

ASSESSING THE IMPACT OF THE EUROPEAN UNION'S BORDER EXTERNALISATION AGENDA ON PEACE AND SECURITY IN LIBYA FROM AN INTERSECTIONAL PERSPECTIVE



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Tamazight Women's Movement & Human Security Collective

01.

INTRODUCTION

Various national actors and international actors are involved in shaping the realities and human security of Libyan citizens. Libya as we know it today can be considered a mandated state, governed by the interests of external power holders, meaning the interests of international parties heavily weigh in the shaping of policies and practices of power holders in Libya. These interests intertwine and/or collide with the interests of national actors, such as citizens, political parties, militias, military, and civil society groups to create a complex continuum of what state and society agree upon and what is really practised. In the current context of peacebuilding and state building, this means in practice that international policies and measures seeking to enforce and protect human rights, including women's rights and marginalized groups, guarantee accountability and secure justice impact and are impacted by European Union's (EU) externalization of its borders and Counter Terrorism policies, as well as other interventions that it supports and funds.

Several projects funded by EU countries are carried out to strengthen and support the Libyan security sector under the banner of Security and Rule of Law (SRoL), including EU border protection. As a result of the tensions arising from this type of support, the questions that bear answering are: to whom is the security sector/state accountable and what power has the EU to call for Security and Rule of Law? And more so, how does this shape the power of women, indigenous peoples, migrants and refugees? Researchers have started to explore some of the effects of these dynamics. But these few research reports have failed to take into account the realities and needs of women, indigenous peoples, migrants, refugees and other marginalised groups and how local power relations are affected by geopolitical interests.

In order to better narrow down our attention, we focused on SRL policies related to migration, and the EU's border externalisation process. SRL policies in relation to migration are connected to both the security and development agendas and funding of external donors.

They impact both fields intricately. By providing funds, training, equipment, etc. to some groups, it is certain that there will be downstream effects on the power balance locally. What we are looking at is what exactly those are, and where there are lessons for practitioners on how to ensure that efforts to strengthen SRoL do not inadvertently end up undermining human security more broadly, or further endanger and marginalise the rights and power of affected social groups.

The report starts with giving background information on migration policy in Libya, to give an understanding on how border externalisation was conducted prior to the conflict of 2011 and the subsequent changes due to that. Then it moves to discuss border management, mainly the projects that have been implemented throughout the years and have been reviewed for this report. The implementation of these projects relies heavily on the collaboration of Libyan civil society organisations, therefore, it was imperative to detail the conditions under which civil society operates in the country. The findings were prioritised and guided directly by the interviews towards three main titles exacerbating local conflicts, upholding existing power structures, and dilemmas of the humanitarian/human rights worker.

02.

METHODOLOGY

The research project examined the following EU member state programs relating to SRoL in Libya: the EU Border Assistance Mission in Libya EUBAM, The EU Emergency Fund for Africa, The European Trust Fund EUTF, and Operation IRINI. The projects were assessed through desk research, five scoping interviews to develop interview question tools and refine research focus. Ten in-depth interviews with Libyans working on various Migration related projects throughout the country. The interviewees were four females and six males, between the ages of 26-35 years old. Their professional backgrounds range from researchers to project officers, and community organisers. The selection of the interviewees had mainly to do with their experience working in the humanitarian and development field. Many of them work directly with migrants and or research the conditions in which migrant communities live.

Those who work for humanitarian and developmental INGOs are anonymous since they have given testimonies on how programs are being designed and implemented. The report seeks to find good practice and provide concrete recommendations to how programs can avoid doing harm to Migrants and Libyan communities and truly adopt a human security approach to SRoL in difficult contexts. We hope this can provide direction to those seeking to work in Libya, and give support to civil society in Libya who are going into these partnerships.

03.

BACKGROUND

MIGRATION POLICY IN LIBYA

Libya has long been a country having to contend with vested interests of other international actors, especially in the domain of security and migration. During the 1990s, Libya's foreign policy had focused on development and cooperation with the rest of Africa. Moving away from Pan-Arab cooperation, an open border policy was adopted to workers from African states and by 1999 the African Union was founded. While this meant easy access to the workforce by foreign nationals, to this date, Libya has not adopted UN resolutions nor developed its own laws regarding migration, settlement or asylum and refugee status. Rather, it had a history of making specific decrees to address certain situations such as the policy of accepting Palestinian refugees¹. The Libyan open border policy and the economic conditions of the country, which at that time was still under international sanctions, meant that Libya was treated as a transit country by foreign nationals crossing towards Europe. It is also important to highlight that Libya's large coastline and vast southern borders in the desert meant that it was difficult to control the flow of incomers entirely.

