>Dominated Religion: Islam</td>
<td>-4.381* (2.357)</td>
</tr>
<tr>
<td>Location: Urban</td>
<td>7.261*** (1.866)</td>
</tr>
<tr>
<td>Seasonal Migration out of Community</td>
<td>-2.332 (2.383)</td>
</tr>
<tr>
<td>Intercept</td>
<td>10.112*** (2.442)</td>
</tr>
</tbody>
</table>

**Table 3. OLS Model**

The likelihood of the model is characterized by the $R^2$ that, in our case, is equal to 0.128. Consequently, the drawn model explains 12.8% of total variance. However, in our case, this estimate is not as relevant as the regression coefficients and their significance, because the included predictors correspond with the elaborated research questions.

The first coefficient gives quite surprising results. Namely, there is a positive relation between the share of polygamous households in the community and the share of adult females participating in the coop/microenterprise projects. More precisely, it means that with the increase of polygamous households in the community by 1%, the share of adult female participating in the coop/microenterprise increases by
0.19%. We can also conclude that this effect is statistically significant, as the p-Value of this regression coefficient is lower than the critical value 0.05.

The next variable describes religious affiliation. In the given dataset, we had a qualitative nominal variable: “first religion in the community”. In order to include it into the regression model, we recoded it into 8 dummy variables: Orthodox, Catholic, Protestant, Muslim, Traditional, Wakafeta, no religion and other. Orthodox church was chosen as a reference category as it has the largest share of the followers in the Ethiopian society. The category of “Muslims” was included into the model, but the other variables were omitted due to lack of data (no regression coefficient could be calculated). However, these two categories, namely, Orthodox and Muslim, represent the most dominant religions in Ethiopia. As such, we can see that religion has the effect on the participation of adult females in coop and microenterprise. Our result supports the argument that Muslim women are 4.381% less engaged in the microenterprise project compared to the reference category, which is Orthodox. However, with regards to the p-value, this result is not statistically significant as it is equal to 0.065, which is a little bit more than the critical value 0.05. The value of standard error also enables us to draw a conclusion that the received regression coefficient is not very precise. Nonetheless, these estimates do not assume that our conclusion about the relation between the variables is wrong; rather, they are more likely determined by the lack of data. In other words, there is not enough data in the dataset to prove that the calculated result represents the distribution in the general population, rather than a chance occurrence. This argument becomes more apparent upon examining the confidence interval ranging from -9.037 to 0.276 (includes 0): we cannot reject the null hypothesis with a 95% level of confidence.

The next variable, namely, “Community is located in urban center”, is also dummy, where 0 refers to rural and 1 to urban communities. The given predictor has the strongest effect on the model: the participation of females in coop and microenterprise projects is 7.261% more in urban communities than in rural ones. As the standard error counts only 1.866, this coefficient gives a highly precise estimation of the population parameter. Moreover, it is also statistically significant: p-Value is lower than 0.05.

Finally, the last variable in the regression model is dummy and describes migration pattern. It predicts that the more people migrate out of a community, the less adult females participate in the microenterprise. Namely, if migration out of a community takes place, participation of females in microenterprise projects is 2.332% lower than in communities where seasonal migration does not occur. However, on the basis of this relation, we cannot assume any causality between the migration and
female engagement into the microenterprise. We can just conclude that an adult female has more opportunities to apply for a job in communities with higher migration likelihood, and communities that face seasonal immigration are definitely not a better place to search for a job. This conclusion is quite clear and logical: people migrate to places where they can find a job, thus leaving those places where they experience a lack of opportunities. However, the current model unfortunately does not provide enough evidence to consider this estimate statistically significant, due to a high level of p-Value that counts 0.329.

To summarize, the elaborated model allows us to conclude that phenomena, such as migration, religion, location, and marriage type, affect the participation of adult females in the coop and microenterprise projects. The evidence of a higher participation of adult females in labor within urban communities means that there is a strong lack of opportunities for women who live in rural communities. Moreover, in communities where Islam is a dominating religion, women are most likely working in a household or other duties prescribed by the traditional distribution of gender roles. In this light, a higher participation of adult females from polygamous households in the coop and microenterprise projects suggests that the requirement to earn money and motivation to overcome life difficulties is stronger in larger families. Finally, the last predictor supports the argument that it is easier for an adult female to find a job in areas with a higher migration likelihood.

**Expert Interviews**

The qualitative part of our research is based on expert interviews and counted five respondents. The questionnaire used in interviews contains eleven open-ended questions. Interviews were conducted in English, and in one case in Hungarian, and then translated to English at the interviewee's workplace, and lasted between 60 to 90 minutes.

