Migration and Conflict. The case of Libya.
By Mattia Giampaolo and Aurora Ianni
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Conflicts are among the push factors of forced migration. Political instability, wars and persecutions have a significant impact on migration flows both within and outside countries of origin. People that are “forced or obliged to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or either natural or human-made disasters, without crossing an internationally recognized State border” are called Internally Displaced Persons (IDPs). Whereas, International law recognizes and defines people that are “unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion” as refugees.

Instruments for protecting the rights of Internally Displaced Persons and the obligations of governments towards them in accordance with International law are set out in the Guiding Principles on Internal Displacement (UN, 1998). The document emphasizes the primary responsibility of national authorities for protecting and assisting all IDPs, regardless of the cause of their displacement. However, unlike refugees, internally displaced people are not recognised a special status in international law, with rights specific to their situation.

The Geneva Convention (1951) in fact, recognizes the core principle of non-refoulement, which asserts that refugees should not be returned to a country where they face serious threats to their lives or freedom. This is by now considered a rule of customary international law.

Built upon the principles of 1951 Geneva Convention and other human rights’ treaties, the Global Compact on Refugees (GCR) is a unique opportunity to strengthen the international response to large movements of refugees and protracted refugee situations. The four key objectives of the GCR are: a) ease the pressures on host countries; b) enhance refugee self-reliance; c) expand access to third-country solutions; d) support conditions in countries of origin for return in safety and dignity.

The 2030 Agenda also stresses the importance of promoting safe pathways for migration (target 10.7 calls for “facilitating orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”), such as resettlements and human corridors, while objective 16 calls for peaceful and inclusive societies for sustainable development that should reduce violent conflicts and social tensions which provoke displacements and refugees.

2 Cfr. https://www.internal-displacement.org/internal-displacement
4 According to 1951 Geneva convention. See https://www.unhcr.org/af/what-is-a-refugee.html
5 Cfr. https://www.internal-displacement.org/internal-displacement
7 On 17 December 2018, the United Nation General Assembly affirmed the Global Compact on Refugees (with 181 votes in favor -Italy included-, two against -USA and Hungary- and 3 abstentions –Eritrea, Liberia, Libya), an international agreement that provides a blueprint for governments, international organizations, and other stakeholders, to ensure that host communities get the support they need and that refugees can lead productive lives. Its four key objectives are to: ease the pressures on host countries, enhance refugee self-reliance, expand access to third country solutions, support conditions in countries of origin for return in safety and dignity. To go into depth See https://www.unhcr.org/the-global-compact-on-refugees.html; https://news.un.org/en/story/2018/12/1028791#:~:text=The%20United%20Nations%20General%20Assembly%20crossed%20borders%20to%20become%20refugees.
A clear example of the link between migration and conflict is represented by the recent tragic events occuring in Libya.

According to UNHCR⁹ an estimated **1.3 million of people** are in need of humanitarian assistance within the country. Libya currently hosts **43,113 refugees and asylum-seekers** who are registered with UNHCR and **217,002 IDPs**.

In addition, since early 2020, some 8,600 refugees and migrants have departed from Libya to Europe by sea.¹⁰

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2. THE MEMORANDUM OF UNDERSTANDING BETWEEN ITALY (EU AS WELL) AND THE LIBYAN GOVERNMENT OF NATIONAL ACCORD

The migrant ‘crisis’ has played a crucial role in the Italian political and social debate. The weakness of the Italian governments -2014-2018 and 2018-2019- and the increasing spread of anti-migrants’ sentiment led Italy to play a double role within the Libyan crisis11.

In 2014-18, the government of centre-left built his foreign policy on security and migration. The ‘migrants’ emergency’ in Italy (some 153,000 migrants arrived on the Italian shores in 201512 and 181,000 in 201613 ) was considered a national security issue bringing the government to give the Interior minister the keys to manage the crisis at the expenses of the Foreign Affairs minister14.

