

# Flights of Shame or Dignified Return? Return Flights and Post-return Monitoring

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## Abstract

The purpose of this article is to discuss return flights in the context of international human rights standards. What are the standards that have so far been developed by international organisations and the international monitoring bodies and how these standards have been applied in practice during return flights? Besides evolving standards, the paper discusses unclarity that need to be addressed to increase the human rights compliance of return flights. The article also address the major shortcoming in the monitoring of the process of returning migrants and rejected asylum seekers to their home countries, namely post-return monitoring. It is argued that new opportunities that modern technology offers have not been exploited to increase the international protection of returning migrants. Post-return monitoring could increase the transparency, dignity and human rights compliance of return operations. The views expressed in this article are solely those of the author.

## Keywords

dignified return – European Committee for the Prevention of Torture (CPT) –  
Frontex – irregular migrants – post-return monitoring – return flights

## 1 Introduction

Return flights of irregular migrants from rich Europe to poor African and Asian countries can be viewed with ambivalence. Returning and relocating an

involuntary migrant to his or her home country is simultaneously both a legal and legitimate act of a State under international and human rights law and, at least in some cases, a rather humiliating act of power towards the 'other' African or Asian irregular migrant.<sup>1</sup> Even though it is clear that a functioning readmission and return policy is an integral and vital component of the fight against illegal immigration, it is necessary to ask if return flights are also, in practice, 'fully ensuring respect for the fundamental rights and dignity of the individual concerned', in conformity with the EU Charter of Fundamental Rights, the European Convention on Human Rights and all other relevant international human rights conventions.<sup>2</sup>

There are many reasons why return flights can raise human rights concerns. First of all, force and restraints are often used during return flights. Second, the treatment of detainees during flights can be degrading. For example, one can ask whether the return can be termed 'dignified' if detainees on board are called by numbers, not by names, or if they are given less food than the people escorting them.<sup>3</sup> Furthermore, it is not uncommon that migrants on board are 'resigned, angry or fearful' about what is awaiting them on their return, even if the legality of their return has been checked in the court of law of the returning country.<sup>4</sup>

1 Some organisations claim that returnees can be tortured upon return, or that they disappear or face other serious consequences after their return to their home countries. See J. Pirjola, 'Does Finland return asylum seekers to face torture?', 2 *Oikeus* (2012) 257–264. In any case, returnees are often afraid about what will happen after their arrival; see HM Chief Inspector of Prisons, *Detainees under escort: Inspection of escort and removals to Jamaica on 24–25 March 2011*, p. 6 (on file with the author).

2 See Communication from the European Commission to the Council and the European Parliament on EU return policy, Brussels 28 March 2014, COM (2014) 199 final. Human rights compliance of joint expulsion flights is discussed, for example, in S. Peers (2011), *EU Justice and Home Affairs Law*, 3rd edn., Oxford: Oxford University Press, pp. 580, 582–583. On principle of Non-Refoulement, see G. Goodwin-Gill (2007) *The Refugee in International Law*, 3rd edn., Oxford: Oxford University Press.

3 'Detainees were regularly referred to by their 'manifest number' rather than by name', see <http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/03/afghanistan-escort-2012.pdf>.

4 In other words, when return flights are carried out, migrants should only be escorted to the plane following a fair and efficient process that guarantees that all the legal safeguards have been applied. In every case, the return should be implemented in conformity with human rights and fundamental freedoms and especially with the European Convention for the Protection of Human Rights, the Geneva 1951 Refugee Convention and the Charter of Fundamental Rights of the European Union of 18 December 2000. International and European standard regarding deportation, including Frontex joint return flights, are critically

For these reasons, some migrants fight against boarding until the last minute, being unable to see any socio-economic future for themselves in their country of origin. Indeed, some migrants have been living and working in Europe for decades and have no real connection to their home country. Moving these groups by plane across continents can sometimes be a challenging task. The nature of these flights is reflected in the European Council decision 2004/773/EC, according to which the relocation of migrants must be carried out in good order and in every case 'it should be made clear that any disruptive behaviour will not be tolerated'. However, the strict order and secrecy surrounding the return operations creates concerns related to both moral and human rights. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the CPT), such operations entail a manifest risk of inhuman and degrading treatment during operations prior to the deportation, during the actual flight or if the deportation is aborted.<sup>5</sup>

Before a full discussion of the topic of this article, it is necessary to explain in more detail what I mean in this article by 'return flight'. With this term I am referring to the transport of an illegal third-country national or rejected asylum seeker from one country to another by an air carrier selected for that purpose. In practice, migrants can be returned home in many ways – for example, in a chartered aeroplane. Return flights are being carried out in the context of international law. Subject to their treaty obligations, States have a well-known right to control the entry of aliens onto their territory, and their residence there.<sup>6</sup>

The purpose of this article is to explore return flights in the context of international human rights standards. First, I will ask what key standards have so far been developed by international organisations and the international monitoring bodies, like the CPT. Second, I will discuss how these standards have been applied in practice during return flights. After this I will briefly address the major shortcoming in the monitoring of the process of returning migrants

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discussed in L. Karamanidou and L. Schuster (2011), *Deportation in International and Regional Law*, London: Department of Sociology, City University, available online at [http://www.refugeelawproject.org/files/briefing\\_papers/Deportation\\_in\\_International\\_and\\_Regional\\_Law.pdf](http://www.refugeelawproject.org/files/briefing_papers/Deportation_in_International_and_Regional_Law.pdf).

5 CPT (2003), *Deportations of foreign nationals by air*, Strasbourg: CPT, extract from the 13th CPT General Report. CPT Standards, CPT/Inf/E (2002) 1 – Rev. 2010.

6 For a good overview on refugee protection and migration control, see G. Noll and J. Vedsted-Hansen (1999), 'Non-Communitarians: Refugee and Asylum Policies', in: P. Alston (ed.), *The EU and Human Rights*, Oxford: Oxford University Press, pp. 359–410.

and rejected asylum seekers to their home countries, namely post-return monitoring. I will try to show that post-return monitoring could be performed with the help of modern technology to increase the transparency, dignity and human rights compliance of return operations.<sup>7</sup>

I will also try to show that from one perspective Europe is not only rejecting 'illegal migrants' from its territory but is also symbolically and ritually organising the European environment by cleaning it from unwanted elements. Furthermore, return operations are organised to satisfy the public opinion. Thus, it is necessary to ask if international law provides an impartial and neutral platform on which to deal with the rights of the detainees on board aircraft and at airports.