As acknowledged, our research question focuses on the change of gender roles of single young women due to the economic migration from rural to urban areas in Ethiopia. Therefore, the interview questions were designed to retrieve information about gender relations and gender roles, the linkage between changing gender roles and migration, the social background of young Ethiopian women, their main motivations for migration and impact of migration, and the relationship between internal and international migration. The data was transcribed after the interviews. Accordingly, the data was analysed and emergent themes were identified to gain an in-depth understanding of the researched problematics.

The results from our qualitative expert interviews revealed that on the macro level, a broadening of opportunities for women who migrate to
urban areas is assumed. However, this is contingent on the job market at the place of destination. One of the experts explained that women who move tend to take on typically masculine jobs in urban areas. He cited examples such as women working as carpenters, building houses or buildings, and working on railway construction.

“After migrating to the city, for example, women will be working in buildings, same as men. Previous years, there were some railway constructions, so they were also working there.”

This is in contrast to the traditional household work of women in rural areas. Class and education were also connected to the macro level. Despite migrating to an urban area, uneducated poor women were unlikely to find jobs in so-called white collar sectors or to participate in government or politics. Rather, they end up working as housemaids, prostitutes, or servers in restaurants and cafes.

Although women may have better access to job market and wider opportunities, this does not change the structural inequalities which exist and persist; for example, gender norms remain untouched in the community.” Thus, our assumption that increased opportunity and economic participation would lead to a greater gender equality and empowerment, is not always the case.

“There is a link between – a strong link between – movement migration and forced migration, even labor migration and changes in gender relations, that’s for sure, but to what extent this is beneficial for the situation of the women if we’re talking about gender equality, we have much less evidence for that.”

On the meso level, our assumption that women take on breadwinner roles, but do not shed the role of caretaker, holds true according to the experts we interviewed. In fact, in situations where women take on more financial responsibility, it was cited that this could result in violence or the father’s abandonment of the family.

On the micro level, we found that motivations for women to migrate are primarily economic, however, negative effects of climate change and social elements were also mentioned as possible push factors. Poverty was cited as a primary motivating factor for young women; upon further questioning, however, it was clarified that there are more complicated reasons than an attempt to improve one’s economic situation. Katarzyna Grabska, a Senior Research Fellow at the Global Migration Centre, explained that young women face two main pressures that serve as potential push factors to migrate. As adolescents, their family or communities may want to protect their developing sexuality by forcing them into early marriage or taking them out of school. Another pressure
cited especially for the eldest daughter in a family is to provide financially for the family. Often times, “responsible daughters” will forgo their own dreams and aspirations to help support their younger sibling’s education. Young women migrate to escape these pressures or constrictions with the hope to experience more freedom of choice. Social circles were also mentioned as a possible push factor for young women who migrate. Women who have peers or friends in cities hear stories of life in the city that is better than the village; earning their own money and different kinds of freedom can be motivations to migrate in the hope of improving their own life.

Social networks were also cited as key for a women’s success in the place of destination. The better and more able they are to adapt and immerse themselves in local circumstances and communities – building networks across ethnic, national, and language lines, for example – the “wider the network to reach out to when things fall apart.” Exceptions remain for domestic workers because they are typically isolated and are unable to build networks.

Another emergent theme was that upon arrival, women usually have negative experiences. They might experience discrimination by the urban native populations, poor working conditions, low wages, and difficulties in saving money. However, life does improve over time if, as cited above, the women are able to set up a network. For example, women may be able to start saving money to send back to their family and gain more decision-making agency on matters, such as marriage, work, and their social life. However, it is key to mention that although things can improve, the life of a migrant is always volatile.

An additional important contributing factor is migrant women’s journey to their destination. If a girl experiences physical and emotional violence along the way, this affects her experience in the place of destination, and is “important for the changes you see in the place of destination.” She may feel traumatized upon arrival, leading to a feeling of marginalization and isolation. She may feel isolated because she is not able to share experiences in the fear of stigmatization, resulting in being unable to develop relationships or marry. Moreover, when girls migrate from rural to urban areas, there must be someone accompanying them or someone who is supposed to help them in the city; it may be a friend or person from an agency who can address their migration from villages to cities. They are not allowed to migrate alone.

We also investigated if rural to urban migration leads to international migration. Ms. Grabska cited that although the assumption is that the step migration model holds true, it is not always the case. She argues that too much emphasis is placed on this model and emphasized that women will go where they think the opportunities are the best. However, it was also cited that once women are in a city for two to three years, they
may be inspired by international migration stories of other women, and this can lead to a decision to migrate internationally.

As for the limitations, access to experts was a challenge within our timeframe. Moreover, our interviews were conducted via Skype or over the phone. Unfortunately, during one of the interviews, we experienced connectivity issues on Skype, which prevented us from conducting the interview. An additional challenge was the sudden unavailability of the interviewee.