In doing so, Italy was assuming a double role within the Libyan crisis. If on the one hand, the government aimed to promote a unitary path for Libyan democratic future by backing the UN road map15, on the other hand, the interior minister was negotiating –quasi informally- with militias, smugglers and city mayors of southern Libya to stop migrants’ flows.

However, considering the fragmentation and weakness of the GNA and the deteriorating conditions on the field, the Libyan coast guard and the border police were not able alone to handle the problem. This forced the Italian government (the ministry of Interior) to make an informal deal with tribes, militias and –unofficially- smugglers16.

In this way, the Italian foreign policy has become increasingly inconsistent: the continuous focus on promoting a unitary institutional path for Libya was then followed, with the Minniti Deal17, by an opposite line that was legitimizing the power

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11 Mattia Giampaolo, How Italy has been marginalized in Libya, ECFR, Comments, 17/01/2020. https://www.ecfr.eu/article/commentary_how_italy_was_marginalised_in_libya
17 The deal takes its name from former Italian Interior Minister, Marco Minniti.
of militias. In this respect, Sami Zaptia—a Libyan journalist—, in a personal interview\(^{18}\), claimed that the Italian strategy in Libya should be split in two: a de facto strategy and de jure ones. The meeting held in Rome in late April 2017, when 60 tribes were invited in order to reach an agreement on stopping migrants and securitizing the southern Libyan borders, gave birth to the Italian parallel policies in Libya\(^{19}\).

However, this strategy would have not paid the efforts back. If on the one hand, Italy was able to contrast illegal migration and flows toward its own shores, Libya, especially the Serraj government, had to face several internal issues linked to the deal. The Italian support reinforced the social and political role of militias and tribes involved in trafficking of human beings and weakened, especially in the south, the role of the central government.

Tribes in the south, always involved in human trafficking, would have lost their income, while the deal with Italy did not guarantee such a revenue\(^{20}\). Illegal traffic and smuggling guaranteed the tribes, gangs and other criminal groups an income of $1 billion per year while the Italian efforts to create new job opportunities were not able to fill the gap\(^{21}\). In this sense, the lack of an economic support to the tribes, makes the deal hard to be respected.

In addition, even though, the Memorandum of Understanding was supported at a European level, it weakened the already fragile government of Serraj due to the relevant role the Italian government gave to local militias and tribes.

The deal gave birth to long disputes among militias and tribes especially in Sabratah—one of the main hubs for migrants’ departures—jeopardizing the Serraj position. Furthermore, the deal has been exploited by Serraj’s counterpart, Khalifa Haftar, who defined the deal a second Italian colonization in Libya, and supported the clashes in order to gain influence in the western region\(^{22}\).

Despite this agreement, Italy and Europe as well, have not been able to permanently halt or avoid irregular flows of migrants, neither have they improved their living conditions within the reception centers in the country.

The ongoing civil war, as we will see below, has worsened the situation of refugees who are still under two different pressures: smugglers threats and the war one’s.

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\(^{18}\) The interview took place in London during Mattia Giampaolo’s Pan-European Fellowship within ECFR project.


\(^{20}\) Ibid.

\(^{21}\) Liga, op.cit.

The fall of the former President Muammar al-Qaddhafi in 2011 opened a bloody civil war that, beside the political instability, has also worsened the conditions of migrants in reception centers and increased the role of smugglers and human traffickers.

Before the fall of the regime, Libya had always been a country with high numbers of migrants especially from Egypt -working in the oil fields- and Sub-Saharan countries -employed in manual and low skilled jobs-. The outbreak of the civil wars -2011, 2014, 2019- and the spread of the Islamic State in the Country in 2014 -then partly defeated in 2016-8-, has increased the flows of migrants towards Italy’s shores.

According to UNHCR\textsuperscript{23}, refugees registered in Libya are 43,113 concentrated mainly in the coastal cities of the country and in the central-southern zones -Fezzan-.

