

DISPLACED BY DESIGN: A CRITICAL LEGAL ANALYSIS OF MIGRATION AGREEMENTS BETWEEN NIGERIA AND ITALY

By Shirley Duru¹

ABSTRACT

This article critically examines bilateral migration agreements between Nigeria and Italy to assess whether they uphold or undermine the rule of law. Drawing on a comprehensive legal analysis of formal treaty texts, related legal instruments, and their practical implementation, the study highlights significant disjuncture between the agreements stated objectives and the realities experienced by Nigerian migrants. While the agreements ostensibly aim to regulate migration through cooperative frameworks, the research reveals persistent gaps in transparency, equity, and human rights protections that compromise legal certainty and accountability. Structural power imbalances between the two states and the externalization of migration control to third countries, particularly Libya, further complicate enforcement and contribute to a “grey zone” where migrants’ rights are precariously positioned outside effective legal protection. This article argues that current arrangements often result in the de-legalization of human rights norms, undermining fundamental rule of law principles. It concludes by advocating for the restructuring of migration agreements along transparent, binding, and rights-based lines. Drawing on alternative frameworks

¹ Shirley Chukwuebuka Duru is a Master of Jurisprudence in Rule of Law for Development candidate at Loyola University Chicago’s John Felice Rome Center. With over six years of experience in migration and development, she has worked on program implementation, research, and advocacy with organizations such as the Centre for Youths Integrated Development and Media for Humanitarian Development Initiative. Her focus includes human rights-based approaches to migration, irregular migration management, and access to justice for vulnerable groups. Shirley has participated in technical working groups on migration in Nigeria and contributed to national and international forums organized by the OHCHR and EU partners. She also holds a Postgraduate Diploma in Digital Business from Emeritus Institute and a bachelor’s degree in Hospitality and Tourism Management. Her research explores the intersection of soft law, migration governance, and legal displacement.

such as the African Union Migration Policy Framework and the Global Compact for Safe, Orderly and Regular Migration, the article emphasizes the necessity of participatory negotiation processes, independent monitoring, and judicial oversight to ensure equitable and just migration governance. This analysis contributes to broader debates on migration law and policy by highlighting the urgent need for reforms that centers on human dignity and the rule of law in international migration cooperation.

Keywords: Migration agreements, Nigeria–Italy relations, Rule of law, Human rights, Migration governance, Externalization of migration control.

1. INTRODUCTION

In recent years, the externalization of migration governance has become a defining feature of European Union (EU) efforts to manage irregular migration, particularly from sub-Saharan Africa.² Italy, as one of the EU's southern border states, and one of the key destination and transit country, has pursued a series of bilateral and informal arrangements with African states, including Nigeria, aimed at stemming the flow of migrants across the Central Mediterranean.³ These agreements, often framed as partnerships for development and mobility, are rarely publicized in full and often evade parliamentary scrutiny.⁴ While couched in the language of cooperation and mutual interest, they raise profound concerns about legality, accountability, and the protection of human rights.

While Nigeria does not rank among the top ten countries of origin for irregular arrivals in Italy as of 2023⁵, it continues to feature prominently in bilateral migration frameworks due to its strategic role in regional mobility dynamics. Italy's agreements with Nigeria—from the 2008 readmission agreement to ongoing returns and reintegration partnerships supported by the International Organization for Migration (IOM)—form part of a broader EU strategy to reduce arrivals, accelerate deportations, and outsource border control.⁶ These efforts have not been without controversy. Critics argue that the deals facilitate forced returns under the guise of voluntariness,

² Roberto Forin, Bram Frouws, Jennifer Vallentine, *EU-Africa Migration Diplomacy: A Complex and Evolving Landscape*. (Italian Institute for International Political Studies, 2024).

³ *Example: the Italy-Nigeria Bilateral Agreement signed in 2000; the 2009 agreement between the Italian Police Chief Prefect Antonio Manganelli and the Nigerian Police Chief Mike Mbama Okiro to combat illegal immigration, human trafficking, prostitution and drug trafficking. They are not made public.*

⁴ Gabrielli, Lorenzo. 2021. "The Externalization of European Borders to Africa: The Case of Migration Cooperation between Italy and Libya." *Revista CIDOB d'Afers Internacionals* 128: 165–186.

⁵ Roald Høvring, 10 things you should know about the Central Mediterranean migration route. (Norwegian Refugee Council, 2024)

⁶ Adepaju, Aderanti. 2020. "Return and Reintegration of Irregular Migrants from the European Union: Evidence from Nigeria." In *African Human Mobility Review* 6(3): 21–41.

contribute to the criminalization of migration, and result in serious rights violations for those returned.⁷

This article examines whether the legal instruments and practices governing Italy-Nigeria migration cooperation conform to rule of law principles. The rule of law, understood here as a normative framework encompassing legality, transparency, non-arbitrariness, accountability, and access to justice, serves as the analytical lens through which these agreements are assessed.⁸ It asks: Are these migration arrangements genuinely legal and rights-respecting frameworks, or do they function as tools of displacement and exclusion? To what extent do they reflect power asymmetries that undermine meaningful legal protection for migrants?⁹

The question of legality is especially urgent given the proliferation of soft law instruments—such as Memoranda of Understanding (MoUs), joint declarations, and operational protocols—that operate outside the bounds of public law and judicial oversight.¹⁰ While these instruments may be politically expedient, their legal ambiguity often comes at the expense of individual rights. The bilateral return and readmission practices between Nigeria and Italy exemplify this trend, revealing gaps in legal transparency, procedural safeguards, and access to remedies for migrants' subject to removal.

Furthermore, these agreements must be situated within a broader landscape of EU migration governance, where conditional development aid, trade incentives, and diplomatic pressure have

⁷ Amnesty International, *Nigeria: 'You Betrayed the Law': Returnees Abused and Stigmatized in Nigeria after Being Forcibly Returned from Europe* (London: Amnesty International, 2018), <https://www.amnesty.org/en/documents/afr44/9505/2018/en/>.