The increasing number of African migrants leaving by boats from Libya and other North African states led to discussions between Libya and Italy in early 2000. By 2003, an Italian investigation unit had been set up in Tripoli in furtherance of police cooperation and reports indicate that Italy began financing migration detention camps near Tripoli, Sebah and Kufra^{2/3}. Italy also then began deporting migrants arriving on Italian land to Libya, by air. France established a bilateral agreement in the form of the Libya-France Framework Agreement of a Global Partnership (2007) "including active co-operation to combat illegal immigration, border co-operation and migration management, and work towards the establishment of readmission".⁴

The uprisings of 2011 that swept North Africa, have had dramatic consequences in Libya where protests quickly devolved into armed confrontations with the state. The ousting of Gaddafi and the ensuing 11-year conflict is a product of internal tension within the country, however, the influence of the international community's actions in Libya is inextricable from the outcome we witness today.⁵ Reports from human rights organisations addressed back then the increased risks on migrants and refugees, who fled the country to bordering Tunisia. The vulnerability of migrants and refugees during 2011 increased ten fold, when reports evidenced that Gaddafi used foreign fighters from Chad and Niger⁶. This set the tone and justified further aggression and racism against migrants in the following years.

The political and security developments of the country in the years that followed were marred with conflict and tragedies. Especially concerning are issues of human rights, human security, and the situation for migration and refugees. There has been much research about the fragmentation of the security sector and the development of armed groups after 2014.⁷ It is important to note that what emerged from such research is the embeddedness of the armed groups within their communities, the economic structures that have been built around them, and their interaction with the central government. These findings allude to the fact that even if armed groups are on government payroll, they pursue their own interests and agendas. Which means in their attempts to be richer and powerful, they engage in various illegal activities such as smuggling, trafficking, and committing gross human rights violations. Some of these groups engage directly with EU programs regarding migrants and refugees, whether they are members of the coast guards or guarding detention centres that hold migrants.⁸

On February 2017, Mr. Fayez Al-Sarraj as both President of the Council and Prime Minister of the Government of National Accord, and the Italian government, represented by Prime Minister Mr. Paolo Gentiloni signed a memorandum of understanding on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic.⁹ This was complemented by the Support to Integrated border and migration management in Libya (IBM), focusing entirely on Libyan authorities' capacities in maritime surveillance and tackling illegal crossing amongst other objectives. This development cemented future collaborations between the two countries on migration and border control.¹⁰

¹ Human Rights Watch, "Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees", (2006)

<https://www.hrw.org/report/2006/09/12/stemming-flow/abuses-against-migrants-asylum-seekers-and-refugees><https://www.hrw.org/sites/default/files/reports/libya0906ar.pdf>

² Paolo Cuttitta, "Readmission in the Relations between Italy and North African Mediterranean Countries Middle East Institute, August 1, 2010

<https://www.mei.edu/publications/readmission-relations-between-italy-and-north-african-mediterranean-countries>

³ Mason Richey, "The North African revolutions: A chance to rethink European externalization of the handling of non-EU migrant inflows." Hankuk University of Foreign Studies, (2012), <http://dx.doi.org/10.2139/ssrn.2109199>, quoted in Mariette Grange and Michael Flynn, "Immigration Detention in Libya", Global Detention Program, (2015), 9, <https://www.refworld.org/pdfid/5567387e4.pdf>

⁴ For more information, see Migration Policy Centre, "Migration Profile Libya", 8

⁵ Cristina Orsina, Jordan Street, and Lewis Brookes, "Enshrining Impunity: A decade of international engagement in Libya", LFJL, (2022), 8 https://uploads-ssl.webflow.com/5a0d8805f2f99e00014b1414/620cee862939c7150e1933d2_Enshrining-Impunity-Report-Eng-lfjl0libya.pdf

