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Migrations Through and From Libya: A Mediterranean Challenge

by Mattia Toaldo



ABSTRACT

This paper investigates the dynamics of migration through and from Libya, focusing on the economics and politics of illegal trafficking. It discusses EU and member state policies for tackling and reducing Mediterranean migration through Libya and argues that the externalisation of push-backs is neither desirable nor realistic. Finally, the paper offers policy recommendations that propose an overhaul of the current system with the aim of building partnerships with local actors and multilateral institutions while also creating legal corridors for migration into Europe.

Migration | Mediterranean | Libya | European Union

keywords

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Introduction

Libya's association with migration is not recent. The country has always been both a final destination for migrants and an intermediate stop for those who wanted to reach Europe. In 2009, two years before the overthrow of the dictator Mu'ammar Gaddafi, Libya hosted on its territory 2.5 million migrants, coming mostly from Africa but also from countries as far as Bangladesh and the Philippines. Still, in 2013, Altai Consulting estimated a presence of 1.7 to 1.9 million immigrants in the country. While traditionally being a destination country, Libya is increasingly only a transit country to Europe. Between 2003 and 2012, 190,425 migrants and asylum seekers arrived in Lampedusa (Italy) from Libya, while another 16,445 arrived in Malta.¹

Migration also conditioned relations between Libya and Europe, particularly Italy. A long string of agreements, culminating with the 2008 Friendship Treaty, outsourced to Libya the containment and push-back of migrants and asylum-seekers alike. As for other dictatorships in Northern Africa, migration was used along with the terrorist threat as a way to manipulate Europeans into supporting the authoritarian apparatus, regardless of gross violations of human rights and of international conventions.

The connection between politics and migration in Libya has not abated after the 2011 revolution that led to the overthrow of the dictatorship. The new kingmakers of post-revolutionary Libya, a mix of politically-driven militias and "violent

¹ Arezo Malakooti, *Mixed Migration: Libya at the Crossroads. Mapping of Migration Routes from Africa to Europe and Drivers of Migration in Post-revolution Libya*, UN High Commissioner for Refugees (UNHCR), November 2013, <http://www.refworld.org/docid/52b43f594.html>.

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entrepreneurs,” managed the smuggling of human beings along with other criminal activities. Migration flows from Libya through the Mediterranean intensified as the transition to democracy evolved into a new civil war during 2014. Projections for 2015 are as high as 500,000 migrants and asylum-seekers attempting to escape by sea.²

For western policymakers, the difference between pre- and post-2011 is the existence of a clear, albeit unpalatable, interlocutor in the implementation of mostly repressive policies aimed at containing migration, a phenomenon that is seen through a security lens as a threat in itself. With Gaddafi, so goes this line of thinking, there was at least an address and someone who could effectively push back migrants on Europe’s behalf. After his collapse, no effective state institutions could take over, and the gradual disintegration of the Libyan government led to the collapse of this policy, particularly from 2014 forward.

The externalisation of migration control in Libya has thus failed, and not only because of the demise of the regime tasked with its implementation. In fact, the smuggling of human beings through Libya should be perceived as a criminal activity conducted by specific organisations in connection with the formal state institutions.

The peaks in migration flows from Libya through the Mediterranean are the result of several factors, among them being that policies implemented in Europe (and particularly in Italy) have limited impact. More important, however, are the strength of criminal networks managing human smuggling; the policy of open or closed doors with sub-Saharan Africa implemented by Libya; the attractiveness of Libya’s economy in terms of job opportunities; the security situation in the country; and the emergence of conflicts and humanitarian crises in the countries of origin of migrants and asylum-seekers.

The interplay between these factors is combined with the traditional weakness of the Libyan state institutions, even under Gaddafi. This weakness has become particularly severe after the outbreak of a new civil war in 2014, which led to the collapse of the central government and the establishment of two largely ineffective governments in Tobruk and Tripoli, none of which seems to control what little was left of the government infrastructure. This poses another challenge to Europeans, since a policy of externalisation of migration control is now not only largely ineffective but practically unworkable for lack of a political actor to whom to outsource implementation.

It is time for a rethinking that acknowledges that Libya will lack strong institutions for some time while taking into account that it is the political, economic and security situation in the country (and in its neighbourhood) that constitutes the

² “Immigrazione: Frontex, tra 500mila e 1 milione di migranti pronti a partire da Libia”, in *Ansa.it*, 6 March 2015, <http://bit.ly/1A3DgP6>.

largest “push” factor in trans-Mediterranean migration flows. This “push” factor is largely responsible for the rise in numbers observed throughout 2014 and in the first months of 2015, and ultimately proves the flaws of those arguing that a strong search and rescue (SAR) operation for migrants in the Mediterranean constituted a “pull” factor that would lead to higher numbers. The recent increase in the number of migrants did not stop when the more comprehensive SAR operation Mare Nostrum gave way to the very limited Triton operation; rather, the peak in numbers coincided with the escalation of the Libyan civil war.