<table>
<thead>
<tr>
<th>Country of origin</th>
<th>Source</th>
<th>Data date</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Syrian Arab Rep.</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>36.4%</td>
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<tr>
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<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>30.1%</td>
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<tr>
<td>Eritrea</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>12.0%</td>
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<tr>
<td>Palestine</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>10.0%</td>
</tr>
<tr>
<td>Somalia</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>5.5%</td>
</tr>
<tr>
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<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>2.5%</td>
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<td>30 Jun 2020</td>
<td>2.4%</td>
</tr>
<tr>
<td>South Sudan</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
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<tr>
<td>Others</td>
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<td>0.5%</td>
</tr>
<tr>
<td>Yemen</td>
<td>UNHCR</td>
<td>30 Jun 2020</td>
<td>0.1%</td>
</tr>
</tbody>
</table>

Source: https://data2.unhcr.org/en/country/lby

\textsuperscript{23} UNHCR data: https://data2.unhcr.org/en/country/lby
However, the number of people in need of humanitarian assistance in Libya, according to the international organizations, is more than 1 million. Many of them are migrants imprisoned or detained in smugglers’ detention places and just a little part of them are hosted in governmental reception centers (they are about 23 according to UNHCR)24.

Since 2012, the management of both reception and detention formal centers is in the hands of the Ministry of the Interior, more precisely the Department for Combatting Illegal Migration (DCIM). Some of them are controlled by the government, the rest lies in the hands of armed groups and militias25. In addition, the International Organization for Migration (IOM) outlines that detention centers are run fully by militias and many others are officially closed but are actually open and operative26.

In these centers torture, violence against women, men and children are the rule. Many Civil International Organizations, such as MSF, and UN reports -more particularly those of UNSIMIL27, have often denounced abuses on migrants in these centers which, among other things, are overpopulated and lacking of the basic health and sanitary services28.

Furthermore, the ongoing civil war is worsening the situation and the presence of migrants has become, as it happened with Turkey, a threat tool to put pressure on European governments in order to obtain political legitimacy and financial resources.

On April 4th 2019, the warlord Khalifa Haftar started an offensive on the Capital Tripoli in order to control the whole country29. In July 2019, a drone attack killed more than 50 migrants in a detention center in Tajoura30. The attack re-opened the never closed debate in Europe on the situation in Libya, many States agreed on the necessity for an immediate cease-fire in order to protect vulnerable migrants and internally displaced persons.

However, the political position of some European countries, especially France and Italy, have affected negatively the EU policies on Libyan crisis, preventing the European Union from having one single voice on the matter.31 Europe has always supported the UN peace process for Libya, but due to their national interests, France and Italy - even for their contrasting economic interests in the country- shifted their support toward Haftar (partially and ambiguously in the case of Italy), that at the time seemed to be the winner of the war.32

26 Ibid.
27 UNSIMIL is the UN mission in Libya that is leading the road map of the political transition in the post-Gheddafi.
29 Libya, since, 2014 has been split in two main political entities. One ruled the GNA -Government of National Accord, led by Faiz al-Serraj, in the Tripolitania region and the other run by the General Khalifa Haftar who is ruling the Eastern part of the country. To go in depth see: Mattia, Giampaolo, Guerra di potere in Libia, Mondòpoli, 6/11/2019, http://www.mondopoli.it/2019/10/06/guerra-di-potere-in-libia/.
This behavior triggered the rage of the GNA who menaced Italy to free 700,000 migrants and put them on the boats to Italy if the Italian government would continue to support Haftar.

Since January 2020, the situation on the ground has changed after Turkey decided to intervene militarily in support of al-Serraj. The Turkish intervention, beside its consequences at the warfare level, sidelined Europe within the Libyan crisis as well as the relations with the GNA of al-Serraj.