**Discussion**

We can state that all experts agreed that economic hardship is the major push factor for migration in Ethiopia. However, other pressures specific to young women (such as access to education and the labor market, the attraction of urban lifestyle, etc.) are important to note. The quantitative analysis revealed that *looking for work* was the second main reason for young females to migrate, whereas getting married appears to be the most widespread motivation. If we take into account patriarchal traditions in which Ethiopian women are raised, it is likely that finding a spouse and raising a child, is a social necessity for a woman in the Ethiopian society.

The experts also mentioned that gender roles strongly depend on the religious background of women. The quantitative analysis provided additional evidence for this argument, revealing that women belonging to the Orthodox church are more likely to migrate rather than Protestants and Muslims.

The quantitative data also endorses that women who are situated in urban areas have more opportunities to be involved in micro entrepreneurship, than those who live in rural areas. This can be interpreted to support our hypothesis that the environment in rural areas is more oppressive: women experience low levels of empowerment and high levels of inequality. Thus, the qualitative data suggest that women who migrate in the search for more economic opportunities in urban areas may in fact meet such expectations. However, what remains to be seen, as stated by the experts, is whether or not this increased opportunity and participation does in fact lead to empowerment and greater equality.

We can assert that the quantitative and the qualitative strands have been interlinked successfully, inasmuch as the quantitative results reinforce certain key points expressed by the experts we interviewed. Nevertheless, there are notable contradictions. The quantitative finding that young, Orthodox married women are most probable to move, does not harmonize with the experts’ view on the matter. Rather, they stated that unmarried young women looking for better economic resources, or those escaping
from their oppressing conventional communities and family, are more likely to migrate. These findings are equally relevant. The contradiction signal the requirement to continue researching youth migration in Ethiopia through a gender lens, thus providing a comprehensive and in-depth understanding of the motives behind the migration.

**Conclusion and Policy Implications**

Although our results do not conclusively explain if migration does in fact lead to greater empowerment and decreased levels of gender inequality, they reveal several factors that can contribute to a positive migration experience. As stated above, migration is an inevitable trend that is becoming a part of the Ethiopian culture.

Thus, our findings on how to make the experience a more positive and stable one can help inform UNIDO’s work. Firstly, we recommend – in harmony with the proposals of Ghosh (2009) mentioned in the Legal Background section – UNIDO to raise awareness about young women migrants in both the rural and urban areas. The stigma and discrimination women face, according to the experts, both in the place of destination and in their home communities, due to their migratory status can be addressed through awareness and education campaigns. Campaigns can focus on demystifying and destigmatizing female migrants by increasing understanding of their goals and aspirations. Secondly, the experience of young migrants is quite volatile, especially at its commencement when migrants are new and establishing themselves in the city. Lack of networks and inability to save money were both cited by experts as detriments to a women’s success as a migrant. Therefore, our next recommendation is twofold: we suggest that UNIDO focuses on providing programs that will help women build networks in their new urban environments, thus increasing their resiliency. In addition to the positive role networks play in building resilience, young women’s financial situations are also relevant. We recommend UNIDO to set up financial literacy and savings programs for young women migrants, in order to increase their understanding of their financial situation and enhance their ability to save for possible future shocks.

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MIGRATORY MOVEMENT TOWARDS EUROPE: CLIMATE CHANGE IN THE SAHEL AND ITS FUTURE CONSEQUENCES

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Abstract

The issue of migration is becoming more significant for today’s overall geopolitical arrangement. Besides political instability and civil war in many countries, climate change can be regarded as a major cause of migratory movements. This paper will focus on the Sahel in Africa, as it is one of the most affected regions with regards to climate change. It will explain migrants’ reasons for choosing Europe as their final destination, in addition to addressing the false image of the European continent and the region’s history of colonialism. Furthermore, it will discuss the legal status of the migrants, considering that the term “environmental refugee” is not recognized by the Geneva Convention (1949), whose main goal was to protect war refugees in the post-WWII geopolitical constellation. Due to the lack of recognition in the Geneva Convention, the problem of environmental refugees remains a contested international issue today. Hence there is an urgent call for the involvement of a definition and protection of environmental refugees under international law. This paper will provide recommendations on how to fight climate change in the Sahel and prevent massive waves of migration from the region, followed by a summary of the research outcomes of the policy paper.