⁸ Brian Z. Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge: Cambridge University Press, 2004), 114–15.

⁹ Assess how these agreements are shaped by political and economic power imbalances and how it weakens the legal rights and protections that migrants are supposed to enjoy.

¹⁰ Elspeth Guild, Sergio Carrera, and Katharina Eisele, *EU-Turkey Statement: A Violation of International Law?* (Brussels: Centre for European Policy Studies, 2016), 5.

become key tools in managing mobility from Africa.¹¹ Italy's role in implementing these policies, including funding detention centers in Libya and supporting return programs for Nigerian migrants, underscores the growing interdependence between migration control and foreign policy.¹² However, this approach raises troubling implications for the rule of law, especially when such measures bypass democratic processes or violate established human rights norms.

Ultimately, this article argues that migration agreements between Nigeria and Italy are not neutral policy tools, but instruments shaped by political interests and legal asymmetries. While presented as cooperative frameworks, they often enable practices that displace individuals not only physically, but legally, placing them outside the protection of law. To restore credibility to migration governance, it is imperative that such agreements are subjected to legal scrutiny, democratic oversight, and accountability mechanisms that uphold the rule of law.

2. HISTORICAL AND LEGAL CONTEXT

2.1 Nigeria–Italy Migration Dynamics

Nigeria has long been a significant country of origin for migrants arriving in Europe, particularly through irregular channels across the Central Mediterranean.¹³ Migration from Nigeria to Italy intensified in the early 2000s, driven by a complex mix of factors including high youth unemployment, regional insecurity (especially in the northeast due to Boko Haram), gender-based

¹¹ Ruben Andersson, *No Go World: How Fear Is Redrawing Our Maps and Infecting Our Politics* (Oakland: University of California Press, 2019), 94–97.

¹² Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya* (New York: Human Rights Watch, 2019), <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>.

¹³ European Commission: Second Progress Report: First Deliverables on the Partnership Framework with third countries under the European Agenda on Migration (Brussels, 2016).

violence in Nigeria, and limited access to lawful migration pathways.¹⁴ Italy became a focal point both because of its geographic proximity and its relative openness before the 2015 migration crisis.¹⁵

The demographic profile of Nigerian migrants is diverse, though a majority are young adults, often with low levels of formal education and limited financial means. Many hope to use Italy as a steppingstone to other European countries, particularly Germany or France.¹⁶ Among Nigerian arrivals, women—often victims of trafficking and sexual exploitation—represent a disproportionately vulnerable subgroup.¹⁷ As migration numbers surged, Italian policymakers shifted their approach from integration and asylum processing to deterrence and return, leading to tension in bilateral and multilateral migration agreements.¹⁸

2.2 Evolution of Legal Instruments

Efforts to formalize Italy–Nigeria migration cooperation have taken various forms, ranging from official bilateral agreements to less transparent and legally ambiguous arrangements. These instruments often blend objectives of development cooperation with enforcement mechanisms for return and readmission, reflecting both EU externalization policy and Italian national priorities. For example, the 2008 **Nigeria–Italy Bilateral Agreement on Migration and Development** marked one of the first formal frameworks. While the full text remains unpublished, publicly available information indicates that it included clauses on return, border security cooperation, and

¹⁴ Awodola B. and Ayuba P. Hamzat, “Push and Pull Factors of International Migration: Evidence from Migrants in Europe,” *International Journal of Management and Economics Invention* 4, no. 6 (2018): 192–99.

¹⁵ Anna Triandafyllidou and Thanos Maroukis, *Irregular Migration in Europe: Myths and Realities* (Farnham: Ashgate, 2012), 57–58.

¹⁶ International Organization for Migration (IOM), *Migration Profile Nigeria 2018* (Geneva: IOM, 2019), 13.

¹⁷ United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2020* (Vienna: UNODC, 2020), 56–57.

¹⁸ Giuseppe Adamo, “Italy’s evolving approach to illegal immigration under Giorgia Meloni”, *Institute of New Europe*, 2025.

capacity-building for Nigeria's migration institutions.¹⁹ However, the lack of ratification by the Nigerian National Assembly and minimal parliamentary debate in Italy cast doubt on its legal enforceability.²⁰

In the years that followed, Italy increasingly aligned its migration agenda with the EU's external strategy. The **EU–Nigeria Common Agenda for Migration and Mobility (CIMM)**, signed in 2015, outlined four pillars: legal migration, irregular migration and trafficking, development impacts of migration, and international protection.²¹ Though ambitious in scope, the CIMM remains a non-binding political declaration, with vague enforcement mechanisms and limited accountability structures.

The **Joint Valletta Action Plan (JVAP)** of 2015, to which both Nigeria and Italy are parties, further consolidated this approach. Designed during the height of the migration crisis, the JVAP sought to address the “root causes” of irregular migration while increasing returns and cooperation on readmission.²² Financial and technical assistance to countries like Nigeria was often made conditional upon demonstrable cooperation on returns.²³ This conditionality undermines the principle of mutual benefit and raises questions about the voluntariness of Nigeria's participation.

Additionally, while not directly involving Nigeria, the **Italy–Libya Memorandum of Understanding** signed in 2017 significantly impacted Nigerian migrants. Italy's funding of

¹⁹ European Commission, “Annex to the Commission Staff Working Document: EU Return Policy,” SWD(2017) 201 final, March 2, 2017, 30.

²⁰ Sayomi Ariyo, “Migration Cooperation Between Nigeria and the EU: Between Soft Law and Hard Politics,” *African Human Mobility Review* 7, no. 1 (2021): 139–40.