⁶ NPR, "Libya's Gadhafi Accused Of Using Foreign Mercenaries", February 23 2011,

<https://www.npr.org/2011/02/23/133981329/who-are-foreign-mercenaries-fighting-for-gadhafi?t=165710112811> and Steven Sotloff, "Gaddafi's New Forces: The Teenagers and Women Keeping Libya's Rebels from Taking Tripoli", Time, July 8, 2011, <http://content.time.com/time/world/article/0,8599,2081970,00.html>

⁷ Tim Eaton et al., "The development of Libyan armed groups since 2014", Chatham House, Research Paper, (2020),

<https://www.chathamhouse.org/2020/03/development-libyan-armed-groups-2014>

⁸ For more on the topic see Orsina, Street, and Brookes, "Enshrining Impunity: A decade of international engagement in Libya"

⁹ Memorandum of understanding on cooperation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic, (2017), http://eumigrationlawblog.eu/wp-content/uploads/2017/10/MEMORANDUM_translation_

¹⁰ European Commission, "Support to Integrated border and migration management in Libya – First phase", EU Emergency Trust Fund for Africa,

https://ec.europa.eu/trustfundforafrica/region/north-africa/libya/support-integrated-border-and-migration-management-libya-first-phase_en

MIGRATION MANAGEMENT

The following projects and trust funds have been identified as having direct impact on the migration policy and SRoL in Libya. Some of the projects are connected due to donor funding or through their mandate but are often implemented separately.

EUBAM EU BORDER ASSISTANCE IN LIBYA

A civilian mission under the common security and defence policy (CSDP), on May 22nd 2013, it was approved by the Council of the European Union to support the Libyan authorities in improving and developing the security of the country's borders. EUBAM's mandate concerns support for developing border management, land, sea and air borders. Since it is a civilian crisis management mission, it has a capacity building mandate. Therefore, it supports Libyan authorities on a strategic and operational level, providing advice, training and mentoring border services.¹¹

The challenging environment in Libya especially after the renewed civil war in 2014, affected EUBAM's activities in border management because of security threats, so it expanded to assistance of creating cross-ministerial and taking a more leading role in coordinating international support in the field of border management. This funded expansion was not communicated properly with the Libyan counterparts, which has restricted their activities in the country. An interviewee asserted that aside from one project in the south, there is no actual contact with the local population nor is the mission transparent about their work.¹²

EU SUPPORT ON MIGRATION

The EU Emergency Fund for Africa was created in November 2015, and since then has been a main tool for action to support migration related issues in Libya. Thus far, the fund has mobilised 455 million euros in projects in Libya, which included support for the European Neighbourhood Instrument (ENI), the humanitarian assistance (ECHO), and the instrument contributing to Stability and Peace (IcSP). Since the outbreak of the COVID-19 pandemic in 2020, the fund has also supported the Libyan public health sector which has suffered immense damages from the conflict and is underfunded.¹³

OPERATION IRINI

In January 2020, one of the outcomes of the Berlin conference, which was organised to support the peace process in Libya in the following month, was to launch a new Common Security and Defence Policy (CSDP) operation in the Mediterranean. This operation, titled EUNAVFOR MED IRINI, focuses on the implementation of the United Nation Security Council Resolutions on the arms embargo on Libya (UNSC 1970 and 1973). This effectively closed operation SOPHIA which had a similar mandate.¹⁴

While it was established specifically to enforce the arms embargo and raise the capacities of the coastal guards, operation IRINI has been increasingly more involved in the disruption of migrants' boats crossing the Mediterranean and sending them back to Libya as rescue missions. Like operation SOPHIA, in practice, IRINI continues to train the Libyan coast guards.¹⁵ These phenomena indicate the EU's focus on migration even when working on the peace process.