List of Abbreviations

EMN European Migration Network
EU European Union
IOM International Organization for Migration
SDGs Sustainable Development Goals
UN United Nations
UNCCD United Nations Convention to Combat Desertification
UNDP United Nations Development Program
UNEP United Nations Environmental Program
UNFCCC United Nations Framework Convention on Climate Change
UNHCR United Nations High Commissioner for Refugees
UNODC United Nations Office on Drugs and Crime

Introduction

“No one can deny the terrible similarities between those running from the threat of guns and those fleeing creeping desertification, water shortages,
floods and hurricanes...”¹ Human security today is inexorably intertwined with the mutual interaction of environmental change and migration. The latter has not only triggered collaborations on political, economic and social levels, but it has also invoked many questions regarding the origins of the crisis; climate change is amongst the most disregarded source of migration in analyses thereof. Not only do people fear the threat of war or death due to starvation, but they are also terrified by ongoing climate change and the accompanying environmental risks that threaten their very existence.

Amongst the most affected of areas is the Sahel region in Africa (Burkina Faso, Chad, Mali, Mauritania and Niger), where desertification has caused serious damage. Nearly 41% of the Earth’s land surface is classified as drylands². Desertification and sand intrusion in the Sahel region, in the arid northern areas, pose a threat, where sand encroachment obstructs the growth of seeds and renders some production areas sterile.³ With their very survivability in question, the local population abandons its natural place of belonging and migrates towards unknown territory. Aware that the rest of the continent suffers under very similar circumstances, their most common decision is to direct the migration path to Europe.

This paper will elaborate why the European continent is one of the most preferable regions to which to migrate. Moreover, it will contribute to the discussion of environmental migrants’ undefined legal status, with the aim to promote active research commitment in the area.

Upon the formerly-proposed research question, Chapter one builds a hypothesis, outlines the methodological and theoretical approaches that underpin the study, and establishes the logic behind the selection of the topic. Moreover, it will provide key terms and background information, in an effort to clarify often conflated or misunderstood concepts, and establish a linguistic base for the discussion of the topic. Chapter two will analyse the legal question of the migrants and refugees, focusing mainly on the explanation of the differences between migrants, refugees and asylum-seekers, and closely examining the definition of an environmental refugee. Chapter three will focus on the Sahel region, which was strategically chosen due to the forecast that it will be one of the regions

The chapter firstly defines the Sahel region and lists the research’s countries of analysis. Moreover, it characterizes and explains the region’s climate. Chapter four will analyze why Europe is a favored destination for migrants of the region and will explain historical connections between the European and African continents. Chapter five provides recommendations to diminish the ongoing negative consequences of climate-related issues. The conclusion will summarize the findings of the study.

1. Methodological and Theoretical Approach

1.1. Methodology of the Study

A qualitative method supported by quantitative data underpin this paper’s research.

The case study will feature the Sahel region and its environmental refugees, examining the latter’s motivations for leaving their home countries and migrating to Europe. The paper will thereafter provide results and offer recommendations.

1.2. Theory of the Study

Several studies reviewing the existing theories and models of migration reveal that there is no integrated migration theory. This study is based on one of the most commonly-known theoretical concepts for the research of migration: the push-pull model. The model comprises a set of factors that constitute two of the four main determinants for human migration. Push factors encourage migration from the country of origin, while pull factors embody the structural powers that attract migration towards the country of destination. In this paper, the push factors are represented by climate change and the characteristics of Sahel region.

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5 Ibid.
6 The authors reviews and cites wide range of sources. Firstly, the attention is paid to academic publications, articles and policy papers, which are being reviewed. The documents of IOM are also considered as a significant source, which includes statistical, operational data, figures, research papers and maps. The documents are accessible online at www.iom.int.
7 Jan Škaloud, Metodologie politické vědy (Vysoká škola ekonomická, Praha 2000), p.17.
Migration studies have long focused solely on economic or socio-political factors. In the Sahel region, however, these factors motivate disproportionately lower numbers of migrants than those related to environmental causes. Hence, this study formulates two innovative approaches that mirror the main reason for analyzing this particular topic: 1) The transformation of the focus to environmental factors instead of economical or socio-political motivations 2) The pull factors are present not only in the country of destination, but also within the country of origin. The second theoretical approach of this study rests on the concept of forced migration. Forced or involuntary migration occurs under circumstances that do not allow potential migrants to remain in their countries of origin and pushes them to migrate. The causes for this migration include two different groups: 1) manmade causes (poverty, fear, political persecution, the brutality of war) and 2) natural disasters (droughts, floods, volcano eruptions). The last important concept of the study is the neopatrimonial style of ruling explained in chapter four. Bearing in mind the theoretical background, the study aims to confirm a hypothesis that neopatrimonial ways of ruling in African countries, the region’s history of colonialism, and the false image of Europe that is sustains, represent major pull factors for migration.

2. Legal Question of Migrants, Refugees and Asylum Seekers

This chapter focuses on the distinction between the terms “migrant”, “refugee” and “asylum seeker”. Although the media and public discourse often conflates the terms, there is a crucial legal difference between them. This chapter will provide legal explanations of the former terms, in addition to addressing the term “environmental refugee.”