## 2 Return Flights and Human Rights

Paradoxically, international human rights law provides legal and moral justifications for return operations.<sup>8</sup> In this process, the language of rights has a dual role. It can protect the detained migrant who is waiting for his or her return at the migration detention centre or police station, but it also provides the opportunities, vocabulary and tools for the authorities to pick him or her up – with force if necessary. The European Court of Human Rights has stated, for example, that some degree of suffering follows as an inevitable and inherent side-effect from legitimate state measures, such as detention or deportation of persons who have sought to transgress immigration rules. The Court does not, however, provide any clear answers to the question where the limits of justifiable suffering lie.<sup>9</sup> Human rights can be a useful strategic tool in return

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7 I have been informally discussing post-return monitoring with colleagues in the Council of Europe and the Fundamental Rights Agency in Vienna, and with some government representatives in Finland. I have often come across the view that post-return monitoring is important but 'governments are not interested'.

8 'But while human rights can do good things in practice, they can also have non-liberating, or even harmful, practical consequences', J. Pirjola (2013) *Dark and bright sides of human rights. Towards pragmatic evaluation*, Helsinki: University of Helsinki, p. 14, [http://www.https://helda.helsinki.fi/bitstream/handle/10138/40902/pirjola\\_dissertation.pdf?sequence=1](http://www.https://helda.helsinki.fi/bitstream/handle/10138/40902/pirjola_dissertation.pdf?sequence=1).

9 E. Nykänen (2012), *How absolute is absolute? – On the limits of Article 3 of the European Convention on Human Rights in the context of immigration control*, pp. 445–460 at p.459, available online at <http://www.edilex.fi/lakikirjasto/8547.pdf>.

contexts, as they not only restrict but also create opportunities – as Susan Marks has noted.<sup>10</sup>

Rights language can help to challenge prevailing power relations, but in can also help in efforts to keep things as they are. What I mean is that the so-called universal human rights are the birth right of every human being but that the institutions that implement those rights have, in practice, the power to decide how they are used and what their substance is in different contexts. In the context of return flights, the human rights are filled with their relevant meaning, and the different interests (between rights and security, for example) are balanced, by the State authorities (police, escorts, etc.) themselves.

International human rights standards do exist, but many practical standards regulating return operations are non-binding ‘decisions’ or ‘codes of conduct’. For example, the ‘decision’ of the European Council reminds those involved in return flights that the organising Member State must provide a ‘secure area’ at the departure point in order to ensure the ‘discrete gathering’ and safe boarding of the returnees.<sup>11</sup> In practice, Frontex mainly focuses on regulating technical instructions and code of conducts for the purpose of harmonising return procedures. This type of codifying exercise can mix up two things: on the one hand non-binding best practices and on the other hand human rights obligations, such as the principle of non-refoulement or the prohibition of degrading treatment during and after the return. It is important, however, to keep binding and non-binding regulations separate. Everyone involved in return flights should have a clear understanding on what are the binding rules that must be respected during return flights.

Due to the risk of ill-treatment during return flights, European law requires that return flights are monitored by independent monitors. Independent monitoring can increase the protection of detained returnees on board. The main role of the monitors is to guarantee that the return flight is carried out in conformity with the EU Charter of Fundamental Rights and other human rights standards. In this tension between the rights of States and the rights of individuals, human rights monitors sitting in the aircraft, without any real power to interfere in the treatment of detainees, have the unrewarding role in

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10 See S. Marks (2012), ‘Human rights in disastrous times’, in: J. Crawford and M. Koskeniemi (eds), *Cambridge Companion to International Law*, Cambridge: Cambridge University Press, pp. 307–326, at p. 321.

11 See Council Decision of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States of third-country nationals who are subjects of individual removal orders, 2004/573/EC. *Official Journal of the European Union*, 6 August 2004, para. 2.1(c).

legitimising the human rights compliancy of the return. Human rights monitors have, without a doubt, an important role to play on the plane, but their existence should not obscure the need to look critically at the whole practice of return flights, or to develop a post-return follow up mechanism for those who have been returned.

Post-return monitoring, discussed below in more detail, which would include the systematic collection of information about the human rights compliance of enforced returns, would increase transparency and make governments accountable for their legal actions.<sup>12</sup> As I try to show, modern technology could, for example, be used to collect information about the post-return phase, to increase human rights compliance and in that way to improve the quality of programmes that support the integration of returnees to their home countries. Interestingly, the idea of post-return monitoring has been raised in some European human rights forums but has not, so far, been supported by European governments.<sup>13</sup>

### 3 Return Flights – What Is It All About?

Return policy is an important part of comprehensive migration policy and the fight against illegal immigration. The Amsterdam Treaty, which entered into force in May 1999, gave the European Community the right to take measures, including return, to combat irregular migration. Furthermore, the return action programme approved by the Council of the European Union on 28 November 2002 recommended to Member States that the return of a third-country national illegally resident in a Member State should be done as efficiently as possible by sharing existing capacities for organising joint flights. The programme stated that it was important to avoid a vacuum in the Community in the field of the organisation of joint flights. The organisation

12 Michael Collyer has written that 'sponsoring the collection of data on the post-return outcomes of return policy would almost certainly highlight a range of issues around ill treatment of deportees that it is in the interests of European states to overlook': M. Collyer, 'Deportation and the micropolitics of exclusion: The rise of removals from the UK to Sri Lanka', 17 *Geopolitics* (2012) 276–292.

13 As an example, on 24 September 2015 in Vienna the Asylum and Migration Working Group, consisting of National Human Rights Institutions from across the whole of Europe, discussed the post-return situation of returned migrants and the chance 'to employ new technologies in mapping the post return situation' (official report of the working-group meeting, on file with the author).

of joint return flights was decided in April 2004.<sup>14</sup> The purpose of the decision was to 'coordinate joint removals by air, from two or more Member States, of third country nationals who are subjects of individual removal orders'. The Hague Programme, adopted in 2004, recommended that an effective removal and repatriation policy, based on common standards and respect for human rights and dignity, should be developed.