The presence of Turkey on the ground pushed the EU and Italy to re-establish relationships with al-Serraj and to renew the Memorandum of Understanding, with the deployment of Italian de-mining teams in Tripoli after the troops of Khalifa Haftar left mines in the suburbs of the town33. The renewal of the MoU with GNA, under negotiation, marks another critical point for European policy on the civil war in Libya and on migration management. Once again, Italy (and EU) is going to finance the Libyan Coast Guard that has often been responsible for torture of migrants, human rights violations and inhuman detentions34.

It is undeniable that Libya is not a secure country or secure port to stay in. The ongoing civil war and the informal practices, due to the lack of a united government, do not allow to guarantee the thousands of migrants a secure migration and life.

In addition, also before the civil war broke out, migrants were vulnerable people, especially women and children, and the effects of the clashes and violence in the country is an additional factor which raises the number of vulnerable migrants.

4. COOPERATION MEASURES IN LIBYA: THE ROLE OF BOTH INTERNATIONAL ORGANIZATIONS AND THE EU

As we have already outlined, the situation in Libya is still uncertain and unsecure, jeopardising both living conditions and rights of the most vulnerable people. Initiatives at both International, European, and Civil society levels have been taken during the last years in order to manage migration and protect IDPs and refugees in Libya.

UNHCR reports that its assistance to IDPs in Libya, as of the beginning of July 2020 is ongoing. As an example, UNHCR with its partner LibAid, has provided hygiene kits, plastic sheets, solar lamps and blankets to 482 IDPs who were displaced from Tarhuna city (65 km southeast of Tripoli). So far this year, UNHCR has provided Core Relief Items to 24,463 IDPs and returnees across Libya, continued visiting detention centers (distributing both hygiene kits and CRIs) and provided consultation and medical referrals to refugees in urban areas.

In addition, according to European Commission data, the EU has granted around €700 millions in support to Libya during 2014-2020 under various instruments, including the EU Trust Fund for Africa (EUTF), the European Neighborhood Instrument (ENI), the humanitarian assistance (ECHO), the Instrument contributing to Stability and Peace (IcSP).

The EU Trust Fund for Africa priorities in Libya were related to: protection of the most vulnerable people, borders management, stabilization of Libyan municipalities. Agencies such as, among others, the Italian Ministry of Interior, the IOM, UNHCR have implemented the more relevant projects. To give some examples, as to the protection measures, more than 50,000 migrants are reported to be beneficiaries of Voluntary Humanitarian Return Assistance (VHR) from Libya to 44 countries by the IOM. This repatriation program included individual counselling and vulnerability screening, assistance to obtain travel documents, pre-departure health checks, coordination with countries of origin for specific assistance to returnees and victims of trafficking, assistance upon arrival and for their reintegration.

EUTF supports the project on Integrated border management in Libya, implemented by the Italian Ministry of Interior. The project aims at enhancing the capacities of the dedicated Libyan authorities in tracking irregular border crossing, defining and declaring a Libyan Search and Rescue region (SAR), controlling land borders (focusing on the southern ones, the most affected by illegal crossing), among others. EUTF has recently announced the delivery of 30 vehicles (SUV) by the Italian Ministry of Interior to Libyan authorities as part of the EU border management program in Libya (worth €57.2 million).

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35 See https://reliefweb.int/report/libya/unhcr-update-libya-3-july-2020
In addition, the ongoing civil war and the role of the foreign players involved in arms trafficking, pushed the European Union to call for a new naval mission in the Mediterranean sea in order to halt the arms’ flows. Launched in March 2020, Operation EUNAVFOR MED IRINI which has taken over the baton of Operation Sophia, has as its core task the implementation of the UN arms embargo on Libya through the use of air, satellite and maritime assets. If the Operation Sophia had also the commitment to rescue migrants at sea, the new mission -IRINI- aims basically to control that foreign powers do not violate the arms embargo imposed by the UN, and it seems to have little to do with rescue operations, SAR zone (except for capacity building operations for the Libyan coast guard) and migrants’ boats control.