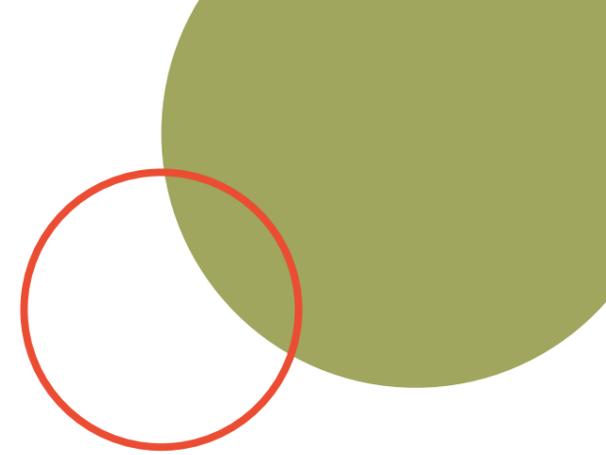
¹¹ European External Action Service, EU Border Assistance Mission in Libya, https://www.eeas.europa.eu/eubam-libya_en?s=327

¹² A.J. Phone Interview. 14/08/2022

¹³ European Commission, EU Support migration in Libya, June 2021, https://ec.europa.eu/trustfundforafrica/sites/default/files/eutf_libya_en.pdf

¹⁴ European External Action Service, EUNAVFOR MED Operation IRINI: Mission, <https://www.operationirini.eu/about-us/>

¹⁵ Orsina, Street, and Brookes, "Enshrining Impunity: A decade of international engagement in Libya"



CONDITIONS FOR CIVIL SOCIETY IN LIBYA

The space for (local) civil society to operate in Libya was effectively closed for over 40 years. This has changed in 2011, and since then many civil society organisations have been created. In the first year, more than 3000 non-profit organisations registered formally¹⁶ and many others had organised informally in the new burgeoning civil society. Due to the conflict situation and precarious economic situation, many of these organisations have had to rely on foreign funding to support their activities.

Although civil society is objectively freer than during the time of Ghaddafi, currently many issues still exist that limit their space to operate and that maintain an environment of fear. This includes structural barriers such as difficulties with registration, obtaining funding, difficulties opening and maintaining a bank account, surveillance, and daily safety issues.

There is also another type of squeeze on civil society space stemming from more conservative religious powers in society. Since 2021, there has been a marked uptake in violence and threats against human rights defenders, including members of civil society, especially against those labelled as feminist or supporting migrant rights. During the time between November 2021 and March 2022, the Libyan Internal Security Services (ISS), affiliated with the Presidential Council of the Government of National Unity (GNU), arrested at least seven young men active in civil society. This group includes activists, human rights defenders and individuals who have spoken out online on human rights concerns, including gender equality, freedom of religion and belief, and the rights of IDPs, migrants and refugees.¹⁷ These arbitrary arrests have been marked by allegations of torture and UN human rights officials have called for their release.¹⁸ These types of actions have a chilling effect on human rights-focused civic engagement, as it sends a message that all of those who speak out on these issues are potentially at risk. The environment of suspicion and fear that it has created online and in society also means that it further fosters a lack of trust between civil society and the communities they serve.¹⁹

In the European context of anti-migration policies, border externalisation is visible both in practices aimed at outsourcing care (for instance through the funding of NGOs or economic incentives) and control (financing border guards, reinforcing detention centres). In this context, researchers have introduced the idea of a 'migration industry'²⁰ of individuals that in various ways help facilitate this policy.²¹ This is very much the case in Libya, as a shocking amount of European development money goes to funding the detention camps, the militias who operate them, and the NGO infrastructure designed to dissuade people from crossing.²² The European Union funds some of this through the European Commission's Directorate-General for Civil Protection and Humanitarian Aid (DG-ECHO), and European and non-European individual states also directly fund migration-related projects in Libya. Still, arguably the largest mechanism through which much of this funding is done is the EUTF for Africa (European Union Emergency

Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa), which was established in 2015. This Trust Fund is funded largely by EU development funds, with Germany and Italy being the main EUTF donor countries.²³ According to the EUTF website, they are currently supporting 13 projects in Libya with 309 million euros so far.²⁴ International Organisations receive the lion's share: mainly IOM, which has received €80 million since 2017, and UNHCR (€13 million per year); to a lesser extent, other UN agencies such as UNDP and UNICEF, and governmental international cooperation agencies such as Germany's GIZ and Italy's AICS. International NGOs receive a very limited portion of the funds, and Libyan NGOs receive no direct funding from the EUTF but are often assigned implementation roles in the abovementioned programs.