Return flights are part of the return policy of the European Union that is discussed above. In practice, third-country nationals who have exhausted all legal avenues to legitimise their stay in the EU, or who have committed offences in the EU, can be served with a return decision instructing them to return to their country of origin. According to Eurostat, almost 250 000 people in Europe are made subject to such orders every year. The vast majority of these leave voluntarily. However, when illegally remaining migrants refuse to comply, they may be forcibly returned, as a last resort. Return operations are therefore organised by the migration authorities for persons who are subject to individual return decisions taken by a court or competent administrative body in an EU Member State.

In practice, one of the EU Member States or Schengen Associated Countries takes the initiative to organise a joint return flight to a specific destination country, and charters a plane for that purpose. The countries of destination are chosen according to need – the presence of irregular immigrants of a given nationality who have received return decisions – and the conditions applicable to the destination country, such as a readmission agreement.<sup>15</sup>

The organising Member State then informs Frontex of the planned flight and the number of seats available for other participants. Frontex dispatches this information to other Member States, and any Member States that wish to participate contact Frontex. In some cases, the organising Member State sends an advance party to the destination country several days prior to departure. The advance party's task is to meet with the local authorities, to provide information about the returnees and to agree details about the disembarkation and processing upon arrival.

The returnees, accompanied by escorts (security personnel responsible for escorting them) and, in some cases, local or international human rights monitors, travel from participating Member States to the organising Member State where they board the plane to the final destination. The organising country prepares and oversees the flight in line with a best practice manual

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14 Council Decision of 29 April 2004, *supra* note 11.

15 For more information on Frontex return flights, see <http://frontex.europa.eu/operations/return/>.

developed by Frontex, and also ensures the presence of medical personnel on board the return flight. In addition, each Member State is legally obliged to have a monitoring system in place to ensure compliance with the EU Charter of Fundamental Rights.<sup>16</sup>

If Frontex organises the flight, its representative always travels on the charter flight to the destination country. His tasks include making sure that the joint return operation is carried out in conformity with the Code of Conduct for return flights created by Frontex. One of Frontex's tasks, stipulated in the founding regulation, is to provide Member States with the necessary support, including, upon request, the coordination or organisation of joint return operations.<sup>17</sup>

If a return by air is coordinated by Frontex, non-EU nationals from several Member States are grouped together for a flight. Returnees are transported from several Member States to the Member State from which the flight is departing, where they embark on an aircraft and travel together to the destination airport in the third country. Frontex acts as an intermediary, coordinating with the various national authorities that want to participate in a joint return flight. However, Frontex does not have any background information about the individual cases of the returnees. Personal data processed by the agency is strictly limited to those personal data that are required for the purpose of the joint return operation, and it is deleted no later than ten days after the end of the operation. The returnees disembark in the destination country, and the organisers and escorts return on the same chartered aircraft.

While Frontex is bound by human rights instruments there seem to be some confusion on whether matters that pertain to refugee protection and respecting non-refoulement are primarily the responsibility of state or is Frontex also obliged to monitor the respect of this principle when migrant are handed over to the authorities upon return? Frontex is bound by the human rights obligations but at the same time Frontex acts as coordinator and as an intermediary using the discourse of regulating, best practices, training, co-ordinating and management.<sup>18</sup> For this reason it is important that there is a clear division of responsibilities between Member States and Frontex, ensuring that Frontex

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16 See also 'Frontex: the need to improve its human rights role and capabilities'. Contribution by the Committee on Migration, Refugees and Displaced Persons to the public consultation in the context of the European Ombudsman's own-initiative inquiry on Frontex. Parliamentary Assembly 2012, As./Mig 2012 28 Rev.

17 Council Decision of 29 April 2004, *supra* note 11.

18 A. Neal, 'Securitization and Risk at the EU Border: The Origins of FRONTEx', 47 *Journal of Common Market Studies* (2009) 333–356.



has full legal responsibility and that Frontex is also legally accountable for acts committed during return flights. It should clear, for example, when Frontex (or representative of the Member State) has the obligation to terminate the return flight in case of violations of human rights or international protection related obligations.<sup>19</sup>

#### 4 Evolving Standards on Return Flights

Return flights from Europe have given rise to criticism from human rights organisations. Some organisations have raised the concern that return flights can, in practice, include returnees who may face ill-treatment in their country of origin upon return.<sup>20</sup> The return procedure as such has also been criticised due to the unfortunate cases of deaths that have taken place during return flights. In recent years there have been several cases of detainees dying prior to their forced deportation (such as a Nigerian detainee in March 2010 at Zurich airport) or during the deportation itself (such as Jimmy Mubenga, who died on a deportation flight from the UK in December 2010).<sup>21</sup> More recently, in April 2015, an Iraqi man died in Sweden following a deportation attempt. This was the seventeenth deportee to die in Europe since 1991.<sup>22</sup> These incidents have

19 On Frontex and human rights, see S. Keller, S.U. Luncek, B. Lochbihler and H. Flautre (2011), *Frontex Agency: Which Guarantees for Human Rights*, a study conducted by Migreurope (http://www.migreurope.org) on the European External Borders Agency in view of the revision of its mandate. See also A. Baldaccini (2010), 'Extraterritorial Border Controls in the EU: The Role of Frontex in Operations at Sea', in B. Ryan and V. Mitsilegas (eds), *Extraterritorial Immigration Control. Legal Challenges*, Leiden: Martinus Nijhoff Publishers, pp. 229–255. Baldaccini notes that 'There are also questions as to the extent to which Frontex, as an Agency of the EU, is itself responsible for ensuring that operations are respectful of human rights', at p. 230.

20 For a discussion, see, for example, 'Stop deportations. Don't deport Tamils to torture', available online at <https://stopdeportations.wordpress.com>.

21 *The Guardian* (2011), available online at <http://www.guardian.co.uk/uk/jimmy-mubenga>.