2.1. Distinction between the Terms

Firstly, it is important to mention that a unified legal definition of the term “migrant” does not exist on the international level. Migrants are only protected as human beings according to international human rights law and they are processed under the receiving country’s immigration laws. A migrant is a person who makes a choice to leave his/her country to seek a better life elsewhere, rather than pushed to leave due to a direct threat of persecution or death. Unlike refugees, migrants are free to return home any time. If they choose to return, they will continue to

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10 Ibid.
receive the protection of their government.\textsuperscript{12} According to the EMN, a migrant in the global context is “a person who is outside the territory of the State of which he is national or citizen and who has resided in a foreign country for more than one year irrespective of the causes, voluntary of involuntary, and the means, regular or irregular, used to migrate” (EMN, 2014).

On the other hand, refugees’ concerns are mainly human rights and safety. They are forced to flee their country of origin usually without any warning and experience torture, mistreatment, and other atrocities on their way to reach a safe destination. Thus, they are protected under international law. The legal status of refugees is defined in the 1951 Refugee Convention. According to the Article 1 of the UN Convention, as modified by the 1967 Protocol, a refugee is: “an individual who is outside his or her country of nationality or habitual residence who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”\textsuperscript{13} Similarly, the 1984 Cartagena Declaration defines a refugee as a person who flees their country because their lives, security or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order.\textsuperscript{14}

The last category belongs to an asylum seeker who is defined in the global context as “a person who seeks safety from persecution or serious harm in a country other than their own and awaits a decision on the application for refugee status under relevant international and national instruments”\textsuperscript{15}. Notably, it is often very difficult to distinguish whether a person is a migrant, a refugee or an asylum seeker; sometimes, they may even be a combination of the three.

\textbf{2.2 Definition of “Environmental Refugee”}

The term “environmental refugee” was first popularized by Lester Brown

\begin{thebibliography}{9}
\bibitem{Ibid} Ibid.
\bibitem{EMN} EMN, Asylum and Migration Glossary 3.0 (EMN, 2014), p.33.
\end{thebibliography}
in the 1970s. It was further developed by El-Hinnawi in the early 1990’s.\textsuperscript{16}

Recently, the term has gained renewed interest as people are increasingly forced to flee their countries of origin due to climate change and related extreme weather conditions, such as droughts, floods, land loss, degradation and natural disasters.

What is more, environmental refugees are not actually classified as refugees and do not enjoy the same legal status as refugees fleeing from war or persecution. As they do not fit within the definition of refugees outlined in the UN Convention, they are not protected under international law. A common scenario faced by environmental refugees is involuntary return back home or forced stay in a refugee camp.

Against this backdrop of legal ambiguity, some efforts at defining environmentally-affected peoples have arisen. For example, the UNHCR has defined the term “environmentally displaced person” as “a person subject to forced migration as a result of a sudden, drastic environmental change”\textsuperscript{17}.

Other proposals relates to the working papers of the IOM stating: “Environmental migrants are persons or groups of persons who, for compelling reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their country or abroad”\textsuperscript{18}.

\section*{3. Sahel Region}

Prior to outlining definition of the Sahel Region, it is necessary to establish that its borders are internationally disputed. Thus, for the purposes of the research, this paper will focus on five countries, commonly referred to as the G5 Sahel.

\subsection*{3.1. Definition of the Sahel Region}

The Sahel region stretches in a continuous band from the Atlantic Ocean to the Red Sea. The name “Sahel” is derived from the Arabic word, “Sahil,”

\textsuperscript{16} Frank Laczko, Christine Aghazarm, \textit{Migration, environment and climate change assessing the evidence} (IOM, Geneva 2009).

\textsuperscript{17} EMN, Asylum and Migration Glossary 3.0 (EMN, 2014), p.99.

\textsuperscript{18} Frank Laczko, Christine Aghazarm, \textit{Migration, environment and climate change assessing the evidence} (IOM, Geneva 2009), p.18.
which means “border of the desert”\(^{19}\) and refers to the transition zone between the wooded savannas of the south and the true Sahara Desert\(^{20}\).