Since interventions and operations to enhance both the living conditions of the people on the run within and outside the country, and the respect of human rights in a context of conflict, have not always led to the expected results, raising awareness campaigns and claims from civil society organizations are running in order to improve the current situation of migrants in and from Libya.

As an example, last June 2020, many NGOs and CSOs have signed an open letter to the International Maritime Organization (IMO) asking to deregister the Libyan SAR zone. Among the main reasons stated in the letter, the insecurity and instability of Libyan ports, the inadequate capacity of the Libyan coast guard and its use, especially when rescue operations are successful, lead migrants to return to places where they experience torture and degrading treatments, thus violating the Geneva principle of non-refoulement. Both the EU and Italy have been condemned by the main human rights organizations with regard to shared indirect responsibility in ongoing abuses against refugees, asylum seekers and migrants, for supporting Libyan authorities and coast guards “without conditioning this support on measures to prevent serious human rights violations, such as closing the detention centres”.

Despite the amount of funds allocated, especially for border management operations to prevent irregular migration, cooperation did not translated into human rights protection for migrants and refugees. Libyan coasts still represent an unsafe port and rescue operations, when successful, lead migrants to return to places where they experience torture and degrading treatments, thus violating the Geneva principle of non-refoulement. Both the EU and Italy have been condemned by the main human rights organizations with regard to shared indirect responsibility in ongoing abuses against refugees, asylum seekers and migrants, for supporting Libyan authorities and coast guards “without conditioning this support on measures to prevent serious human rights violations, such as closing the detention centres”.

Capacity building for regional authorities is also one of the objectives of the EUTF. The Recovery, Stability and Socio-economic Development of Libya, a program implemented by the Italian Agency for Development Cooperation (AICS) (22 million euros), UNDP (18 million euros), and UNICEF (10 million euros) aimed at enhancing access to basic and social services and strengthening local capacity in 24 conflict and displacement-affected municipalities. AICS involvement is mainly related to rehabilitating essential facilities (such as hospitals and schools) and to providing essential equipment. The core objectives and areas of intervention include health, education, water and sanitation but also capacity building for Libyan authorities and local civil society organizations regarding the provision of essential services to the local population.

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41 See https://tunisi.aics.gov.it/rssd-libya/
43 EUNAVFOR MED operation Sophia was launched on 22 June 2015 as part of the EU’s comprehensive approach to migration, and will ceased permanently on 31 March 2020. The mission core mandate was related to identify, capture and dispose of vessels and enabling assets used or suspected of being used by migrant smugglers or traffickers. See https://www.operation-sophia.eu/about-us/
successful and migrants are sent back to places where they experience torture and inhuman and degrading treatment, the criminalization of NGOs working on rescue operations in the Mediterranean sea\textsuperscript{44}.

In addition, the “Io Accolgo” campaign in Italy shares the appeal “I sommersi e i salvati” (submerged and rescued) launched by Italian intellectuals and politicians and signed by many NGOs and CSOs asking to stop the financing of the Libyan Coast Guard; to close and evacuate Libyan detention centers, to promote human corridors in order to prevent risks and danger for people on the run\textsuperscript{45}.

Since the EU will deliver a new pact on Asylum and Migration aimed at creating a comprehensive, sustainable and crisis-proof framework for managing asylum and migration in the EU\textsuperscript{46} within the next months, it is crucial to stress the importance of putting the respect of human rights (especially for local population and migrants affected by the war) at the core of the Pact, alongside with the call for the ending of hostilities and the starting of a peace process in Libya.

\textsuperscript{44} For the document see https://gcap.global/wp-content/uploads/2020/07/imo-letter-29-6-20-libia-sar-zone-FOM.pdf
\textsuperscript{45} To go into depth see http://ioaccolgo.it/storie/sospendere-gli-acordi-con-la-libia-adesso
\textsuperscript{46} See https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12544-New-Pact-on-Migration-and-Asylum
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