As we will elaborate on further in the report, the space for critical civil society working on migration from a human rights perspective is incredibly challenged by violent and repressive force used by government and militia forces. Libyan civil society also faces a lack of direct funding beyond being mere implementers of INGO projects, which means that Libyan civil society often finds itself cornered into limiting its focus on providing humanitarian assistance and staying away from political issues and statements.

¹⁶ Carmen Geha, "Understanding Libya's Civil Society", Middle East Institute, November 22, 2016, https://www.mei.edu/publications/understanding-libyas-civil-society#_ftn6

¹⁷ "Libya: Terrorization of civil society on moral and religious grounds highlights impunity of radical armed groups", Cairo Institute for Human Rights Studies, March 18, 2022, <https://cihrs.org/libya-terrorization-of-civil-society-on-moral-and-religious-grounds-highlights-impunity-of-radical-armed-groups/?lang=en>

¹⁸ Lisa Schlein, "Civil Society Under Siege in Libya as Crackdown Intensifies, UN Officials Say", VOA, March 26, 2022, <https://www.voanews.com/a/civil-society-under-siege-in-libya-as-crackdown-intensifies/6502886.html>

¹⁹ Cairo Institute for Human Rights Studies, "Libya: Terrorization of civil society on moral and religious grounds highlights impunity of radical armed groups."

²⁰ Thomas Gammeltoft-Hansen and Ninna Nyberg Sorensen, eds., *The migration industry and the commercialization of international migration* (London: Routledge, 2013), <https://doi.org/10.4324/9780203082737>

²¹ Agnese Pacciardi and Joakim Berndtsson, "EU Border Externalisation and Security Outsourcing: Exploring the Migration Industry in Libya", *Journal of Ethnic and Migration Studies*, (2022), <https://doi.org/10.1080/1369183X.2022.2061930>

²² A Diane Taylor, "Libya: child refugees abused in UK-funded detention centres", *The Guardian*, November 20, 2018, <https://www.theguardian.com/world/2018/nov/20/child-refugees-facing-abuse-in-libyan-detention-centres>

²³ European Commission, Co-financing contributions (EUR), https://ec.europa.eu/trustfundforafrica/sites/default/files/co-financing_contributions_en.pdf

²⁴ European Commission, EU Emergency Trust Fund for Africa, https://ec.europa.eu/trustfundforafrica/index_en

HISTORICAL VULNERABILITIES OF MARGINALISED GROUPS

Since the awakening of the revolution in 2011, Libya has been experiencing foreign military interventions, armed conflict, the fight for power, and peace has yet to be restored. While the revolution brought greater gains to women's human rights and visibility to women in the public sphere, wars over control and systematic pushback against gender equality continuously has threatened the progress made and the protection of already existing legal, social, economic, cultural and civil rights for women and girls. For example, in 2015 the military-controlled government in the east had issued a travel ban against unaccompanied (solo) female travellers, which was revised later after pressures to the Security Clearance Order for all. This is clearly a violation to the right of freedom of movement and autonomy for women and girls.

The 2020 COVID-19 crisis has exposed the fragile and dangerous economic, social and political systems in place, bolstered by patriarchy, militarisation and structural gender and racial inequalities. The pandemic emphasised the mounting need to recognise equal economic rights, such as poverty, food insecurity, healthcare and education as crucial priority to maintain peace in Libya. It also demonstrated the urgency to address sexual and gender based violence against women and adolescent girls, with many reported cases of domestic and gun violence during the lockdown. However, the prioritisation of these issues has been diverted to the "security of the state" and other political agendas that only serve the interest of the competing national and international powers.

After one year of the war between the UN-recognized Government of National Accord (GNA) in the west and the Libyan (Arab) National Army (LANA) in the east, the west gaining more wins on the ground and a new recognized government formed led by Dbaiba, the country is undergoing its first presidential elections in December 2021. Fueled with tensions and speculations, it is a critical momentum for feminist and women's led civil society where they are left to resist the rising leftwing, anti-feminist nationalist discourses and militarisation of the state.