22 Seventeen men and women are known to have died during deportation attempts from Europe since 1991. Deaths have occurred in France (4), Switzerland (3), Germany (2), the UK (2), Hungary (1), Austria (1), Belgium (1), The Netherlands (1) and Spain (1), but the death mentioned in the text is the first recorded deportation death that has taken place in Sweden. No escorting officer has ever served a prison sentence following the death of a deportee, although the escorts of Joy Gardner, Jimmy Mubenga, Marcus Omofuma, Khaled Abuzarifeh and Semira Adamu were brought to trial. See *News from the Institute of Race Relations* (9 April 2015).

highlighted the risks that can be involved in return flights, as well as the importance of developing standards to protect the rights and wellbeing of returnees.<sup>23</sup>

In Europe, the CPT has taken the leading role in developing standards for return flights. The CPT has, for example, devoted a substantial section in its General Report of 2003 to the deportation of foreigners by air.<sup>24</sup> Furthermore, the Committee has so far participated in two return flight missions, to Colombo, Sri Lanka and to Lagos, Nigeria. The reports on these missions have been published, at the request of the respective governments, and include relevant recommendations and standards to improve the human rights compliance of this type of flight.<sup>25</sup>

The CPT has highlighted the importance of allowing immigration detainees to undergo a medical examination before the decision to deport them is implemented. In the same way, if a detainee is brought back from the return flight to the sending country, he or she should undergo a medical examination as soon as he or she is returned to the detention facility.<sup>26</sup> These procedures can also protect escort staff on board from unfounded allegations from uncooperative migrants who are unwilling to return to their destination country.

Furthermore, the CPT has developed standards for procedures involving forcible departure with an escort, and for the extent of means of restraint used by escort staff during return flights.<sup>27</sup> The Committee has underlined that the force and the means of restraint used should be no more than is reasonably necessary.<sup>28</sup> In other words; the principles of lawfulness, proportionality and appropriateness should always be taken into consideration during return

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23 As regards the different phases of return, the Parliamentary Assembly of the Council of Europe has, for example, noted that the transit phase is the most critical phase of the removal. It is often during transit that the greatest risk of ill-treatment occurs, because of the use of coercive measures that have, in some cases, resulted in death. See A.-M. Virolainen (2013), *Monitoring the return of irregular migrants and failed asylum seekers by land, sea and air*, Parliamentary Assembly, Committee on Migration, Refugees and Displaced Persons, document 13351, 7 November 2013.

24 13th General Report of the CPT, *supra* note 5.

25 The reports can be found at <http://www.cpt.coe.int/en/>.

26 13th General Report of the CPT, *supra* note 5, para. 39.

27 In addition to these procedures, the CPT has monitored detention prior to departure, the steps taken to prepare the detainee for return, the training and selection of escort staff, monitoring mechanisms and measures taken following abortive deportation attempts. In addition the CPT consults relevant documents, instructions and directives and examines restraint equipment used during deportation operations. CPT Standards, *supra* note 5, p. 66.

28 CPT Standards, *supra* note 5, p. 67.

flights. Whenever a returnee is immobilised, special attention should be paid to the risk of so-called 'positional asphyxia'.<sup>29</sup> The CPT has recommended an absolute ban on the use of means likely to obstruct the airways (nose and/or mouth) partially or wholly.<sup>30</sup> The CPT has also been concerned about the use of incapacitating or irritant gases to remove immigration detainees from their cells to transfer them to the aeroplane.<sup>31</sup>

According to the CPT, medication during a return flight to ensure that a deportation proceeds without difficulty should not be given. Administration of medication to persons subject to a deportation order should always be carried out on the basis of a medical decision taken in respect of each particular case and with the consent of the person concerned. Because of the clear risks to a person's health and safety caused by escorted and forced deportations, it is necessary that a medical screening should be carried out prior to the deportation by a qualified professional. If restraints have to be used they should be removed during the flight. If restraints exceptionally have to be left in place, they should be covered so as to conceal them from other passengers. It must be possible to remove the restraints immediately if there is an emergency.

#### 4.1 *Independent Monitoring of Return Flights*

The importance of establishing an internal and external monitoring system for return flights has also already been emphasised in the 2003 General Report of the CPT. The value of external monitoring during return operations has also been acknowledged in EU law. The Return Directive states, first of all, that 'clear, transparent and fair rules need to be fixed to provide an effective return policy as a necessary element of a well-managed migration policy'.<sup>32</sup> Furthermore, Article 8 paragraph 6 of the Directive states that 'Member States shall provide for an effective forced return monitoring system'.<sup>33</sup> Article 8 paragraph 4 of the Directive stipulates that removal may be enforced, but that it must be car-

29 In cases where resistance is encountered, escort staff can immobilise the detainee completely to the ground. Keeping a detainee in such a position, in particular with escort staff putting their weight on various parts of the body or forcing someone to bend forward in the plane, involves this type of risk.

30 For example: gagging the mouth with tape, putting a cushion or padded glove on the face, or pushing the face against the back of the seat in front.

31 CPT Standards, *supra* note 5, p. 69.

32 Preamble, paragraph 4 in Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

33 Directive 2008/115/EC, *supra* note 32.

ried out in accordance with ‘fundamental rights and with due respect for the dignity’ and integrity of the returnee.

The forced return monitoring should be independent, and the monitors should have the professional backgrounds and capabilities (related, for example, to human rights or medical care) that are required. Furthermore, comprehensive return flight monitoring should encompass all phases of return: the pre-return phase, the return phase and the post-return phase (in other words the arrival and reception in the destination country). To be effective, monitors must have access to all relevant and up-to-date information before and during return flight. This includes operational and medical information.

The Association for the Prevention of Torture (the APT) has also underlined the need for the independent monitoring bodies to oversee the entire return process, from the host State to the destination State of the detainee, to facilitate a greater level of transparency and accountability with regard to the conditions for, and treatment of, detainees. This would include monitoring the successive stages of the process, such as the places in which people are held pending deportation, the transfer process (including pick-up and transfer for removal), custody at the airport and boarding the aircraft. When relevant, monitors will conduct interviews with detainees and others (including medical staff and escort teams) in private. The APT has noted that the monitoring team should include health professionals as well as interpreters, to make it possible to carry out private interviews with the persons being deported.<sup>34</sup> As will be discussed in the last chapter of this article, new tools should, however, be created to monitor the least developed phase of return monitoring, namely the post-return phase.

It is noteworthy in this context as well that the process of forced deportation falls within the scope of the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).<sup>35</sup> During return flights, migrants are deprived of their liberty within the meaning of the OPCAT. More specifically, Article 4 of the OPCAT provides the authorisation for monitoring visits, and states that national preventive mechanisms and the Subcommittee for the Prevention of

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34 APT, *National Preventive Mechanism: Monitoring the forced deportation flights of migrants*, March 2012.