The rising number of migrants and the fledgling SAR operations have resulted in extremely high casualties at sea, while ultimately increasing the political and economic pressure on the communities in Europe where these migrants try to settle. This then constitutes a “push” factor for xenophobic and anti-immigration parties from Rome to Stockholm. But this vicious circle between the crisis in Libya, the rise of migration flows, and xenophobia in Europe is not inevitable. Reform of largely ineffective policies is both feasible and necessary. This paper will try to chart a new agenda in this sense, without the ambition to provide ready-made solutions.

First, the patterns of migration will be examined, describing the changes that have occurred since the overthrow of Gaddafi and the further changes that took place since the beginning of the new Libyan civil war. Second, the illegal economics of migration flows through and from Libya will be examined, in particular looking at which dynamics underpin the rise of human smuggling in the country in recent years. It is precisely what has happened since 2011 and even more so after the collapse of the Libyan government in the summer of 2014 that makes the outsourcing of migrations control untenable. The events that led to the creation of vast ungoverned spaces in Libya, ripe for human smuggling, will be examined in the third section. The fourth section will try to point out at a new problem: the transformation of Libya from a country of destination or transit for migrants into a country of emigration because of the deepening of the civil war. Finally, nine different policy recommendations will be discussed to expand on the idea of de-securitisation of migration from Libya.

1. Changing patterns of migration and migration control through Libya

Migration through Libya has undergone some changes recently, mostly in terms of numbers and routes. The most spectacular and visible change is obviously in the numbers: whereas the number of migrants taking to the Mediterranean from Libya was mostly below 40,000 per year since the early 2000s, this figure skyrocketed in 2014 when 120,000 arrived in Sicily mostly from Libya (as compared to 37,000 the year before).³

³ Data from the Italian Ministry of the Interior, Department for Public Security, Central Directorate for Migration and Border Police. See the ISMU website: *Sbarchi anno 2014*, <http://www.ismu>.

This steep increase has been wrongly attributed to the implementation of a large Search and Rescue (SAR) mission by the Italian navy: Operation Mare Nostrum (OMN), which rescued several thousand migrants and asylum-seekers that would have otherwise drowned – and yet did not save 3,419 lives, making 2014 the deadliest year in the Mediterranean on record.⁴ This narrative sees in OMN a large “pull” factor for migration: knowing that they would be saved by the Italian navy, more migrants and more smugglers used the Mediterranean. Yet, there is a strong argument against this narrative: numbers were already high before Mare Nostrum (hence the start of the operation to save lives but also to increase patrol of the sea) and became even higher after OMN was disbanded to implement Operation Triton, coordinated by the EU border agency Frontex. Triton is a considerably smaller mission with a much more limited scope than Mare Nostrum: while the former was carried out within a few miles off the EU coasts, the latter went very close to Libyan coasts.

Rising numbers are perhaps more related to two “push” factors. First, as the situation in Libya quickly deteriorated and insecurity spread, migrants and asylum-seekers who once would have stayed in Libya decided to leave through what seemed to them the safest route: the sea. This is what is relayed by those who eventually make it to the Italian island of Lampedusa: they were frightened by events in Libya and sought to escape as quickly as possible. Despite the departure of most of the 2.5 million immigrants who lived in Libya in 2009 because of the revolution and the ensuing insecurity, there is still a large pool of individuals who are not Libyans but would have once stayed there, and who are now desperate to leave.

The second “push” factor goes back to the origins of the migratory flows that affect Libya. Individuals who migrate through Libya come from mainly three areas: West Africa, the Horn of Africa and Syria. The last is the most recent flow due to the outbreak of the civil war in 2011-2012. Consequently, migrants from West Africa tend to enter Libya through the southwest and west of the country, while those coming from Eritrea, Somalia and Ethiopia enter through the southeast. Syrians and, to a minor extent, Palestinians make a less linear journey, either by land to Egypt and then by sea from Egypt to eastern Libya (the land border has a 380km-long minefield and is currently closed), or an even more complex path through Algeria – but this journey, too, has been affected by the closure of borders with Algeria due to the escalation in fighting in Libya since the summer of 2014. Looking at the nationality of those who arrive in Italy by sea, it is very likely that this third group of migrants (those fleeing Syria and to a lesser extent Palestine) could have contributed to the higher numbers. Out of the 170,000 people who arrived on Italian coasts in 2014, more than 42,000 were Syrians and six thousand were Palestinians – together accounting for more than 28 percent of the migrants. Only 206 were

org/?p=6183.