²¹ European Union External Action Service (EEAS), “EU–Nigeria Common Agenda for Migration and Mobility,” 2015, https://www.eeas.europa.eu/nigeria/common-agenda-migration-and-mobility_en.

²² European Council, “Valletta Summit on Migration, 11–12 November 2015: Action Plan,” https://www.consilium.europa.eu/media/21839/action_plan_en.pdf.

²³ Thomas Gammeltoft-Hansen and Ninna Nyberg Sørensen, *The Migration Industry and the Commercialization of International Migration* (London: Routledge, 2013), 105.

detention and interception operations in Libya led to the return of thousands of migrants—including Nigerians—who had not had access to asylum procedures or legal counsel.²⁴ Though Libya lacks a functioning asylum system and is not a party to the 1951 Refugee Convention, Italy has continued to outsource its migration enforcement there.²⁵

2.3 Legal Ambiguities and Democratic Oversight Gaps

A critical issue with many of these agreements is their opacity and lack of legal clarity. Key texts such as the 2008 Nigeria–Italy agreement and various return protocols, are not available for public review. This secrecy complicates efforts to assess compliance with domestic and international law.²⁶ Moreover, many agreements are concluded as **Memoranda of Understanding (MoUs)** or **Joint Declarations**, deliberately bypassing national legislatures and escaping the scrutiny required for treaties.²⁷ This trend reflects a broader European shift toward “**soft law**” instruments in migration governance, which, while politically expedient, lack the enforceability and transparency of formal treaties.

In both Italy and Nigeria, the absence of meaningful parliamentary involvement weakens democratic accountability. Italian constitutional law requires that treaties affecting national sovereignty or imposing financial obligations receive legislative approval. Yet, many migration-related agreements are treated as “technical” or “administrative” and thus escape such

²⁴ Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya* (New York: HRW, 2019), <https://www.hrw.org/report/2019/01/21/no-escape-hell/eu-policies-contribute-abuse-migrants-libya>.

²⁵ Amnesty International, *Libya's Dark Web of Collusion: Abuses Against Europe-Bound Refugees and Migrants* (London: Amnesty International, 2017).

²⁶ Sarah Fine and Lea Ypi, *Migration in Political Theory: The Ethics of Movement and Membership* (Oxford: Oxford University Press, 2016), 227.

²⁷ Sergio Carrera et al., *Offshoring Asylum and Migration in the EU: The Role of Informal Arrangements and Non-State Actors* (Brussels: Centre for European Policy Studies, 2019), 9–12.

procedures.²⁸ In Nigeria, the executive has broad discretion in concluding international agreements, but the 1999 Constitution mandates that any agreement with financial or constitutional implications must be ratified by the National Assembly.²⁹ These requirements are frequently disregarded in migration cooperation, creating a legal grey zone where executive action replaces rule-based governance.

Furthermore, migrants themselves are typically excluded from these legal and political processes. Their voices and experiences rarely inform the negotiation or evaluation of these agreements. This exclusion violates the participatory dimension of the rule of law and perpetuates a system in which the people most affected by migration governance have the least influence over its design.³⁰ The cumulative effect of these developments is a body of migration cooperation that is legally fragmented, politically opaque, and functionally asymmetrical. The reliance on informal instruments, combined with the strategic use of development aid and enforcement cooperation, points to a model of governance that prioritizes control over rights, and expediency over accountability.³¹

3. POWER ASSYMETRIES AND THE RULE OF LAW

The relationship between Nigeria and Italy in the domain of migration governance is marked by profound power asymmetries that shape the negotiation, implementation, and impact of bilateral agreements.³² These asymmetries derive not only from differences in economic and political

²⁸ Italian Constitution, art. 80.

²⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 12.

³⁰ Cathryn Costello, *The Human Rights of Migrants and Refugees in European Law* (Oxford: Oxford University Press, 2016), 51–53.

³¹ Oliver Westerwinter, Kenneth W. Abbott & Thomas Biersteker, “Informal governance in world politics, 2020”. Geneva Graduate Institute.

³² Ngozi L. Uzomah & Ignatius A. Madu, GAPS “Reassessing Return Migration Governance: Insights on Nigeria’s Return Migration Infrastructures, 2025) p.25

strength but also from the broader global context in which migration management has become a tool of geopolitical influence.³³ Such disparities significantly affect the extent to which these agreements reflect the rule of law principles, particularly those concerning consent, equality before the law, and accountability.

3.1 Economic and Political Power Imbalances

Italy, as a member of the European Union and a high-income country, wields considerable influence over migration policy, partly through its control over migration routes into Europe and partly through its capacity to condition cooperation on development aid and diplomatic relations.³⁴ Nigeria, despite being Africa's largest economy by GDP, remains a lower-middle-income country with considerable development challenges, including high poverty rates and governance deficits.³⁵ This imbalance creates a dynamic where Nigeria faces substantial pressure to conform to the priorities of Italy and the EU in exchange for financial assistance and political goodwill.

The principle of state sovereignty in international law entails that states enter into agreements freely, with informed consent, and with respect for their own legal and constitutional procedures.³⁶ However, the practical realities surrounding Nigeria-Italy migration agreements reveal a more complex picture. Development aid and cooperation packages are often linked explicitly to Nigeria's compliance with readmission and return policies, effectively leveraging economic

³³ Jennifer Vallentine & Bram Frouws & Roberto Forin, "Power dynamics, arm twisting and migrant rights: the many (ugly) faces of migration diplomacy" MMC 2024.

³⁴ Gabrielli, Lorenzo. 2021. "EU's External Migration Policy: The Securitisation of Development Aid and the Externalisation of Border Control." *Revista CIDOB d'Afers Internacionals* 128: 165–186; Moreno-Lax, Violeta. 2018. *The Externalization of Migration Controls in the EU: A Critical Legal Perspective*. Leiden: Brill.