35 For an overview of the OPCAT requirements, see J. Pirjola, ‘The Parliamentary Ombudsman of Finland as a National Preventive Mechanism under the Optional Protocol to the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment’, 77 *Nordic Journal of International Law* (2008) 163–174.

Torture (SPT) have the mandate to monitor forced deportations by land, sea and air.

For this reason, many National Preventive Mechanisms (NPMs) in Europe are involved in monitoring return flights.<sup>36</sup> In Denmark, for example, the Parliamentary Ombudsman has, since 1 April 2011, been responsible for monitoring the return of illegally staying refugees to third countries. In Belgium, monitoring is carried out by the Immigration Office of the Home Affairs Federal Public Service, in co-operation with the police and the social inspectorate. In Finland, the new Non-Discrimination Ombudsman has been tasked with the duty of monitoring return flights.

The study of the national Ombudsman of Netherlands recommended that return flight monitoring must include not only the return but also the preparations for the return flight. Monitors should also be involved in the investigation of possible incidents during the flight. As regards monitoring of Frontex flights, the National Ombudsman's report noted that even though Frontex has produced Code of Conduct, Member States still have different standards when it comes to return flights. For this reason, the definition of 'proportional force' should be harmonised at the European level, together with agreements on monitoring and supervision. An effective and accessible complaints procedure is another essential safeguard against ill-treatment. In addition, returnees must be actively informed about their right to submit complaint, and relevant information should be made available before and during return flight.<sup>37</sup>

In the United Kingdom, Her Majesty's Chief Inspector of Prisons (hereinafter the Chief Inspector) carries out return flight monitoring with the help of the so-called 'Overseas Escort Expectations'.<sup>38</sup> These standards provide, in my view, useful guidelines for return operations. Their main headlines talk about 'Safety', 'Respect' and 'Preparation for Integration'. Under the 'Safety' section, for example, the expectation is that 'detainees are adequately prepared for the removal. They are treated with respect and sensitivity at the initiation of the journey, and staff understands individual needs and risks'. After this expectation has been stated, there are special indicators to assist in evaluating whether

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36 As regards the activities of the Ombudsman in Europe in the field of return flights, see <http://www.ombudsman.europa.eu/fi/cases/correspondence.faces/fi/59184/html.bookmark>.

37 For more information, see Nationale Ombudsman (2015), *Investigation of repatriation flights. Summary, conclusion and recommendation*, Press release, 1 September 2015. A full report is available online at <http://www.nationaleombudsman.nl>.

38 See <http://www.migrantsrights.org.uk/files/news/12.03.19-HM-Inspectorate-of-Prisons-Overseas-escort-expectations.pdf>.

it has also been met in practice. The indicators include issues such as how the collection from the place of detention is carried out, whether there is a risk assessment, the treatment of vulnerable detainees and how the escorts deal with the property or money of the returnees.

Other expectations under 'Safety' relate to the maintenance of good order and security, the use of force, bullying and victimisation, prevention of self-harm and returning migrants' understanding of their legal rights. The 'Respect' expectation emphasises that the physical conditions for detainees during the return flight must be decent and must cater for those who have specific needs. Other expectations include that the detainees are treated with humanity and respect and that escort staff interact positively with them, that an effective complaints system is in place and that detainees' health needs are met. It is also important that detainees who need to take medication during the escort are in practice able to do so. An effective complaints system is in place if detainees are able to submit complaints, including confidential written complaints, both during the escort and following arrival in the destination country.

The third expectation, 'Preparation for Integration', is that detainees are helped to prepare for their arrival and early days in the destination country and that their arrival is managed as smoothly and constructively as possible. One indicator under this expectation notes that detainees should be given information about the destination country, including assistance if they are without means to support themselves or without family and friends in that country. Such information should also be given in advance of the removal, and detainees should be helped to contact sources of support and advice.

#### 4.2 *Twenty Guidelines on Return and Other Council of Europe Standards*

On 4 May 2005 the Committee of Ministers of the Council of Europe adopted Twenty Guidelines on Forced Return (the Guidelines). The Guidelines are especially relevant when we try to follow the development of standards vis-à-vis return flights. The origin of the Guidelines lies in the Parliamentary Assembly Recommendation 1547 (2002) on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity. The purpose of the Guidelines was to put together various recommendations developed by different bodies within the Council of Europe and to create a source of guidance for those directly or indirectly involved in the expulsion of migrants. The CPT standards discussed above, as well as relevant case law of the European Court of Human Rights, served as the main legal basis for the Guidelines.

The Guidelines do not mention 'return flights', but refer to 'forced removals'. They especially highlight the importance of co-operation with the detainees at all stages of the return process. In line with the CPT recommendations, it is

stated, for example, that persons shall not be removed as long as they are medically unfit to travel and have gone through the necessary medical examinations. Guideline 18 talks about the role of escorts, and Guideline 19 sets criteria for the use of restraints. It is also stated that Member States should implement an effective system for monitoring forced returns.<sup>39</sup>

The more recent developments as regards standard setting can be linked to the Parliamentary Assembly of the Council of Europe's motion in 2012 for a resolution, which was called 'Flights of shame in Europe'.<sup>40</sup> The document deserves to be quoted at length:

More than 182 228 irregular migrants and failed asylum seekers were forcibly returned by flights from European airports in 2009. Even though these returns are necessary as part of migration management, the treatment of returnees should be in accordance with human rights. At the beginning of April 2012 pictures circulated on the internet showing a deportee on a commercial airline, his mouth taped shut with a surgical mask and duct tape. According to NGOs and National Prevention Mechanisms monitoring the issue, this is not an isolated incident of inhuman and degrading treatment on these flights. Other forced returnees have died including from positional asphyxia, suffocation, brain damage caused by lack of oxygen, and also combined heart failure, panic and stress. There have been a number of warnings about the use of illegal restraint techniques, including "Carpet Karaoke" in which the detainee is forced to bend over in the seat with their head between their legs. This is prohibited because of the danger of positional asphyxia. Until now, standardised guidelines on acceptable restraint techniques are lacking and those that exist are either insufficient or inadequately implemented. Further training is needed for those involved in the return process, whether they be guards, medical or even airline staff, in particular the captain, who has the last say if a passenger is to fly.