The definition of the region is subjective; some academics and analysts include other countries, such as Gambia, Guinea Bissau and Cape Verde or Senegal in their definitions.\(^{21}\) These different interpretations may occur since the limits of the Sahel are much more clearly defined in the West and East, than in the North and South. The boundary on the west side is created by the Atlantic Ocean and on the east side by mountainous terrain of northern Chad. However, in the North and South, the Sahel meets Northern and West Africa, respectively.\(^{22}\)

Regarding various categorizations and definitions, this research focuses on five countries known as the G5 Sahel. The latter is actually a sub-regional organization that was created at the Mauritania Summit between the 15\(^{th}\) and 17\(^{th}\) of February 2014. The organization consists of five countries located in the region: Burkina Faso, Chad, Mali, Mauritania and Niger.\(^{23}\) These countries together accommodate 67 million inhabitants and cover an area of 5,400 km long, running from the Atlantic Ocean to the Red Sea.\(^{24}\)

The G5 Sahel was formed to strengthen cooperation, development, and security in the region. The five nations work together to identify investment projects and seek sources of financing, with regards to infrastructure, food security, and agriculture.\(^{25}\) The IOM and the EU have started a close cooperation with this regional organization: as the region constitutes Europe’s southern geopolitical border, any kind of instability within threatens neighbouring countries. Hence the European Union has begun to vividly endorse the Sahel countries in areas of shared

\(^{19}\) Keffing Sissoko et al., Agriculture, livelihoods and climate change in the West African Sahel (2011) Vol. 11 Regional Environmental Change, pp.119-125.
interest, such as security, migration, terrorism, humanitarian aid, and long term development.26

The G5 Sahel considers coordination and cooperation among member countries as focal points in order to strengthen securitization processes within the region. Human trafficking and migrant smuggling represent major challenges with regards to peace and security issues. Therefore, there is currently an urgent call for preemptive measures to combat illegal migration and smuggling of migrants.27

Additionally, Sahel countries share similar ecological characteristics and development objectives. In comparison to other regions, the Sahel has struggled to develop materially in the post-colonial era.28 This serves as one of the core arguments for the whole study and contributes to explanations as to why Europe is the preferable destination to which to migrate.

3.2 Characteristics of G5 Sahel Climate = Analysis of the Push Factors

The Sahel region is located in sub-Saharan Africa and constitutes a transition zone between the semi-arid Sahara desert in the North, and the tropical rain forest in the South.29 It often cited as the poorest region in the world with porous borders conditioned by its climate.30 For many, it is a global hotspot for climate change.31 The Sahel’s climate is arid, tropical, and hot. The region is characterized by intense, constant heat with unvarying the temperatures. Since 1970, the average temperatures have only risen by approximately 1°C.32

Sahel is notably influenced by severe droughts that change into a very short rainy season, followed by floods. At other times, the region experiences periods with very little rainfall. Most of the rainfall occurs in one or two months with the rest of the year completely dry. More frequent droughts and floods have reduced crop yields and livestock herds, and have wiped out villagers’ savings – leaving many with no choice but to abandon their land.\textsuperscript{33}

The Sahelian agriculture sector mostly involves livestock rearing, farming millet, groundnuts, sorghum and cotton, and fisheries. However, it currently experiences the longest-lasting period of drought in its history. What is more, unpredictable heavy rainfall that causes severe flooding has led to poor harvests and destroyed livelihoods. With 80% of the Sahelian population dependent on natural resources, the caustic conditions engendered by climate change pose increasing challenges to the Sahelian population; they include, but are not limited to, pervasive poverty, food insecurity and chronic instability.\textsuperscript{34} Hence many families “must leave their villages in order to survive. In particularly bad years, 80 or 90 percent of people will leave their villages altogether in some parts of the Sahel”\textsuperscript{35}.

Moreover, the Sahel region is significantly interdependent in terms of water resources. It is likely to experience more problems regarding water shortages with climate change.\textsuperscript{36} Areas that have faced severe droughts every ten years now face droughts every two or three years. The dry periods, characterized by sandstorms and dust, lead to increased soil erosion and desertification, which cause many problems in the already underdeveloped agriculture – the region’s most important sector and principle source of livelihood.\textsuperscript{37} Moreover, the land pressures from the large population growth, food price volatility combined with deteriorating and more extreme climate conditions, lead to aforementioned repeated cycles of droughts, desertification, and localized floods. Over the past 30 years, the region has suffered from food scarcity, unsustainable food

\textsuperscript{34} UNEP, Livelihood Security - Climate Change, Migration and Conflict in the Sahel (UNEP, Geneva 2011).
\textsuperscript{36} Ben Mohamed Abdelkrim, Climate change risks in Sahelian Africa (2011) Vol. 11 Regional Environmental Change, p.113.
prices, and malnutrition.\textsuperscript{38} Valerie Amos, the United Nations coordinator for emergency relief, estimated that 20 million people in the Sahel faced hunger in 2014, requiring $2 billion in food aid.\textsuperscript{39}

Finally, the effect of agricultural research and practices on the land is vital to appreciating the scope of the region’s risk.\textsuperscript{40} Permanent overuse and over-farming of the already marginal land has caused further desertification and soil erosion, thus deteriorating the quality of the Sahelian soil.\textsuperscript{41}