⁴ UNHCR, *UNHCR urges focus on saving lives as 2014 boat people numbers near 350,000*, 10 December 2014, <http://www.unhcr.org/5486e6b56.html>.

identified as Libyans.⁵

Not only have numbers grown, but the journeys that migrants make are becoming more complex. Migration pathways have changed recently due to the closure of most of Libya's land borders, although in most cases this is only theoretical given that they are geographically quite porous anyway. In addition, the fighting within Libya and the deployment of foreign armies on Libya's borders (particularly by Algeria and Egypt) have forced smugglers to deviate from the traditional paths, as in the case of the southeastern access around the city of Kufra, which has shifted further to the east.

Ultimately, the most significant and measurable change is the number of those crossing the Mediterranean. In fact, even at the heyday of the outsourcing of migration control to Gaddafi's regime, this worked mainly for the last leg of the journey through the Mediterranean while Libya's terrestrial borders, particularly those in the south, remained porous. This met several needs of the regime: it allowed for the flow of low-pay, illegal immigrants from Africa, which was one of the cornerstones of the national economy; it was a crucial component of Gaddafi's alliance with the periphery and with those groups in the periphery that controlled human smuggling; and it legitimised the existence of a network of detention facilities within Libya, managed by the regime security apparatus that derived from them international legitimacy (as implementers of the outsourcing of migrations control) and more direct profits through extortion.

Relatively high numbers of migrants (for the time) served well Gaddafi's idea that, even though he was still considered a pariah in the early 2000s, Europe would eventually have to strike a deal with him in order to contain this phenomenon. Indeed, migration control was one of the crucial dossiers in the rapprochement between his regime and Italy.

A first agreement was signed between Italy and Libya on 13 December 2000, with the aim of establishing cooperation in the fight against terrorism, organised crime, illicit traffic of narcotics and illegal immigration.⁶ This was the first of a string of agreements that would eventually lead to the signing of the Libyan-Italian Friendship treaty in 2008.⁷ This "cooperation" on the containment of "illegal immigration" was based on three pillars: joint patrols in the Mediterranean; the assignment to Italian companies (particularly Selex) of the implementation of electronic controls on Libya's southern borders; and the "political mediation" that

⁵ Italian Ministry of the Interior, Department for Public Security, cit.

⁶ The text of the Treaty in Italian only is available at: <http://www.asgi.it/wp-content/uploads/public/accordo.italia.libia.2000.pdf>.

⁷ The text of the Treaty in Italian only is annexed to the law authorising the ratification and implementation (Law No. 7 of 6 February 2009, <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stat:o:legge:2009;7>).

Italy would do between Libya and the EU on these issues.⁸

This system was significantly boosted when the implementation of the 2008 Friendship Treaty was carried out by Italy's second Berlusconi cabinet which, particularly under the impulse of the anti-immigration Northern League, inaugurated a policy of push-backs for migrants' boats coming from Libya, eventually reducing their number to close to zero. This was made possible because Libya, starting from 6 May 2009, accepted to receive the migrants who were pushed back.

This policy was severely criticised as a violation of the principle of non-refoulement enshrined in the 28 July 1951 Geneva Convention by which individuals may not be pushed back to countries where their freedom is at risk or where they cannot apply for refugee status. Push-backs were carried out by the Italian navy in high seas, without first establishing whether those on the boats were economic migrants or asylum-seekers. Furthermore, the push-back policy was possible only inasmuch as the regime in Libya was willing to take back the boats. This policy of outsourcing thus collapsed with the collapse of government authority in Libya, while the new dynamics of the illegal economy after the revolution boosted illicit trafficking of all kinds, including human smuggling.

2. The (illegal) economics of migration in Libya

Libya has traditionally been an important spot for migration from Africa and the Middle East to Europe through the Mediterranean. This is due to geographical reasons: Libya's west coast is extremely close (just 350 km) to Europe's southernmost outposts of Malta and the Italian island of Lampedusa. Also, Libya sits in the middle of North Africa and has historically been a gateway from the Mediterranean to sub-Saharan Africa.

Nonetheless, other factors have contributed to making Libya a thoroughfare in the smuggling of human beings. Starting in the 1990s and as part of Gaddafi's pan-African ideology, a policy of open doors and visa waivers was implemented for most of Libya's African neighbours. This, combined with Libya's relative wealth as compared to the rest of the continent, made it not just a passing point but also the final destination for a large number of migrants who found jobs in Libya's economy that Libyans, much like Europeans, were not interested in doing. In this respect, under Gaddafi and also for some time after him, the country did not radically differ from other Middle Eastern rentier states in which a large portion of manual jobs and positions in the tourist sector were carried out by foreigners.

⁸ Gianluca Battista, "La collaborazione italo-libica nel contrasto all'immigrazione irregolare e la politica italiana dei respingimenti in mare", in *Rivista dell'Associazione italiana dei costituzionalisti*, No. 3 (2011), http://www.rivistaaic.it/download/Ck6DRJ1leb1_YbOZu69UfvwK7oi2Sp414FT8tKeF8N4/battista.pdf.