³⁵ World Bank, *Nigeria Economic Update: Navigating Uncertainty* (Washington, DC: World Bank, 2020), 13–15.

³⁶ Malcolm N. Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017), 147–50.

dependency to extract migration control concessions.³⁷ Such conditionality undermines the sovereign decision-making capacity of Nigerian authorities and raises questions about the voluntariness of their consent to these agreements. In effect, Nigeria's participation may reflect not a free exercise of sovereignty, but a constrained choice shaped by economic necessity and diplomatic pressure. This situation weakens the democratic legitimacy of these agreements and raises doubts about whether they fully comply with constitutional requirements governing treaty-making.³⁸

3.2 Inequality Before the Law and Access to Justice

The power imbalance also manifests in the disparate treatment of migrants under Italian and Nigerian legal regimes. Migrants subject to return procedures often face legal uncertainty, inadequate access to counsel, and limited avenues for challenging removal decisions.³⁹ Italy's use of accelerated return procedures and the delegation of identification missions to Nigerian authorities further complicate migrants' ability to contest their status or claim protection. In Nigeria, returnees frequently encounter stigmatization and marginalization, with little state support for reintegration.⁴⁰ The legal and social invisibility of these individuals reflects broader structural inequalities, whereby migrants are effectively denied equal protection of the law in both origin and destination countries. This runs counter to the rule of law's fundamental requirement of equality before the law and non-discrimination.

³⁷ Migration Policy Institute, "EU Migration Partnerships: Balancing Development and Security," *Migration Information Source*, July 2021, <https://www.migrationpolicy.org/article/eu-migration-partnerships-development-security>.

³⁸ Prof. ssa Gromek – Katarzyna, "Administrative Obstacles Facing Nigerian Migrants in Italy", 2025 p.27. Università di Pavia <https://unitesi.unipv.it/>

³⁹ European Council on Refugees and Exiles (ECRE), *Access to Justice for Migrants in Return Procedures* (Brussels: ECRE, 2019), 26–28.

⁴⁰ Amnesty International, *Nigeria: Stigma and Lack of Support for Returnees* (London: Amnesty, 2019).

3.3 Accountability Deficits

Power asymmetries also affect accountability mechanisms. The multiplicity of actors involved—Italian government agencies, EU institutions, Nigerian authorities, international organizations such as the IOM, and various NGOs—creates a fragmented landscape in which responsibility for rights violations can be diffused or obscured.⁴¹ Italian domestic courts have limited jurisdiction over actions taken abroad or by third parties, while Nigerian judicial institutions often lack the resources or mandate to scrutinize the conduct of return procedures coordinated by foreign partners.⁴²

This fragmentation undermines effective remedies for migrants whose rights are violated during return and reintegration. The lack of independent-oversight bodies with the authority to investigate abuses or enforce compliance perpetuates a culture of impunity.⁴³ Such accountability deficits violate the core rule of law principles and compromise the legitimacy of migration governance.

3.4 The Rule of Law and Power: A Critical Reflection

The case of Nigeria-Italy migration agreements illustrates how rule of law principles are often subordinated to power politics in the governance of global migration. The nominal consent of weaker states can mask coercive dynamics, while legal formalities obscure substantive inequalities, that is, a migration deal may look legal and consensual, but the underlying reality could involve pressure, imbalance, or exploitation.⁴⁴ Transparency, equality, and accountability,

⁴¹ Sergio Carrera et al., “The Fragmentation of EU Migration Governance and the Role of Third Actors,” *Journal of Common Market Studies* 58, no. 1 (2020): 89–90.

⁴² International Bar Association, “Access to Justice in Nigeria,” IBA Report, 2018, 45.

⁴³ Euronews, “‘Culture of impunity’ across EU over violence against migrants, NGO warns”, 2022.

⁴⁴ Gammeltoft-Hansen, Thomas, and James C. Hathaway. 2015. “Non-Refoulement in a World of Cooperative Deterrence.” *Columbia Journal of Transnational Law* 53 (2): 235–284.

cornerstones of the rule of law, are compromised when agreements serve primarily to externalize border control and minimize migration flows at any cost.

Addressing these challenges requires recognizing power imbalances as a structural feature rather than an incidental flaw. Legal reforms, increased parliamentary oversight, enhanced civil society participation, and stronger international legal safeguards are necessary to realign migration agreements with genuine rule of law standards. This realignment must also involve a shift in policy goals, prioritizing human rights and justice over securitization and control.

4. FROM LAW TO PRACTICE: IMPLEMENTATION AND ITS DISCONTENTS

Despite the formal frameworks that structure migration cooperation between Nigeria and Italy, the reality of implementation reveals significant discrepancies between law and practice. This section explores how return and reintegration mechanisms, border management, and migration control policies unfold in practice, and the implications for migrant rights and rule of law principles.

4.1 Return and Readmission Processes

The core of Nigeria–Italy migration cooperation lies in the return and readmission of Nigerian nationals irregularly present in Italy or intercepted en route.⁴⁵ While international law permits the return of migrants who do not qualify for asylum, returns must be conducted lawfully, humanely, and with due respect for procedural safeguards, including the right to appeal and protection from refoulement.⁴⁶

⁴⁵ Amanda Bisong, “EU external migration management policies in West Africa: How migration policies and practices in Nigeria are changing” [ASILE FORUM](#), 2021, 2.

⁴⁶ Office of the United Nations High Commissioner for Refugees (UNHCR), *Guidelines on Return and Reintegration* (Geneva: UNHCR, 2019), 6–8.