In addition, the resolution underlined that the Parliamentary Assembly should investigate these 'flights of shame' to ensure that return flights are carried out humanely and that staff are trained, monitored and brought to account

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39 For more details and explanations of these Council of Europe standards see Committee of Ministers of the Council of Europe (2005) '*Twenty Guidelines on Forced Return*', adopted at the 925th meeting of the Ministers' Deputies on 4 May 2005.

40 Parliamentary Assembly of the Council of Europe (2012), '*Flights of shame in Europe*', Parliamentary Assembly Doc. 12926, 4 May 2012.

where necessary, all on the basis of standardised guidelines. These concerns were taken on board by the recommendations that were accepted in the Parliamentary Assembly in November 2013. The Parliamentary Assembly recommended that the Committee of Ministers of the Council of Europe should instruct a relevant committee of experts to draw up common rules applicable to all States covering human rights safeguards to be put in place during the return process by land, sea or air. Common rules should cover, for example, the procedures to be followed in preparing people for their removal, the standardisation of risk levels involved in the removal and the use of restraint techniques and coercive measures. Moreover, the common rules should deal with training, the medical aspects of return and independent, neutral, transparent and effective monitoring procedures with a clearly defined mandate to oversee the entire removal procedure from start to finish.<sup>41</sup>

There are still, however, many areas in which the abstract standards with regard to return flights are not clear. For example, should every returnee be subject to a medical check even though the migrant feels healthy? As regards the situation in Netherlands, for example, the National Ombudsman has noted that the circumstances in which it is necessary to verify whether a returnee is 'fit to fly' have not been adequately defined. There are also situations where police escorts are required to make judgements of medical nature, while they neither poses nor have ready access to the necessary expertise. Another area that needs legal clarification is the legal safeguards after return: should the returnees have the right in every case to contact their lawyers at home in the arrival country before being handed over to the authorities?

Another issue is medical confidentiality during return flights. It has been shown that in practice some doctors refrain from sharing any information regarding the health status of their patient who is to be returned to his or her home country. This is done on the grounds that divulging the information would violate medical confidentiality. It has been stated that by refusing to share key information with the accompanying doctor on board, these doc-

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41 According to the recommendation, the common rules should: deal with important issues such as the procedures to be followed after a completed return mission and also after an unsuccessful return, including compulsory reporting; define a system of compulsory vocational training for escort staff and independent monitors; propose minimum safeguards for returnees once they arrive in the country to which they are being returned, and measures necessary to determine what becomes of migrants who disappear on arrival; and draw up specific guidelines for the removals of children and vulnerable groups, in particular pregnant women and people suffering from serious illnesses.



tors can put the lives of the deportees at severe risk, and jeopardise the entire return flight.

For example, the CNPT (La Commission nationale de prévention de la torture, the Swiss National Preventive Mechanism) has monitored numerous cases in which deportees suffered from severe physical problems and/or psychological disorders. One deportee had even been on hunger strike for several days prior to departure. In all these cases, the accompanying doctor had received no prior information regarding the health status of the deportee from the prison doctor and had to decide ad hoc whether the person could be safely returned to her home country. In other cases, because of the lack of communication, the accompanying doctor had received no information about special medication needed by the deportee, and this medication was then not available on the flight. In Switzerland, the problem seems to be clearly related to the federalist structure and the splitting of competences at different levels. The issue is being considered by the authorities and they are currently working to find a suitable solution with the support and authority of the Swiss Medical Association and other key actors in that field.<sup>42</sup>

## 5 From Theory to Practice: Experiences and Reports from Aeroplanes

There is interplay of human rights between theory and practice. On the one hand, human rights are the conventions, rules and standards discussed above, and on the other hand these same conventions and standards receive their meaning in professional practice. An agreement to human rights compliance during return flights at an abstract level does not always provide us with guidance as to what is needed for their implementation in practice.

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42 According to the Subcommittee for the Prevention of Torture (SPT), the person must be informed about and give consent to all steps in the collection and sharing of data, including the appropriate examinations, and the treatment. In the case of deportation there are some preconditions:

It should not be the accompanying doctor who decides whether the person's medical condition allows for deportation, except in acute unpredicted situations arising during the transport; that responsibility would lie with the health professional who normally cares for the person. The information shared between the caring and the accompanying health professional should be

1: void of all irrelevant data not related to the care of the person during the deportation procedure, 2: handed over to the deportee when the responsibility of the deporting authorities ends, and 3: kept confidential between the involved health professionals and the deportee. See the *European NPM Newsletter*, Issue No. 46/47 (2013) 22–23.

In this paragraph I will look briefly at the experiences that are emerging from the practical monitoring missions carried out by the CPT as well as by the Chief Inspector in the UK.<sup>43</sup> The first ever CPT return flight monitoring mission was carried out for the jurisdiction of the United Kingdom from 22 to 24 October 2012.<sup>44</sup> The purpose of the mission was to examine the treatment of foreign nationals during a removal operation by air, and the conditions under which the removal operation took place. The monitoring concerned a charter flight organised by the United Kingdom Border Agency (UKBA) between London and Colombo (Sri Lanka).<sup>45</sup>

It is interesting to note that the return flight to Sri Lanka was considered by the authorities to be a 'high profile' immigration operation. On 23 October 2012 the aircraft left the airport in London with 28 detainees on board.<sup>46</sup> The briefing of escorts was organised before the detainees were picked up from the immigration detention centres. The briefing included, for example, instructions concerning the use of force. The CPT delegation noted that all persons to be removed had been informed in due time of the removal decision, the possibility of appealing against this, and the date of their removal to Sri Lanka. In practice, many of detainees kept in regular contact with their lawyers until the very last minute (until the moment the doors of the aircraft were closed).

During the return flight the UK immigration authorities on board held a 'surgery', enabling any detainee who wished to do so to raise any issues before landing in Colombo, Sri Lanka. According to the CPT this was a welcome practice as it gave returnees an opportunity to receive information about the type of help they might expect from humanitarian organisations upon arrival. However, it was not possible for the CPT delegation to observe the hand-over to the Sri Lankan authorities, as the authorities in Sri Lanka forbade the delegation to leave the aircraft. No post-return monitoring was organised by the returning State.

As the removal operation is usually very stressful, the CPT noted in its report that more psychological support and counselling should be provided to detain-

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43 I have been a member of the delegation on both CPT return flights. Because I am bound by confidentiality, my information on these two CPT flights will be based on the public reports that are available on the CPT website.