Until the outbreak of heavy fighting in Libya's major cities in the summer of 2014, the country's relative wealth was a strong "pull" factor for migrants from the rest of the region, from Africa as a whole and even from far away countries such as the Philippines.

Finally, even with the end of the "open door policy," the smuggling of human beings into Libya became a profitable economic activity for the communities living along Libya's extensive borders, often in collusion with regime officials that saw in this business a way to appease these marginalised groups and reap some windfall profits from bribes. In fact, one of the pillars of Gaddafi's economic policy, namely a wide range of subsidies for consumer goods, laid the ground for the proliferation of human smuggling. The illicit trade of subsidised goods with Libya's neighbours became one of the cornerstones of a wider illicit economy based also on the management of illegal migration flows, drugs and weapons trafficking. Ultimately, for many communities both on the southern border and in the "migrations triangle" in Tripolitania between Sabratha, Zliten and Zuwara (an area often stretching as far east as Homs), the smuggling of human beings became one of the most, when not the sole, profitable business.⁹

Migrants and asylum-seekers contributed in several ways to the Libyan illicit economy. First, they paid for their travels to Libya, through Libya and from Libya to Europe. Each section of their trip would have a different cost: 800 to 1,000 dollars for passage into Libya and double that amount for the last leg through the Mediterranean. Second, migrants often had to pay with forced or illegal labour either in the border communities or in the main coastal cities, providing a pool of unpaid or low-wage jobs that was important for both the illegal and the legal economy. Third, official and unofficial detention facilities throughout Libya effectively worked as part of a system of kidnapping of migrants and asylum-seekers, from which they could be freed only upon payment of ransoms by their families. The beneficiaries of these payments were smugglers as well as government officials nominally in charge of the detention facilities.

The smuggling of human beings is usually a business where Libyan members of organised gangs co-operate with middlemen, who have the same nationality of the migrants in order to provide for cultural and linguistic mediation. Moreover, the presence of fellow nationals is used to buy the trust of migrants especially in the last leg through the Mediterranean, when they are the subject of all forms of deception. In many cases, smugglers set up Facebook pages in which their activities are presented as travel agents with the possibility of paying a different price in order to have more comfort, ostensibly on a cruise ship – just a front for the dinghies on which migrants actually travel through the Mediterranean. In some cases, UNHCR even spotted Facebook pages in which smugglers pretended to work for NGOs or

⁹ The most comprehensive study of Libya's illicit economy is Mark Shaw and Fiona Mangan, "Illicit Trafficking and Libya's Transition: Profits and Losses", in *Peaceworks*, No. 96 (February 2014), <http://www.usip.org/node/17466>.

even fake EU agencies tasked with organising the safe movement through the sea.

While the attention of European policymakers and the media often focuses on the migrants' boats, a crucial element of this illicit business is the safe-houses in which migrants and asylum-seekers are kept, often for weeks, before they are finally boarded on the dinghies. Both in these safe-houses and on the boats, the victims of human smuggling are deprived of most essential comforts such as water, food or a life-jacket. In most cases, they are provided with very little information on their intermediate and final destinations and on the means of transportation.

In the whole business of human smuggling, a racial hierarchy exists. It is exemplified by the positions that migrants and asylum-seekers occupy in the larger boats: the Arabs often sit in the upper deck where they can at least breathe fresh air while the sub-Saharan Africans occupy the lower deck close to the engine – often resulting in a higher death rate. The “captain” of the boat is not a smuggler but usually just one of the Arab passengers who is provided with some instructions, a compass and a satellite phone to call the coast guard of either Italy or Malta.

The racial hierarchy of the smuggling business is affected by the changing politics of Libya. Black African migrants traditionally performed the least-paid jobs as compared to those who spoke Arabic or had the opportunity to migrate legally to Libya. During the 2011 civil war, Gaddafi was accused of using black African mercenaries to defend his regime. This increased the existing racism, and black Africans were subject to aggressions and intimidations that today constitute one of the leading “push” factors for them to leave Libya through the Mediterranean.¹⁰

Racism is not the only link between the illicit economy of human smuggling and Libya's politics. Under Gaddafi, the economics of human smuggling were a crucial component of the social contract between the regime and the country's peripheries: the security apparatus turned a blind eye (when it did not show outright complicity) to illicit trafficking in exchange for political appeasement or support.

In post-revolutionary Libya this social contract was somehow liberalised, with a more open market for illicit activities and a more direct relationship between those running the illegal business and political kingmakers. More often than not, the same “revolutionary” militias that held political power in Tripoli also managed large portions of the illegal business, as was the case with the Zintan militias for the western border. The entry of new actors into the illegal sector was allowed only for the early years after the collapse of the regime and is now mostly closed to new actors.