In practice, return operations are often rushed and lack transparency. Italian authorities rely heavily on expedited procedures that reduce the time migrants must contest deportations or access legal assistance.⁴⁷ Also, Nigerian embassies are often understaffed and cooperation with European authorities may prioritize speed over accuracy or procedural fairness as part of the readmission process. Identification missions conducted by Nigerian officials in Italy further complicate matters, as the accuracy of nationality determination is critical but frequently contested by migrants.⁴⁸ As a result, where a Nigerian migrant lacks a valid passport, Nigerian missions may issue an Emergency Travel Certificate (ETC)⁴⁹, a basic, one-way document issued against minimal proof of identity, without biometric checks. While Nigeria introduced a more secure Temporary Passport in 2021⁵⁰, the ETC remains in use in many embassies, leaving strict identity verification still bypassed.

Forced removals, rather than voluntary returns, dominate the landscape despite official rhetoric promoting “voluntary” return programs.⁵¹ Reports by NGOs and international bodies document cases of coercion, misinformation, and inadequate pre-return counseling, raising concerns about the voluntariness and fairness of return decisions.⁵² Furthermore, the health and safety conditions during removal and in reception facilities are often substandard, compounding migrants’ vulnerability.⁵³

⁴⁷ European Migration Network (EMN), *Annual Report on Return Practices in Italy* (Brussels: EMN, 2020), 45.

⁴⁸ Médecins Sans Frontières, “Nationality Identification in Return Procedures: Challenges and Consequences,” *MSF Briefing*, 2018.

⁴⁹ <https://ngembassy.info/page/emergency-travel-certificate>

⁵⁰ Udegbonam, Oge. “Nigerian Govt Replaces Emergency Travel Certificate with Temporary Passport.” *Premium Times*, March 10, 2021. (Announcing ICAO-compliant Temporary Passport initiative.)

⁵¹ International Organization for Migration (IOM), *Voluntary Return and Reintegration Programs: Assessments and Challenges* (Geneva: IOM, 2021), 12.

⁵² Amnesty International, *You Betrayed the Law: Returnees Abused and Stigmatized in Nigeria* (London: Amnesty International, 2018), 15–17.

⁵³ Human Rights Watch, *Italy: Conditions of Migrants in Detention and During Removal* (New York: HRW, 2019).

4.2 Reintegration Challenges

Returnees to Nigeria face significant barriers to reintegration, including limited financial support, social stigma, and lack of access to essential services.⁵⁴ The Italian and EU funding of reintegration programs, often implemented through international organizations like the IOM, aims to provide vocational training, psychosocial support, and microcredit. However, such programs are typically short-term and underfunded relative to the scale of returns.⁵⁵

Moreover, the focus on technical reintegration measures tends to overlook the structural causes of migration, such as unemployment and insecurity, leaving many returnees trapped in precarious conditions.⁵⁶ Stigmatization within communities and discrimination against returnees further limit their social and economic prospects.⁵⁷ It is imperative that the lived experiences of returned migrants be taken into consideration when drafting agreements, as failure to do so contributes to a persistent gap between program objectives and realities. This exacerbates migrants' marginalization, undermining the humanitarian claims of return policies and increasing the vulnerability of returnees, reinforcing their resolve to attempt irregular migration anew.

4.3 Border Management and Interdiction

Italian cooperation with Libyan authorities has had a profound effect on the migration routes used by Nigerians. Funding of the Libyan Coast Guard and support for detention centers are components

⁵⁴ United Nations Development Programme (UNDP), *Supporting Returnees in Nigeria: Policy Brief* (New York: UNDP, 2020).

⁵⁵ IOM, *Evaluation of Reintegration Support Programs for Nigerian Returnees* (Geneva: IOM, 2019), 34.

⁵⁶ Ruben Andersson, *Illegality, Inc.: Clandestine Migration and the Business of Bordering Europe* (Oakland: University of California Press, 2014), 82–85.

⁵⁷ Amnesty International, *Stigma and Exclusion: The Social Consequences of Return for Nigerian Migrants* (London: Amnesty, 2019).

of this strategy, intended to disrupt irregular departures.⁵⁸ However, Libya’s documented abuses against migrants—including arbitrary detention, torture, and forced labor—have raised grave human rights concerns.⁵⁹ Italy’s complicity in these practices, by providing financial and logistical support without adequate safeguards, questions the legality and ethical foundations of its externalized migration control.⁶⁰ The outsourcing of border enforcement to a non-state actor lacking rule of law mechanisms epitomizes the tension between state sovereignty, security concerns, and human rights protections.

4.4 Legal Safeguards and Access to Justice

Access to legal remedies remains limited for migrants facing removal. Language barriers, lack of legal aid, and the complexity of asylum and return procedures hinder migrants’ ability to navigate the system.⁶¹ Courts in Italy are often overburdened and constrained by procedural rules that favor swift deportations over thorough rights assessments.⁶² In Nigeria, legal assistance and protection mechanisms for returnees are minimal. The absence of effective grievance procedures or oversight bodies perpetuates impunity for abuses occurring during returns or reintegration.⁶³ Civil society organizations play a crucial role in filling these gaps, but their reach and resources are insufficient to address systemic challenges comprehensively.

⁵⁸ Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuse of Migrants in Libya* (New York: HRW, 2019).

⁵⁹ Amnesty International, *Libya’s Dark Web of Collusion* (London: Amnesty International, 2017).

⁶⁰ European Parliament, “Report on the Externalization of EU Migration Policies,” PE653.512 (2019), 28–29.

⁶¹ European Council on Refugees and Exiles (ECRE), *Access to Justice for Migrants in Return Procedures* (Brussels: ECRE, 2019), 30.

⁶² Council of Europe Commissioner for Human Rights, “The Right to an Effective Remedy in Migration Procedures,” Report, 2020, 14–15.

⁶³ Nigerian Bar Association, *Report on Legal Aid for Migrants and Returnees* (Lagos: NBA, 2021).