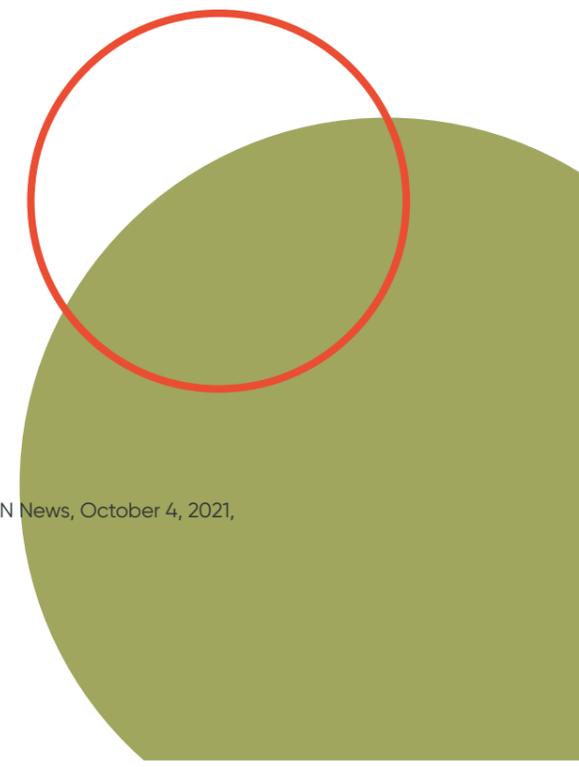
Recently, demonstration attacking feminists and calling for revoking CEDAW and UNSCR 1325 was held in the capital Tripoli (November 2021) as a result of ongoing vicious online campaigning against feminists and women human rights defenders, gender equality, and Sexual and Reproductive Health and Rights in Libya. Disinformation and misinformation penetrated discussions about women's rights in Libya, opened the doors for religious institutions to weigh in their political agendas and instigate violence against women, and particularly, against feminists and younger women. With the same old narrative used to provoke public opinion, claiming that feminism and CEDAW are all part of the "Western and Christian agenda" that threatens the Libyan family values and culture.

The human security situation of Libyans has been dramatically compromised over the past years. In addition to the ongoing conflict and resulting economic and health crises which have gripped the entire country, some historically marginalised groups have faced added hardships simply on the basis of their identity. Women, indigenous groups, internally displaced peoples (IDPs), migrants and refugees have experienced particular horrors.

In 2021, the UN's Independent Fact-Finding Mission on Libya referenced the enforced disappearance and extrajudicial killings of prominent women and continuing sexual and other forms of violence against vulnerable populations. They have also stated that "migrants, asylum-seekers and refugees are subjected to a litany of abuses [including] in detention centres [...] investigations indicate that violations against migrants are committed on a widespread scale by State and non-State actors, with a high level of organisation and with the encouragement of the State - all of which is suggestive of crimes against humanity".

25 United Nations, "Libya: War crimes likely committed since 2016, UN probe finds", UN News, October 4, 2021,

<https://news.un.org/en/story/2021/10/1102052>



04.

FINDINGS

EXACERBATING LOCAL CONFLICTS

MIGRANTS LABELLED AS THE ENEMY OF THE COMMUNITY

One of the key findings of this research is how projects implemented by International Non Governmental Organisations (INGOs) have to certain degrees exacerbated existing conflicts or upheld power structures that negatively affect Libyans lives. An example for this is the impact of lack of transparency and communication from INGOs when working in host communities. Migration issues in Libya are highly politicised, often seen as a national security threat. Consequently, when INGOs implement projects without dissemination of any information on said projects, feelings of fear and lack of safety are triggered.²⁶ A few incidents recounted by the interviewee highlighted how host communities lashed back against migrants in part due to the misinformation surrounding the project, this was the case for example in Zuwara when at first the hosting community refused to interact with migrants.²⁷ There were, however, also examples of involvement of local communities in such projects that led to overall more positive engagement with migrant communities.²⁸ In particular, projects that address education and awareness, incorporating both host and migrant communities, meant that the issue was addressed from multiple angles.