¹⁰ Amnesty International, *Lives Adrift. Refugees and migrants in peril in the central Mediterranean*, 30 September 2014, <https://www.amnesty.org/en/documents/EUR05/006/2014/en>.

The smuggling of human beings is usually managed by organised criminal groups that share many of the same features as the Italian mafia: a combination of the use of force in managing their business and preoccupation with building support and legitimacy from their surrounding communities; a definite territorial dimension in which military control of an area is conducive to the conduction of criminal activities; a strong relationship with political authorities when not the direct control of political office by the criminal group; a diversification of business involving different criminal activities. Similarly to mafias, Libyan organised crime has strong regional ties to carry out human smuggling: "Almost all criminal groups from across the Sahel and the Maghreb are engaged in trafficking in persons and smuggling of migrants."¹¹

This illegal business is not exclusively the domain of organised crime, which needs to interact with individuals that are not part of its structure such as owners of boats and dinghies or African middlemen. Under Gaddafi, a strong relationship also had to be built with government officials, particularly those running the detention centres. After the revolution, many of these facilities have gradually slipped from the exclusive control of the Ministry of Interior to the control of "revolutionary" militias, thus putting the civil servants in a more subordinate position.

Recent media reports have often emphasised the connection between human smuggling and jihadi groups.¹² Particularly in recent years and with the evolution of Al Qaeda in the Islamic Maghreb as the clearest example, the line between jihadism, organised crime and smuggling has increasingly become blurred. Ansar Al Sharia, a jihadi organisation recently blacklisted by the UN and accused of murdering US ambassador Christopher Stevens, had some degree of control over the smuggling route between Sebha in Libya's south and Sirte, in the central coast of Libya and at the centre of the so-called "oil crescent."

Nevertheless, for the moment there is inconclusive evidence about a major role of jihadi organisations in the smuggling of human beings and even less evidence of a role played by the so-called Islamic State, which at the moment seems to be more interested in the control of the far more profitable oil fields and transportation hubs. Media reconstructions of presumed IS plans to use migrants' boats to attack Italy have been substantiated only by one document that the Quilliam Foundation, a UK-based anti-radicalisation organisation, has translated, adding an important caveat: it is unclear whether the author is a member of IS or just a sympathiser, nor is it clear whether he is part of the leadership of the organisations.¹³

¹¹ Mark Shaw and Fiona Mangan, "Illicit Trafficking and Libya's Transition", cit., p. 28.

¹² Ruth Sherlock and Colin Freeman, "Islamic state 'planning to use Libya as gateway to Europe'", in *The Telegraph*, 17 February 2015, <http://t.co/sJ6ZbzaR3X>.

¹³ Charlie Winter, *Libya: The Strategic Gateway for the Islamic State*, London, Quilliam Foundation, February 2015, <http://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/libya-the-strategic-gateway-for-the-is.pdf>.

This is not to deny that in the near future jihadi organisations might want to connect Europe's two fears with regards to Libya: that of an uncontrolled migration flow and that of terrorist attacks coming from the sea. At the moment, this connection plays into the securitisation of the approach towards migration, doing very little to either make migration safer or reducing sources of revenue for jihadi groups.

Ultimately, changes in the illicit business of human smuggling should not be ruled out even in the short term. Since 2011, the lessening of government authority in Libya created ever-new spaces for criminal organisations, while the recent government collapse has created a void that the so-called Islamic State is trying to fill.

3. Libya's ungoverned spaces

Libya's post-Gaddafi transition proved problematic from the start. The regime's security apparatus vanished and was replaced by a "hybrid" system composed mostly of the "revolutionary" brigades (also called militias) that had fought against Gaddafi. They were formally integrated either into the Ministry of the Interior or the Ministry of Defence in an uneasy coexistence with the remnants of the old army that had defected from the regime in 2011.¹⁴

The hybrid security system is reflected also in the management of migration control. Formerly the detention centres are all under the Directorate for Combating Illegal Migration of the Ministry of Interior. In fact, only 6 out of 20 are managed by this institution, with the rest being either fully under militia control or under mixed management. More often than not, they produce income for those who manage them through extortion and the payment of ransom in exchange for the liberation of prisoners.

The relationship between politics and the security sector has reversed after Gaddafi: whereas under him the security apparatus was an extension and a byproduct of the political regime, after him politics was the extension of the security sector, with politicians and government officials often just representing the interests of local militias in the absence of real national political actors.