In summary, climate change influences the everyday life of the Sahelian population. Due to a combination of drought, poor accessibility to food, high grain prices, environmental degradation and displacement, the rapidly-growing population faces potential conflicts over scarce natural resources, which coupled with the availability of small arms and light weapons, not only induce further migration from the region, but also lead to other security-related feuds.\textsuperscript{42} Throughout time, more and more people demand more land, food and water resources, all of which are already in short supply. The decreasing availability of fresh water, arable land and fish around Lake Chad, due to the significant population growth in this region, is a case in point.\textsuperscript{43} Poor harvest and livelihood conditions are followed by hunger, malnutrition, food insecurity, poverty, and governmental instability. The former elements constitute the push factors for (forced) migration from the Sahel region. A snowball effect causing a domestic or international conflict may also arise, further increasing forced migration. In order to stop the escalation of such problems and their effects on migration, the local population, as well as international, regional and sub-regional actors, should properly address the plight of the Sahel region. Recommendations will be presented and discussed in Chapter 5.

\begin{flushleft}
\textsuperscript{38} Ibid.
\textsuperscript{40} Robert Chambers, Janice Jiggins, Agricultural research for resource-poor farmers Part I: Transfer-of-technology and farming systems research (1987) Vol. 27 No. 1 Agricultural Administration and Extension.
\textsuperscript{41} UNEP, Livelihood Security - Climate Change, Migration and Conflict in the Sahel (UNEP, Geneva 2011).
\end{flushleft}
4. Reasons for Choosing Europe

4.1. Theoretical Background

It is important to start with the definition of “neopatrimonialism,” as it constitutes the core of the paper’s hypothesis. Most political scientists acquiesce the term with the definition provided by Clapham: “Neopatrimonialism is a form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organizations with powers which are formally defined, but exercise those powers . . . as a form of private property.”

Researchers also include terms, such as “common denominator,” that link neopatrimonialism to range of practices, which are supposedly connected to Africa. These characteristics involve elements of tribalism, corruption, regionalism or patronage. Van de Walle even argues that most scholars agreed that African political dynamics were structured by a set of informal institutions labelled as “big man politics” described as very greedy, having great sexual appetite connected to the tropical lasciviousness), “personal rule” or “politics of the belly”. This theory argues that the leader is the main source of authority, while the rest of the population expresses its unquestionable loyalty towards his charisma, alongside other legitimation strategies, to execute his rule. In the mid-twentieth century, academics perceived this as a march to modernity – a developmental stage that every developing country must undergo to excel in its path to modernization. In the early 1970’s, neopatrimonialism was invoked to explain why African societies were not modernized; by the next decade, the concept seemed to constitute the only reason for the region’s economic failure. Nowadays, neopatrimonialism has been correlated to dictatorships and corruption. Mkandawire further elaborates on the three anti-capitalistic theses endorsing the idea of neopatrimonialism. The first one is dedicated to authoritarian regimes’ fear of the emergence of any alternative sources of power that could represent a threat for the big man and his sphere of influence. This feature is closely interrelated to the history of colonialism, which from the perspective of Kenneth Omeje, triggers a post-colonial crisis and creates a so-called “syndrome

45 Daniel Bach, Neopatrimonialism in Africa and Beyond (Routledge, 2012), p.221.
48 Ibid.
of post-coloniality”. Omeje, in his research, summarizes the legacies of colonialism. Some of his thoughts involve the transformation of colonialism into the same, or at least similar, internal policies in the post-colonial period; he highlights the unlikelihood for a country to completely overcome its colonial history. He admits the probable occurrence of original institutions or culture but subjugates its behavior to the previous colonial rule. Mahmood Mamdani endorses Omeje’s claim, arguing that African crisis is rooted in a legacy of colonialism, which has transferred its behavior to the post-colonial period and limits African development. Simply stated, the inheritance of the European way of governing is the main problem of the current crisis. He concludes that the post-colonial era was deracialised but certainly not democratized. The problem lies in the historical colonial system, rather than post-colonial governments’ use of such experiences.

Mkandawire develops his anti-capitalistic features in the following concepts: he claims that the redistributive bias of neopatrimonialism undermines social differentiation essential to capitalist development, and thus, constrains the emergence of social classes – the latter already especially vulnerable in climate- and conflict-affected areas, such as the Sahel. As a third feature, he introduces the missing institutional framework for capitalism: market-liberalization and an investment-oriented structure are largely absent in Africa.