The issue of addressing needs leads to another negative practice of INGOs, where host communities' needs are often not considered when planning and implementing projects around the issue of migration. A recurrent experience shared by the majority of those interviewed for this report, is the lack of consultations with staff working for these organisations and local communities. While Migrant communities' needs are assessed sometimes, not addressing host communities' needs create disparities and exacerbate conflicts around lack of trust and perceptions of threat.²⁹

THE ART OF COMMUNITY CONSULTATIONS

When consultations are carried out, those who have been consulted before and are interviewed for this report felt that they were performative and extractive rather than collaborative. An interviewee mentioned how needs assessments are conducted, while information is collected of said needs, the way in which they go about meeting them is still decided by the INGO with little to no incorporation of the communities targeted.³⁰ Another interviewee shared that the entire program design sometimes comes directly from a donor, with limited involvement from those working on the project inside the country. This poses more challenges to implementation and places a lot of strain on

Libyan staff since they would have to communicate with local authorities and other stakeholders.³¹ Especially when a project is addressing border security, the lack of direct contact with the local population is extremely harmful because of the indirect consequences on both Libyans and migrants.³²

While the lack of consultation and communication is being addressed by some organisations, it remains a widespread phenomenon and a massive gap in the engagement of INGOs in Libya. This issue not only negatively impacts the effectiveness of the projects but also compounds existing misunderstandings around local communities' expectations of INGOs' work and what their actual contribution is.³³ Another problematic dynamic is that existing inter-communal tensions lead to Libyan stakeholders favouring their own "tribe" or "social group", a respondent shared that local leaders sometimes are not cooperative in projects because it does not fall within their interests. Certain local leaders also prefer to receive funds than training, and so they actively make it difficult to implement capacity building activities.³⁴

THE DOWNSIDE OF SCALABILITY

Due in part to the sheer scale of the humanitarian need as well as the budgets involved, interviewees reported witnessing issues arising in the design and implementation of humanitarian and development projects. Several respondents reported lack of consultation with local groups, leading to projects not being as suited to the needs of vulnerable groups.³⁵ Respondents also reported that large INGOs tended to work with a limited set of implementing partners, and were hesitant to bring in new organisations, at times citing registration status.³⁶ One respondent mentioned, "[INGOs] repeat the framework even if factors have changed on the ground. The only thing that changes is the potential number of beneficiaries and budget depending on the need. And staff are not always consulted when thinking about design, [...] unless they have been with the organisation for a while".³⁷ Another respondent added that "[c]oordination is lacking - and duplicacy of tasks -, most INGOs and EU while they try, are following their own agenda and planning without consulting or attempting to include the voices of vulnerable groups. I work with care providers and authorities for better/ethical behaviour towards migrants and refugees. It is installed upon our culture the "otherness" of these migrants. I remember times of covid, they refuse to admit cases unless we ourselves provide care".³⁸

Due to COVID and the subsequent budget shifts, many capacity building and consultation events have moved to the online space. One respondent commented that "the projects usually leave many communities behind, because the activities mainly require people who have access to the internet. Therefore, it is naturally biased".³⁹

26 MZ. Phone Interview, June 22, 2022

27 MJ. Phone Interview, July 4, 2022

28 SK. Phone Interview, July 16, 2022

29 MZ. Phone Interview, June 22, 2022

30 RE. Phone Interview, August 6, 2022

31 SK. Phone Interview, July 16, 2022

32 AJ. Phone Interview, August 14, 2022

33 MJ. Phone Interview, July 4, 2022

34 RE. Phone Interview, August 6, 2022

35 MM. Phone Interview, August 8, 2022

36 AA. Phone Interview, July 16, 2022

37 MH. Phone Interview, July 24, 2022

38 AA. Phone Interview, July 16, 2022

39 RE. Phone Interview, August 6, 2022

UPHOLDING EXISTING POWER STRUCTURES

REINFORCING LEADERSHIP POSITIONS

The engagement of INGOs with central and local governments is however, quite different. The government in Libya restricts to a large extent the work of INGOs because of how politicised the issue is, but also due to existing conflict dynamics. Therefore, often INGOs maintain diplomatic relationships with the government, and in order to implement their projects, they become part of the system. One respondent mentioned “[local government officials] came when we started giving grants and hindered our work saying that they should decide who accesses the grants”.⁴⁰ Findings from the interviews point to clear corrupt practices of INGOs, such as providing funds to local authorities, and/or including them in capacity building programs that do not necessarily benefit the project. Those who are selected for such programs are chosen by those in power; more often than not there are no women who benefit from such structures and it enables those holding offices to engage in more corruption.⁴¹