Parliamentary elections in July 2012 were a relative success in terms of security and turn-out, but failed to produce a credible and speedy constitutional process while entrenching the collusion of politicians with either militias or members of the old army. Amidst a deteriorating security and economic situation, renegade General Khalifa Heftar started an anti-Islamist insurgency in May 2014 in Benghazi. Elections held on 25 June in the absence of a national dialogue did little to stop

¹⁴ Wolfram Lacher and Peter Cole, "Politics by Other Means: Conflicting Interests in Libya's Security Sector", in *Small Arms Survey Working Papers*, No. 20 (October 2014), <http://www.smallarmssurvey.org/about-us/highlights/highlights-2014/highlight-sana-wp20.html>.

the escalation in fighting. In the summer, this culminated in the displacement of the government to Tobruk and Baida and the establishment of an alternative, although unrecognised by the international community, government in Tripoli. Most foreign embassies were closed between July and August and the remaining embassies of Italy, Malta and Hungary resisted only until early 2015.

Government institutions, weak and ineffective to begin with, gradually collapsed. The theoretical steering wheel (the internationally recognised government in Beida) sits hundreds of kilometres from the ministries and government agencies in Tripoli. It does not have the “power of the purse” because government revenues accrue to the Central Bank in Tripoli, which remained neutral and only disburses salaries and subsidies. In fact, no one is really in charge, and the basic elements of sovereignty such as law enforcement, border control and relations with the outside world are dispersed among a myriad of actors. This creates enormous suffering for the Libyans and significant havoc for the strategy of outsourcing of migration control. Designing a strategy against human smuggling in the absence of functioning Libyan institutions has become more complex, while outsourcing is completely delusional for the lack of coherent interlocutors.

Large areas of the country now lack a governing authority, while others respond to local councils that were elected between the winter of 2013 and the spring of 2014. Tribal powers and the elders are often overstated, particularly as national actors, while their role in some areas of Cyrenaica or in the Fezzan cannot be underestimated. Libya is currently a patchwork of ungoverned areas and areas where different sources of authority coexist, often uneasily. This produces a lack of governance and a rising level of violence, both of which in turn breed the rise of jihadist groups among which the so-called Islamic State has attracted the widest international attention.

4. Migrations from Libya and within Libya

Under Gaddafi, a combination of Libya’s relative wealth and the isolation of the country as implemented by the regime greatly reduced the number of Libyans moving abroad to a few dozens of thousands of exiles. The situation changed dramatically after 2011, when hundreds of thousands of Libyans fled the fighting, mostly to Tunisia and Egypt. Among them were some members of the old regime and the collapsing security apparatus. Their exact numbers are unclear but local officials speak of hundreds of thousands, though any estimate is made more difficult by the fact that some of these individuals keep coming back and forth from Libya.

While numbers concerning Libyan migrants and refugees are still unclear, there are more precise estimates of internally displaced persons (IDPs): in an interagency assessment, the UN estimated that in November 2014 there were 393,420 internally

displaced people.¹⁵ Whether IDPs will turn into refugees and whether Libyans will start to flee their country through the Mediterranean is still to be seen, although in case of escalation this possibility should not be ruled out, adding to the suffering of those fleeing through Libya.

5. De-securitising migration policy

Libya is a good example of how existing policies that securitised migration and outsourced its containment to northern African dictatorships are ineffective and outdated. The outsourcing of migration control produced gross human rights violations in the past and, as far as Libya is concerned, it is no more an option because there is no one to implement that policy in Libya. Policies that aim to contain migration through the Mediterranean by building an “iron wall” in the sea are equally ineffective in the face of the current security crisis in Libya. Because of increasing insecurity in this war-torn country, migrants and asylum-seekers are willing to risk their lives crossing the Mediterranean regardless of the dangers this may hold or the chances of a push-back that may exist; for them a possible death in the Mediterranean is still preferable to a more likely death in Libya.

Given the lack of a credible national government in Libya, Europeans will have to be creative and bold in approaching migration by focusing their response on three principles:

1. Involve a wide array of local and international actors to supplement for the absence of a national interlocutor in Libya and build a shared approach with them rather than outsource European policy;
2. Reduce as much as possible the number of migrants and asylum-seekers crossing into Libya to get to Europe by creating safe and legal means of movement directly from their countries of origin;
3. Rethink border management and improve investigative capacities in order to fight the criminal networks that manage human smuggling.

To this end, Europeans should focus on a basket of policy proposals, knowing that none of them will be fully effective in such a complex situation. Nevertheless, these principles should be part of a common EU policy so that no single member state can spoil the new approach.

#1 Engage with everyone

On this issue, there should be no legitimate or illegitimate government for the international community. In Libya, there are institutions and communities to be brought in in order to save lives. Simultaneously, external actors should be aware that human smuggling is often considered a legitimate activity in some

¹⁵ IOM, UNSMIL, UNHCR, UNICEF and WFP, *Libya: Interagency Rapid Assessment*, December 2014, p. 3, <http://www.wfp.org/content/libya-interagency-rapid-assessment-december-2014>.

communities in Libya and that therefore everyone's support in the fight against this phenomenon should not be taken for granted. Support can be built only if the new approach is owned by local communities and if a realistic alternative to the illicit economy is offered.