4.2. Empirical Observation

Upon the aforementioned explanations and correlations between neopatrimonialism, colonialism and post-colonialism, this paper has established that colonial rule is deeply rooted in the African political system. In the wake of the modern period, the habits of governing powers seem to follow that of their ancestors. As Europe is generally perceived as a liberal, democratic and developed region, it is often perceived as a paradise amongst African peoples. European colonial rule in Africa is perceived as a form of state-building, extending well into the post-colonial period. As the colonizers were coming from Europe, which nowadays is a

50 Ibid.
53 Paul Collier, *The Bottom Billion: Why the poorest countries are failing and what can be done about it* (Oxford University Press, 2007).
54 Libyan Refugee Camps (2014) - viewed at the lecture at the University of Bremen (2016).
prospering, liberal, human rights-oriented continent, there is a certain desire to follow this path. Unstable political situations and danger posed by the ongoing violent protests in North Africa have forced migrants to transit through a region that was formerly a point of destination, magnifying desires to continue to Europe. Such longing is based on the fictional image of Europe as a dreamland in various spheres of life (political, economic, social, cultural, ...). This reasoning has not only played a central role in the development of the region’s politics, but has also influenced education, training, public awareness, public participation and international cooperation in the region. Article 6 of the United Nations Convention on Climate Change elaborates on such international cooperation.

5. Recommendations

Based on the research, this chapter provides recommendations for addressing the plight of the Sahel:

1. Firstly, and most importantly, the status of “environmental refugees” should be internationally-defined and recognized in a legally-binding document, in order to protect the vulnerable group under the international humanitarian law.

2. Specifically, the Sahel region needs a long-term program to improve the resilience of the agricultural sector. Burkina Faso may be noted as an example: the construction of planting pits, which are larger and deeper than traditional planting pits, has facilitated more water storage. Another example is found in the farmers of Niger’s Aguié district, who discovered that micro-dosing – using small quantities of mineral fertilizers – doubled their crop yields. Such simple water-harvesting techniques helps boost long-term yields. Other important tasks connected to these specific processes include capacity-building, the adoption of national policies and forestry-legislation, communication and outreach.

3. Furthermore, desertification-prevention remains one of the core issues at stake in the attempt to quell forced migration from the Sahel. In this regard, it is crucial to follow the United Nations


Convention on Climate Change, with a specific focus on Article 6, which reflects six pivotal areas leading towards broad spectral education, active participation and global empowerment; the Kyoto Protocol and its Doha Amendment are also included therein. The adoption of Paris Agreement will go down in history as the biggest achievement of our times concerning the fight against climate change: it came into force on 5 October 2016 and until now (10 December 2016), has been ratified by 116 Parties to the Convention out of 197. Therefore, it is crucial for the African regions, and the world at large, to reach the actual implementation of the Agreement.

4. The International Organization for Migration (IOM), with cooperation from other local, national and international partners and organizations, actively promotes its initiatives and is engaged in several development projects. Such initiatives include a program called Restart: it endorses business trainings as steps to individual and collective success under the motto “give man a fish and feed him for a day, but teach a man how to fish and feed him for life.” Restart also promotes reintegration for voluntary returnees and provides a certain amount of financial aid. Another IOM initiative, named Cultrain, similarly advocates successful cooperation with partner institutions on international, regional and sub-regional levels. Such examples serve as motivations for other innovative, sustainable and scalable solutions to the region’s formerly-addressed problems.

5. Finally, financial aid must undergo a transformation from isolated donations, to holistic investments. Such investments should provide the bedrock for institutional restructuring. Moreover, it should endorse the local agricultural sector, rebuild vulnerable infrastructure, and implement good industry practices.

Conclusion

This study provides insight into environmental troubles of the G5 Sahel – amongst the most vulnerable and affected regions in the world due to climate change and related push factors. Unsustainable living conditions, caused by diversified land, poor growth of crops, and the deterioration of herding, fishing and other life-dependent agricultural activities, are the main reasons for the forced migration of a growing Sahelian population. The research highlights the ambiguous status of “environmental refugees,” one which should be clearly outlined in a legally-binding document to protect this vulnerable group under international law. Moreover, the study calls upon international actorm

59 IOM: IOM Articles, leaflets and brochures personally collected at the IOM Austria (5 June 2016).
such as the UN, to include legal recognition of “environmental refugees” under the UN umbrella. Considering the choice of Europe as the preferable final destination for environmentally-affected migrants, the region’s historical legacy provides a fruitful basis for inquiry: its history of colonialism paved the way for a post-colonialism that is not only strikingly similar to its former European colonizers, but which has also molded perceptions of Europe as an ideal endpoint. Such reasoning, thus, represents the primary pull factor to the continent of destination. Therefore, climate change in the Sahel region constitutes a clear condition for forced migration towards Europe, and duly reflects the historical affiliation of the African population approaching the old continent. The paper’s recommendations arise from personal observations and factual bearings; they are underpinned by a belief that, through the implementation of best practices and fortified cooperation amongst multi-level actors, the Sahel region will ultimately thrive.

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