4.5 Implications for the Rule of Law

The implementation gaps outlined above underscore a broader pattern: migration agreements, while legally framed as cooperative tools, frequently translate into practices that contravene rule of law standards. The lack of transparency, procedural fairness, and accountability in return operations undermines legality and justice. Migrants are caught in a legal limbo—physically displaced and deprived of meaningful legal protection.⁶⁴ These shortcomings call for a re-examination of not only the content of migration agreements but also the governance structures that oversee their application. A rights-based, rule-of-law centered approach must ensure that agreements translate into fair, transparent, and humane practices that respect the dignity and rights of migrants.

5. MIGRATION GOVERNANCE BEYOND THE LAW

Italy's migration governance strategy increasingly relies on the externalization of border control to non-EU countries, with Libya serving as a key partner in this approach. This externalization is part of a broader European Union policy framework designed to manage and restrict migration flows far beyond European borders by funding and supporting third countries to intercept, detain, and return migrants before they reach Europe.⁶⁵ While framed as cooperation, this strategy produces a “grey zone” of migration governance characterized by the erosion of formal legal protections and the proliferation of non-binding instruments, with profound consequences for Nigerian migrants.⁶⁶

⁶⁴ Council of Europe Commissioner for Human Rights. *Migrants in limbo in Europe have the right to live in dignity*. Strasbourg: [Council of Europe](#), 2016.

⁶⁵ Sergio Carrera et al., “Externalisation of Migration Management: EU Cooperation with Libya,” *European Parliament Study* PE 653.512 (2019): 5–7.

⁶⁶ Fakhry, Chloé, and Philippe M. Frowd. 2023. “Governing Migration through Informality: The EU Trust Fund for Africa and the ‘Soft Power’ of Migration Management.” *International Migration* 61(1): 110–126.

5.1 Externalization of Migration Control: Italy and the EU's Strategy

Externalization refers to the delegation or outsourcing of migration control functions—such as border surveillance, interception, and return operations—to non-EU states.⁶⁷ Italy, situated at the EU's southern frontier, has been at the forefront of operationalizing this approach, partnering closely with Libya. Italy provides funding, training, and logistical support to the Libyan Coast Guard, which intercepts vessels carrying migrants from West Africa, including many Nigerians, attempting the perilous Mediterranean crossing.⁶⁸

The EU has complemented Italy's efforts with broader financial and diplomatic engagement under frameworks like the Khartoum Process and the EU Emergency Trust Fund for Africa.⁶⁹ These initiatives offer substantial aid packages conditional on cooperation in migration control, effectively incentivizing third countries to act as gatekeepers on Europe's behalf. While intended to reduce irregular migration, this strategy raises critical questions about the legality, ethics, and human rights implications of transferring border enforcement responsibilities to states with poor records on migrant treatment.

5.2 Indirect Impacts on Nigerian Migrants

Although Italy's migration agreements directly concern Nigerian nationals' return and readmission, the externalization to Libya significantly affects Nigerians seeking to reach Italy or transit through the Central Mediterranean route. Nigerian migrants intercepted by the Libyan Coast Guard are often detained in facilities notorious for arbitrary detention, torture, forced labor, and

⁶⁷ Heather J. Williams, *Outsourcing Border Control: The Rise of Externalization Policies* (Oxford: Oxford University Press, 2020), 33–40.

⁶⁸ Human Rights Watch, *No Escape from Hell: EU Policies Contribute to Abuses of Migrants in Libya* (New York: HRW, 2019), 18–22.

⁶⁹ European Commission, "The EU Emergency Trust Fund for Africa: Factsheet," 2021, <https://ec.europa.eu/trustfundforafrica/>.

other abuses.⁷⁰ These conditions starkly contravene international human rights and refugee protections.

Italy's financial and political support to Libyan authorities implicates it indirectly in these abuses, despite EU and Italian commitments to respect human rights standards.⁷¹ The offshoring of migration control thus creates a situation in which Nigerians suffer human rights violations without meaningful access to remedies or protections under either Italian or Nigerian law. Moreover, the outsourcing of migration control to Libya complicates migrants' legal status and protection prospects. Nigerian migrants stranded in Libya find themselves in limbo, with limited access to asylum procedures, humanitarian assistance, or durable solutions.⁷² This "grey zone" between states, where legal protections are weak or non-existent, challenges the very notion of rule of law in migration governance.

5.3 Emergence of a "Grey Zone" of Migration Governance

The externalization strategy has contributed to the creation of a "grey zone" in migration governance, where formal legal frameworks are increasingly supplanted by ad hoc, non-binding instruments and practices that circumvent established human rights norms.⁷³ Italy and the EU rely heavily on memoranda of understanding (MoUs), joint declarations, and informal agreements with third countries like Libya.⁷⁴ These instruments often lack the legal force of treaties and are characterized by ambiguous commitments and limited oversight mechanisms. While providing flexibility for political cooperation, their non-binding nature undermines legal certainty and

⁷⁰ Amnesty International, *Libya's Dark Web of Collusion* (London: Amnesty International, 2017), 9–12.

⁷¹ European Parliament, "Report on EU Externalisation of Migration Controls," PE 653.512 (2019), 27–29.

⁷² From Nigeria to Libya and Europe: the risks on the journey. [The Migrant Project](#)

⁷³ Anna LIGUORI, "Migration Law and the Externalization of Migration Controls. European State Responsibility." *IRIS* 2019, ISBN 978-1-138-34348-1

⁷⁴ Serena Manzella, "Memoranda of Understanding in Migration Governance," *International Journal of Migration* 12, no. 1 (2021): 45–47.

predictability. For Nigerian migrants, this means their rights and protections are governed by opaque arrangements that are difficult to challenge or hold accountable. The reliance on soft law enables practices that evade scrutiny and dilute migrants' legal status, contributing to precariousness and legal limbo.⁷⁵

The “grey zone” also involves the de-legalization of human rights norms—whereby fundamental rights become marginalized or deprioritized in favor of security and control objectives.⁷⁶ Human rights language may be invoked rhetorically but is often subordinated to political expediency. This phenomenon is visible in Italy's cooperation with Libya, where human rights violations are tacitly tolerated or overlooked as part of migration management.⁷⁷ The effective exclusion of migrants from legal protections erodes the universality and enforceability of human rights, undermining core rule of law principles.