44 The CPT can carry out both periodic and ad hoc visits.

45 The full report to the government of the United Kingdom can be consulted at <http://www.cpt.int>.

46 It should be noted that four of the detainees had lodged an application with the European Court of Human Rights, requesting the suspension of their removal order under Rule 39 of the Court's Rule of Procedure. The ECHR had rejected all those applications and the four persons concerned were removed to Sri Lanka on the flight.

ees. It was also noted that the presence of an interpreter could minimise possible legal and practical misunderstandings during the flight. A 'fit to fly' medical certificate was not a general requirement for a detainee being removed from the United Kingdom. In the view of the CPT this practice should be changed.

The second CPT return mission was carried out to Lagos, Nigeria.<sup>47</sup> The chartered aircraft left Rotterdam Airport with seven detainees and 25 escorts on board on 17 October 2013. Another eleven detainees boarded during a short stopover in Madrid, together with their 32 escorts. The plane landed in Lagos at 7 p.m. and all the detainees were handed over to the local immigration/police authorities without significant difficulty.

According to the CPT report, the delegation was satisfied that all the persons to be removed, as well as their lawyers, had been informed in due time – usually weeks, if not months, in advance – of the removal decision and the possibility of appealing against it. The precise date of the removal to Nigeria had been provided at least 48 hours in advance, both in writing and orally, to the detainees and their lawyers by their respective supervisors.

As regards access to legal advice and avenues of legal recourse, the CPT delegation noted that the detainees had kept in contact with their lawyers throughout the whole detention period. As far the CPT could ascertain, none of the detainees being removed from the Netherlands had lodged a last-minute application before departure, at either national or international level (i.e. the European Court of Human Rights). The CPT delegation was, however, informed that no access to the European Court of Human Rights would have been given from the moment the deportation procedure started. In this case the procedure started the night before departure, when the detainees' mobile phones were taken away and placed in sealed plastic bags with their personal belongings to be looked after on board by the relevant escort staff. In its report the CPT recommended that such access be maintained until the moment of departure (i.e., until the moment the doors of the plane were closed).

Furthermore, the CPT noted in its report that, until the moment of transfer of the person concerned to another State's jurisdiction, his/her lawyer should be entitled to use any national or international legal recourse available to stop the removal. In practice, this implies that a last contact should be sought – after landing in the country of destination, but before disembarkation – between the escorts and relevant authorities in the Netherlands, to verify whether a late judicial injunction, which would prevent a particular deportee being

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47 See the Report to the Government of the Netherlands on the visit to the Netherlands by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 18 October 2013 at <http://www.cpt.int>.

disembarked, had been issued by a national court or the European Court of Human Rights during the flight. The CPT recommended that steps be taken to ensure that this type of 'last call procedure' be put in place as regards removal operations by air organised by the authorities of the Netherlands.

### 5.1 *Her Majesty's Chief Inspector of Prisons*

As another example I want to mention the monitoring missions by the Chief Inspector, who monitored a return flight to Afghanistan in June 2012.<sup>48</sup> This charter flight consisted of 40 detainees, 77 overseas escorts, a chief immigration officer and two health care staff on board. According to the report on this flight, the journey from the immigration centres in the UK to Afghanistan took over 18 hours, and the 'process was clearly exhausting to all concerned'. Some detainees were happy to return home, but others were angry or fearful about what would await them.

As already mentioned above, the mission report considered Safety, Respect and Preparation for Integration, as well as providing recommendations for future flights. According to the report, the operation was well planned and managed but the initial risk information about the returnees was sometimes inadequate. The detainees were searched sensitively, but the Chief Inspector complained that detainees were searched again by airport security staff, even though they had been searched before. Staff attempts to put detainees at ease were undermined by unnecessary handling in the secure areas. This was done in spite of the fact that many detainees were willing to return to Afghanistan.

The report also indicates that two detainees on the flight were restrained in handcuffs for a short period. In general, the staff were aware of the need to behave appropriately in front of the returnees, and the Chief Inspector did not see poor behaviour or language. The report stated that detainees using the toilet had little privacy, as officers held the toilet door open by putting their shoes in the door. Finally, in this mission detainees had access to mobile phones held by staff during coach journeys, but the lack of interpretation meant that not all were aware of this.

The Chief Inspector carried out another mission to Pakistan in December 2013.<sup>49</sup> According to the available report, which was published in 2014, there were inconsistent practices between the different escort teams attending the

48 A full report can be found online at <http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmipris/detainee-escort-inspections/afghanistan-escort-2012.pdf>.

49 There have been other missions as well. The full report can be found online at <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/05/2013-Pakistan-escort-web.pdf>.

different immigration removal centres (IRCs) in the UK. Some escorts had used unnecessary compulsion to take detainees from the search area to the coach, even though it was in a secure area and the detainees were compliant. At some IRCS, staff removed watches, belts and jewellery from detainees, regardless of individual risk factors.

The Chief Inspector noted in the report that there was still no specialised training for staff in the use of force in confined spaces such as aircraft and coaches, although the inspectors were told that such training was due to be rolled out in 2014. There were no problems of order or control. Passive handcuffs (which are used on detainees who are not aggressive) were used in one case, but for too long, given that the detainee remained calm throughout.

The report noted the fact that most operational staff had little awareness of recent important findings by the Prisons and Probation Ombudsman and the Coroner in relation to the death of a detainee, Mr Jimmy Mubenga, on a scheduled flight in 2010. None remembered any information about or training on the issues raised in these reports. Moreover, too many points raised at previous inspections remained unaddressed, especially those relating to the respectful treatment of detainees. The overriding impression of the report was that the vulnerabilities of detainees were not sufficiently central to the removal operation. For example, a few staff had conversations with each other over the heads of detainees. Apart from this, escorts played with their mobile telephones on the coach, swore loudly or engaged in juvenile behaviour. Detainees were not systematically told that they would be filmed during parts of the removal, or the reasons for this.

During the flight detainees were regularly referred to by their 'manifest number' rather than by name. When they used the toilet on the coach or the aircraft, the door was wedged open with handcuffs. On the flight, they were offered different food from the staff, and less of it; no official interpreting was provided during any part of the journey. Managers did not act in a supervisory capacity, and generally sat at the front of the plane, out of sight and earshot of most staff and detainees.