#2 Involve local councils in the fight against human trafficking networks

In some communities, local councils are the only government body with a modicum of legitimacy and some degree of governance. This is true, for instance, for some of the cities in the "migrations triangle" in Tripolitania. Local security compacts or strategic plans have been designed in the past but were seldom implemented, as they never became a priority of both the Libyan government and donor-countries.

Along with the establishment of an agreed framework for security and law enforcement, local councils could also be assisted in converting the economy from one based on illicit activities to one focused on Libya's existing untapped wealth: an educated young generation; a huge tourist potential; a service economy yet to be fully developed. To this end, some of the currently frozen Libyan assets could be unfrozen in order to fund development projects.

#3 Build an effective border management system focused on local communities

Past efforts to control Libya's southern borders electronically have failed because they were too expensive and too difficult to implement in Libya's periphery. No effective border control can be implemented without the involvement of the border communities, where there is a large share of the workforce that benefits from illicit business.

The illicit trade of government-subsidised goods is the base of the pyramid of illegal trade in Libya. Yet, subsidies cannot be cut or reformed overnight without creating another security crisis. Nonetheless, Libya's current budget crisis can be the opportunity for a gradual phase-out of this system to reduce incentives for human smuggling and other illegal activities. But this must go hand in hand with alternative economic development (as described above) and political empowerment.

Indeed, throwing money at this problem will not do the trick. This is also about political integration and empowerment. The Tebu and Tuareg minorities need to be given a buy-in into an integrated and decentralised border management system in which they will be allowed to police the border. Their exclusion from Libyan nationality, and thus from social services and citizenship, must end.

Last but not least, there is a difficult balance to strike between these groups and the Arab tribes. A coalition of Arab and minority tribes is necessary in order for this new border police and integrated border management system to work.

Multilateral organisations can help coordinate efforts with neighbouring countries. Osce and its web of partnership could help with border security and with arms control initiatives, including at the political level, as some of the main arms exporters to Libya are Osce member states.

#4 Build legal corridors to Europe

At the moment, Libya can hardly take care of its own citizens, as the high number of IDPs testifies. Also, the violence in the country is so widespread that it should be a humanitarian priority to avoid migrants and asylum-seekers crossing into Libya to reach other destinations. Moreover, avoiding the use of dinghies to cross the Mediterranean, with the high human toll they often imply, should also be a priority.

The only credible option to achieve these goals is to create safe means of movement to Europe for economic migrants and asylum-seekers who would otherwise cross through Libya. To this end, the EU commissioner for migration Dimitris Avramopoulos made a sensible proposal: that EU delegations in third countries become centres where individuals could apply for asylum or legal migration into Europe.¹⁶ To guarantee the safety of applicants, especially in case of asylum, individuals should be allowed to apply from a country other than theirs.

Successful applicants would have to be resettled and spread among the 28 EU countries, easing the burden on both Mediterranean countries (especially Malta and Italy) where migrants now arrive as well as northern and central European countries (Sweden and Germany for instance), where most asylum-seekers end up. Given the extent of the human pressure on the EU's borders (both from economically-deprived and conflict countries), quotas will never meet the demand, but this system should aim at considerably reducing the number of those crossing into Libya and from Libya into the Mediterranean. This quota system would effectively need either a new Dublin protocol on asylum-seekers in the EU or a different implementation of the existing protocol.

Off shore asylum processing, of course, would create other practical problems. The capacity of EU delegations should be boosted, and application centres would have to be instituted in large refugee camps or in areas of passage for migrants. Also, there would be a risk of having applications only from the "strong" individuals: educated, male, young. An outreach campaign should be developed directed at more marginal demographic categories who would more likely qualify for asylum such as women, the elderly or political activists who live underground.

Other challenges may have to be addressed. The EU delegation or the application centre would need a modicum of security to be up and running which will not always be possible. Secondly, the transit country will need to be assisted in dealing

¹⁶ Nikolaj Nielsen, "EU embassies should take asylum requests, new commissioner says," in *EUobserver*, 30 September 2014, <https://euobserver.com/justice/125826>.

with all those who will be refused entry into the EU.

In order to address these challenges, Europeans have to resort to as much multilateralism as possible.

#5 Go multilateral

Current migration policy is piecemeal. When single countries are not left to fend for themselves, the EU is insufficient, as the discussion of the policy of “legal corridors” demonstrates. The EU and its member states will have to cooperate with a host of international organisations. Those currently managing migrations and refugees such as UNHCR or IOM are of course at the top of the list.