5.4 Implications for Legal Certainty, Transparency, and Justice

The externalization and creation of this governance “grey zone” have profound implications:

- **Legal Certainty:** Migrants face unclear, inconsistent, and extraterritorial legal regimes that leave them unsure of their rights and remedies. The absence of binding agreements with enforcement mechanisms fosters unpredictability and arbitrariness.⁷⁸
- **Transparency:** The use of informal, non-binding instruments reduces transparency and public scrutiny. Parliamentary oversight in both Italy and Nigeria is limited regarding cooperation with

⁷⁵ Eleonora Frasca, “Informal agreements and quasi-legal mechanisms in EU-Africa cooperation on migration: how the EU takes advantage of the GCM commitments” *Frontiers* 2023.

⁷⁶ Kathleen Newland, “The De-Legalization of Migration Control: Human Rights and Security,” *Global Migration Review* 4, no. 2 (2020): 21.

⁷⁷ Amnesty International, *Libya: European Complicity in Abuses* (London: Amnesty International, 2018).

⁷⁸ Sergio Carrera et al., “Legal Uncertainty and Soft Law in EU Migration Policies,” *Journal of European Public Policy* 27, no. 6 (2020): 822–25.

third countries, and information about migration control operations remains guarded.⁷⁹ This lack of transparency inhibits democratic accountability and informed public debate.

- **Access to Justice:** Migrants caught in the “grey zone” often lack access to effective legal recourse. Jurisdictional ambiguities and limited oversight leave abuses unaddressed and victims without remedy.⁸⁰ The fragmentation of responsibility among state and non-state actors exacerbates these challenges.

Together, these factors undermine the rule of law’s fundamental tenets in migration governance, fostering conditions where migrants’ rights are subordinated to geopolitical and security priorities.

6. RETHINKING THE ROLE OF LAW: TOWARDS RIGHTS-BASED AGREEMENTS

The current architecture of migration agreements between Nigeria and Italy reveals significant deficiencies in safeguarding migrants’ rights and upholding the rule of law. To address these challenges, there is a pressing need to rethink the role of law in shaping migration governance by embedding a rights-based approach that ensures legal certainty, accountability, and inclusivity. This section explores key principles and alternative frameworks that could guide the restructuring of bilateral migration agreements into instruments that genuinely respect human rights, promote transparency, and foster meaningful participation.

- 1. Ensuring Human Rights Compliance:** First and foremost, migration agreements should be anchored firmly in international human rights law and refugee protection standards.⁸¹ This includes explicit incorporation of non-derogable rights, such as the principle of non-

⁷⁹ European Parliament, “Transparency and Parliamentary Oversight in Migration Cooperation,” PE 653.480 (2018).

⁸⁰ International Bar Association, *Access to Justice for Migrants in the Grey Zone* (London: IBA, 2020), 38–41.

⁸¹ UN General Assembly, *International Covenant on Civil and Political Rights* (1966), art. 7.

refoulement, the right to seek asylum, and protection against arbitrary detention and discrimination.⁸² Binding commitments should require both states to implement robust procedural safeguards during return and readmission processes, including access to legal counsel and independent review mechanisms which are non-existent in current frameworks.⁸³ Embedding human rights compliance as a core principle would help prevent the de facto erosion of protection witnessed in current practices and foster a legal framework that recognizes migrants not merely as objects of control but as rights-holders.

2. Promoting Participatory Negotiation Processes: The negotiation and formulation of migration agreements must involve a broad range of stakeholders beyond governmental actors.⁸⁴ Meaningful participation of civil society organizations, migrant associations, human rights defenders, and affected communities—both in Nigeria and Italy—is essential to ensure that agreements address the lived realities and protection needs of migrants.⁸⁵ Participatory processes enhance the legitimacy and relevance of agreements, helping to identify gaps, mitigate unintended harm, and build trust. This inclusive approach counters the top-down, technocratic model currently prevailing, where migrants’ voices are often absent. Notably, Italy’s SPRAR/SAI⁸⁶ reception system—particularly in municipalities like Rome and Palermo—has shown how local partnerships with NGOs and migrant groups can lead to more effective and dignified outcomes for asylum seekers. Organizations like Centro Astalli⁸⁷ have

⁸² UNHCR, *Guidelines on International Protection No. 12: Claims to Refugee Status related to Sexual Orientation and Gender Identity* (Geneva: UNHCR, 2012), 6.

⁸³ International Detention Coalition, *Handbook on Implementing Return and Reintegration* (Melbourne: IDC, 2017), 14.

⁸⁴ Global Migration Group, *Principles and Guidelines on the Human Rights Protection of Migrants* (New York: GMG, 2018), 22.

⁸⁵ Amnesty International, *Participation in Migration Governance* (London: Amnesty, 2019), 11.

⁸⁶ [Short overview of the reception system](#); The national reception [system](#) (Sai)

⁸⁷ Jesuit Refugee Service. 2023. *Centro Astalli Annual Report 2022*. Rome: JRS Italy. <https://centroastalli.it/report-annuale-2022/>.

played a central role in tailoring integration services to community needs, demonstrating the positive impact of participatory governance on migration policy design and implementation.

3. Enhancing Public Transparency and Accountability: Transparency in the negotiation, implementation, and monitoring of migration agreements is crucial for democratic accountability and public scrutiny.⁸⁸ Governments should commit to publishing draft agreements, impact assessments, and periodic reports on cooperation activities and outcomes. Parliamentary oversight mechanisms must be strengthened to ensure that elected representatives can meaningfully engage with migration policy.⁸⁹ Transparency enables civil society and the public to hold authorities accountable, advocate for improvements, and ensure that migration governance respects the rule of law.