On this flight, as well, a surgery was provided on board the plane for detainees who wanted to discuss with the chief immigration officer, and check for any last-minute judicial reviews as soon the plane touched down.

As regards the post-return phase, a British embassy official oversaw the arrival and took questions from the detainees. A voluntary welfare organisation, Weldo, provided the detainees with both immediate reintegration assistance and ongoing welfare support. In addition, the detainees were offered a substantial and helpful booklet entitled 'Coming Home – Your Guide to Successful Transition', which contained contact addresses and advice. Some

detainees told the Chief Inspectorate that the booklet was useful, but would have been more helpful if they had received it at an earlier stage.

Some detainees had family who were coming to collect them on arrival, but others appeared at a loss. One man had a vague plan to find a hotel in Islamabad and then to try to get to Karachi, which was at least a day's bus ride away. Another man complained that he had been locked up for eight hours with no opportunity to iron his clothes or cut his nails in preparation for his return. He was worried that he was going to look bedraggled when he met his family.

On arrival in Islamabad, all the detainees were quickly taken off the aircraft. They were treated respectfully and courteously by receiving staff. A senior Pakistani immigration airport manager oversaw the process, as did a British Embassy official, who also took questions from the detainees. All the detainees were allowed to walk through passport control and there was no evidence of mistreatment. The Weldo representative was positioned landside and met detainees as they came through.

## 6 Post-return Monitoring

In the previous pages I have discussed some key standards in the field of return flights, as well as some experiences and observations during return operations. It is important to note that abstract commitment to human rights and other fine-sounding concepts (like 'dignified return') does not guarantee the good and just treatment of migrants who are returned to their home countries.<sup>50</sup> It is true that international standards are of key importance during return flights, but it is also important to underline that the meaning of these standards is subject to interpretation and disagreement. In practice, it is always necessary to look at policy considerations as well: what is reasonable and fair in a given concrete situation, what works in this or that context, and how many resources do we have available? But the paradox is, of course, that it is precisely this type of manoeuvring and contextual balancing that should be prevented by human rights standards. We want to refer to universal human rights language when we return migrants to Africa, Asia and the Middle East, but we should not forget that sometimes rights language constrains our capacity to think about and counter the ways in which power circulates in law and politics.<sup>51</sup>

<sup>50</sup> On more paradoxes and tensions in the field of human rights, see Pirjola, *supra* note 7.

<sup>51</sup> A. Orford (2007), 'Biopolitics and the tragic subject of human rights', in E. Dauphinee and C. Masters (eds), *The Logics of Biopower and the War on Terror*, Basingstoke: Palgrave, pp. 307–326.

The next step in the field of return flights should be the development of post-return monitoring. The issue of post-return monitoring has been largely neglected in the return monitoring context so far.<sup>52</sup> In my view, all who are involved in return flights and removal industry – States, international organisations, NGOs, the European Union, monitors, migrants, etc. – need to know more about what happens to the migrants in the post-return phase. Only once that information is available will it be possible to make a proper assessment of the human rights compliance of the relevant return procedures – including respect for the fundamental principle of non-refoulement.<sup>53</sup>

Collecting regional information on the post-return phase that is based on experience would also assist in developing programmes that can support the integration of migrants and, in this way, reduce the push factor to move to Europe. Moreover, it would generate an understanding about the return conditions in the countries of origin, as well as providing information relating to the safety and re-integration of returning migrants. Can return be ‘dignified’ if migrants are left to law enforcement authorities in airport halls without any follow up? The talk of dignified return, by governments as well as Frontex, sounds hollow if the intention with this type of high-sounding ideal is just to legitimise return flights.

As I see it, modern technology could be used more systematically for this type of data collection. The new opportunities that technology offers have not been exploited to increase the international protection of returning migrants. One option in this area would be the use of so-called interactive maps (via telephone or the internet, for example). With the help of interactive maps, quantitative and qualitative experiential and behavioural information could be collected online through user friendly applications.<sup>54</sup> In addition, post return websites should be created to give victims of human rights violations platforms on which to complain. This type of information collection could be supplemented with other types. For example, in cases where the returnee is afraid to return to his home country, he or she should be encouraged to contact

52 See for example, L. Schuster and N. Majidi, ‘What happened post-deportation? The experience of deported Afghans’, 2 *Migration Studies* (2013) 221–240.

53 On this principle, see J. Pirjola, ‘Shadows in paradise – Exploring non-refoulement as an open concept’, 19 *International Journal of Refugee Law* (2007) 639–660.

54 For example, in Finland a multidisciplinary research team of geographers, psychologists, international lawyers, ICT specialists and statisticians have been developing the so-called soft-GIS methodology since 2005. Maptionnaire has been mainly used in urban planning, in the study of environmental health issues and in research concerning ecosystem services and tourist monitoring in Finland, Japan, Australia, the USA, Mexico, Brazil, Germany and Portugal.

some relevant institutions like National Preventive Mechanism (NPM), Ombudsman or National Human Rights Institution.<sup>55</sup>

Post-return monitoring could improve the transparency, accountability and human rights implications of return operations. Even trying to develop the post-return tools discussed above would show that the European Union, for example, is not only talking about human rights on paper but is also interested in what happens to forcibly returned migrants upon their return, at the airports, police stations and during their way home. This type of information could help European countries and Frontex to strengthen the human rights compliancy of return operations. In the long run, systematic data collection would assist decision makers, judges and policy makers in evaluating those places to which people can be returned, those to which they should not be returned and the main challenges after return. Systematic data collection would help Europe to draft more successful return policies that are based on information and experience. As I see it, it is only then that we can start to call the return 'dignified'.

Returning people to their home countries is a legal right of a State but it is also something else: it is a positive and symbolic action to reorganise our social environment. It is an effort to conform to the idea of a world of States. It is a way to strengthen the idea of borders by punishing transgressors. According to Mary Douglas, rituals of purity and impurity create unity in experience. According to her, dirt is something that is 'out of place': it creates a moral feeling that we should return things to their right places.<sup>56</sup>

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55 For example, NPMs and NGOs could more systematically carry out post return monitoring. Cultural anthropologist can also provide valuable insights to the return phenomena and to the subcultures of returning migrants.

56 See M. Douglas (1984), *Purity and Dangers. An Analysis of the Concepts of Pollution and Taboo*, London: Ark Paperbacks.