Secondly, a number of north-south diplomatic processes have been created with Libya’s neighbouring countries: the Rabat process and the Khartoum process have brought together the EU, the African Union and member states to share information, best practices and training.¹⁷ An EU-Horn of Africa Migration Route initiative has been set up to include also the establishment of “reception centres” and to boost investigative capacities.¹⁸ It is important that these initiatives do not become just another episode of outsourcing in which Europeans delegate to their southern neighbours the management of a shared problem.

Finally, international security organisations such as the OSCE could make an important contribution, particularly with regards to boosting investigative capacities. OCSE could help coordinate fact-finding missions, facilitating the exchange of sensitive information about operating criminal networks in coordination with UNODC, as well as multilateralise the response to human trafficking in a Eurasian (not just EU) context.

#6 Boost investigative capacities against criminal networks

Criminal networks that manage human smuggling often extend from the Libyan coast to the Horn of Africa. Despite the collapse of Libyan institutions, included the judiciary, something can still be done to boost investigative capacities through the smuggling route. In Libya and in the Mediterranean, joint investigative European-Libyan teams can be built, in coordination with the local security strategic plans mentioned above. The model should be that of anti-mafia pools, bringing together all those investigating the same issues and giving them adequate tools.

¹⁷ European Council on Refugees and Exiles (ECRE), “Khartoum Process: EU and African Union launch initiative against smuggling of migrants”, in *ECRE Weekly Bulletin*, 5 December 2014, <http://bit.ly/1yvFTeW>.

¹⁸ *Declaration of the Ministerial Conference of the Khartoum Process* (EU-Horn of Africa Migration Route Initiative), Rome, 28 November 2014, <http://italia2014.eu/en/news/post/novembre/khartoum>.

In the region, the investigative capacity building mentioned in the Khartoum process should be taken seriously, building also on the capacities of the OSCE anti-trafficking unit. OSCE could also provide useful expertise in the field of the fight against ransoms and extortions.

#7 Reform search and rescue

Migrants tend to select the information they receive (if any), and learning about risks does not deter them.¹⁹ In addition to that, the current security situation in Libya further pushes a large share of them to try to cross the Mediterranean, regardless of what they may find on their way. Even with a function system of legal corridors, there will still be a significant flow of individuals through Libya and into the Mediterranean.

Hence, there is a need for a comprehensive Search and Rescue (SAR) mission in the Mediterranean to save as many lives, intercept and identify the largest number of individuals as possible. The failure of Triton in this sense is now apparent: the number of migrants has not abated but casualties have continued to be high. Its scope, well away from the Libyan coasts, and its limited means are not up to the challenge. Below the radar, the Italian coast guard has continued to conduct SAR operations close to Libya's waters, while Operation Mare Aperto by the Italian Navy in the Mediterranean – ostensibly conducted for security purposes – has also contributed to saving many lives.

The extension of Triton to cover all of the areas in the Mediterranean where human smuggling takes place seems to run contrary to the Frontex mandate of border control.²⁰ Nevertheless, EU Regulation 656/2014, approved in April 2014, set out rules for SAR missions under Frontex, creating shared rules for maritime surveillance and instituting clear human rights and refoulement safeguards.²¹

#8 Guarantee human rights (and safety) of migrants and asylum seekers

Past policies of outsourcing of migration control often implied gross violation of human rights, particularly within detention centres in Libya. Today, those facilities are almost exclusively functioning as prisons used by smugglers or militias in order to extort ransom from migrants and their families. As part of the cooperation with different Libyan authorities (as discussed in #1), the international community should push more decisively for the closure of those centres and more generally for the implementation of basic human rights standards. Violations of international conventions do little or nothing to stop immigration while inflicting huge sufferings on the victims.

¹⁹ Arezo Malakooti, *Mixed Migration*, cit.

²⁰ Frontex is the European border control agency running operation Triton, tasked with SAR in the Mediterranean.

²¹ Amnesty International, *Lives Adrift*, cit., p. 55.

#9 Deal with migration from Libya as a foreign policy issue

Given that migrations are not just a problem of border security but rather a foreign policy issue, it is worth investigating whether, in order to implement many of the above-mentioned options, the EU should start considering migration as a foreign policy issue to be dealt with with adequate resources. For instance, implementation of the Khartoum process as well as cooperation with multilateral institutions will very likely need a diplomatic effort by the EEAS.

Ultimately, the best way to address the human catastrophe of migration through Libya is to pacify and stabilise the country. While the above-mentioned measures can contribute to the reduction of casualties and inordinate flows of migrants and asylum-seekers, flows of human beings through Libya will not ground to a halt. If those individuals who do arrive in Libya find a war-torn and violence-ridden country, they will still try to save their lives by crossing the Mediterranean.

Nevertheless, tackling the illegal economy of which human smuggling is a component in Libya will ultimately stabilise the country by reducing the power of organised crime and militias and establishing a modicum of rule of law. To start with, Europeans would do best to consider migration as a foreign policy and criminal issue rather than as a security threat to be outsourced and contained.

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