4. Establishing Independent Monitoring and Evaluation: Independent monitoring bodies with the authority to evaluate compliance with legal and human rights standards are vital for effective accountability.⁹⁰ Such mechanisms could take the form of joint Italy-Nigeria monitoring committees with civil society participation or involve international organizations such as the International Organization for Migration (IOM) or the United Nations High Commissioner for Refugees (UNHCR).⁹¹ Regular evaluations would assess the impact of agreements on migrants' rights and reintegration outcomes, recommending corrective measures where necessary. The presence of independent observers also deters abuse and promotes best practices.

⁸⁸ Transparency International, *Open Migration: Transparency in Migration Policy* (Berlin: TI, 2020), 9.

⁸⁹ European Parliament, *Parliamentary Oversight in Migration Policy* (Brussels: EP, 2018), 27.

⁹⁰ International Organization for Migration, *Monitoring Migration Agreements* (Geneva: IOM, 2021), 18.

⁹¹ UNHCR, *Monitoring Returns and Reintegration* (Geneva: UNHCR, 2019), 24.

5. Alternative Frameworks: Regional and Global Models: Several existing regional and global frameworks offer useful blueprints for rights-based migration governance:

- **African Union Migration Policy Framework (2018–2030):**⁹² This framework emphasizes the protection of migrants’ rights within an integrated, development-oriented approach. It calls for harmonized migration policies among African states that prioritize human dignity, security, and socioeconomic inclusion. Adopting the AU framework’s principles in Nigeria-Italy agreements could align cooperation with continental standards and strengthen regional ownership.
- **Global Compact for Safe, Orderly and Regular Migration (GCM):**⁹³ Endorsed by UN member states, including Nigeria and Italy, the GCM promotes a cooperative approach to migration grounded in human rights, shared responsibility, and evidence-based policymaking. Its objectives include combating migrant smuggling, enhancing access to services, and ensuring effective return and reintegration consistent with human rights. Integrating GCM principles can help balance migration management with protection imperatives.
- **Role of Regional Courts:** The Economic Community of West African States (ECOWAS) Court of Justice has increasingly interpreted and enforced migrants’ rights under regional treaties, providing judicial remedies where national systems fall short.⁹⁴ Strengthening the role of regional courts in supervising return and reintegration processes can provide migrants with accessible and culturally relevant legal avenues, complementing domestic and international protections.

⁹² African Union, *Migration Policy Framework for Africa 2018–2030* (Addis Ababa: African Union, 2018).

⁹³ United Nations, *Global Compact for Safe, Orderly and Regular Migration* (New York: UN, 2018).

⁹⁴ ECOWAS Court of Justice, *Annual Report 2020*, 33.

Transitioning to rights-based migration agreements between Nigeria and Italy requires political will, legal reform, and multilevel engagement. It calls for a shift from securitized, control-oriented policies toward cooperation grounded in respect for human dignity, the rule of law, and shared development goals. Such transformation can reduce irregular migration drivers by fostering safe, orderly, and regular migration pathways, enhancing reintegration support, and ensuring that returns are conducted humanely and transparently. Ultimately, rights-based agreements contribute not only to better outcomes for migrants but also to sustainable and ethical migration governance aligned with the rule of law.

7. CONCLUSION

The migration agreements between Nigeria and Italy illuminate a troubling pattern of legal displacement in contemporary migration governance. While ostensibly designed to regulate and manage the movement of people in a cooperative framework, these agreements frequently obscure critical issues of transparency, equity, and human rights safeguards. The analysis in this article has shown that despite formal legal structures, the practical implementation of these accords often falls short of the principles underpinning the rule of law, leading to the marginalization of Nigerian migrants and the creation of precarious “grey zones” where rights are undermined or altogether neglected.

A central finding is that the current agreements are insufficiently binding and lack effective mechanisms for accountability and independent oversight. This legal ambiguity allows for the circumvention of human rights obligations and reduces transparency both in negotiations and implementation processes. Furthermore, the externalization of migration control to third countries such as Libya through informal and often opaque arrangements raises profound ethical and legal questions, particularly given the documented abuses faced by Nigerian migrants in such contexts.

This offshoring of responsibility effectively displaces the law's protective reach and erodes migrants' access to justice. Reaffirming the primacy of human rights and the rule of law requires that migration governance between Nigeria and Italy be restructured along the lines of binding, transparent, and equitable legal frameworks. Agreements must explicitly incorporate international human rights standards, ensure participatory negotiation involving migrants and civil society, and establish independent monitoring bodies to evaluate compliance and impact. Transparency in both content and process is indispensable for democratic accountability and trust-building.

The promising alternative frameworks like the African Union Migration Policy Framework and the Global Compact for Safe, Orderly and Regular Migration offer models for embedding rights-based cooperation and regional ownership. The role of regional courts like the ECOWAS Court of Justice further demonstrates the potential for judicial remedies that complement international and national protections. Looking forward, future research should critically assess the effectiveness of rights-based agreements in practice, particularly the mechanisms for monitoring and enforcing compliance. Empirical studies focusing on migrants lived experiences and the role of civil society in shaping governance could yield valuable insights for policy reform. Moreover, interdisciplinary approaches bridging law, political science, and migration studies will be essential for developing holistic strategies that address both the root causes of irregular migration and the legal frameworks governing it.

Ultimately, reimagining migration agreements as instruments that uphold justice, transparency, and human dignity is not only a legal imperative but a moral one. Strengthening the rule of law in this domain offers a pathway toward more humane, equitable, and sustainable migration governance that respects the rights and aspirations of all migrants.