These practices have also enabled a competition between the government and Libyan civil society organisations, exacerbating an existing issue of state control and limited space for CSOs to work in the country. Certain ministries, such as the ministry of social affairs, actually advise INGOs on who to work with, otherwise they would sabotage the entire project. An interviewee shares that some INGOs concede to such demands.⁴² Local staff who try to resist such practices are silenced by their superiors with excuses such as INGO registration status or inability to receive future funding. These issues can be avoided with improved communication to authorities as well as setting standards for a meaningful engagement.⁴³

ENRICHING THE MILITIAS

A 2019 investigation by the Associated Press and the UN panel of experts found that huge sums of EU funds were being diverted “to intertwined networks of militiamen, traffickers and coast guard members who exploit migrants”.⁴⁴ According to their reporting in some cases, UN officials knew armed groups were getting the money. This, despite the wide reporting of cases of torture, extortion and other abuse migrants face at the hands of these militias in detention centers, often occurred in compounds that have received millions in EU funds.⁴⁵ These same militias have been found to conspire with Libyan coast guard units, who return migrants to the detention centres and receive bribes in order to let others cross over into Europe. Some of these militias have also been found to skim off UN humanitarian funds meant for lifesaving food and medical care for migrants.

Despite these concerning findings regarding the treatment of migrants and other vulnerable people and the wide scale corruption in their practices, the EU continues to provide training and financial support, with very little in return in terms of accountability and human rights. As mentioned by our respondent, the same armed groups that hinder the work of civil society, are often beneficiaries of EU border externalisation funding. They report that many of the detention centres are guarded by armed groups, paid sometimes through the EU, often in contestation with each other to take over certain more “lucrative” centres. Lucrative as in they would partner with an international organisation to run it, therefore finding some leverage in gaining control to negotiate better deals with EU member states.⁴⁶

The enrichment and expansion of these armed groups has dire consequences on Libyans, particularly those most vulnerable due to pre-existing inequalities such as women and indigenous peoples. It is impossible to separate the lucrative results of dealing with armed groups from the entrenched impunity and further human rights violations of Libyans and migrants.

40 RE, Phone Interview, August 6, 2022

41 RE, Phone Interview, August 6, 2022

42 AA. Phone Interview, July 16, 2022

43 Ibid

43 Maggie Michael, Lori Hinnant and Renata Brito, “Making misery pay: Libya militias take EU funds for migrants”, AP News, December 19, 2019,

<https://apnews.com/article/united-nations-tripoli-ap-top-news-international-news-immigration-9d9e8d668ae4b73a336a636a86bdf27f> please also see United Nations Security Council, “Letter dated 8 March 2021 from the Panel of Experts on Libya Established pursuant to Resolution 1973 (2011) addressed to the President of the Security Council”, (March 8, 2021), UN Doc S/2021/229

<https://digitallibrary.un.org/record/3905159?ln=en>

45 Michael, Hinnant and Brito, “Making misery pay: Libya militias take EU funds for migrants”

46 AA. Phone Interview, July 16, 2022

DILEMMAS OF THE HUMANITARIAN/ HUMAN RIGHTS WORKER

GAINING ACCESS AND TRUST

The lack of infrastructure, support of rapid response, and poor governance are all factors that undermine projects. An interviewee detailed how political violence committed by armed groups interfere on a daily basis with their humanitarian/developmental work. The issue of protection of humanitarian workers and civil activists is ever pressing, yet remains to be largely unaddressed.⁴⁷

The access of detention centres had been the most difficult for local and international humanitarian workers and activists. Many respondents have reported the inconsistencies, and unpredictability in the way the Libyan Authorities manage security and security risks. An interviewee described the process of gaining access to the detention centres as “very lengthy and there are sometimes internal conflicts within these authorities.”⁴⁸ One respondent said, “we have interpretation services, but not always; there is a shortage of translators speaking Hausa. The support of the authorities is also inconsistent, sometimes they are okay and sometimes, we are not allowed to enter these facilities. When the war happens in Libya, we find ourselves (the Libyan staff) alone delivering/distributing assistance. It is rewarding to work with migrants, [...] it has changed and made me realise how this can impact foreigners in Libya who have no family protection or protection of the authorities.”⁴⁹

Libya is a particularly dangerous place for migrants because most are in an irregular situation, and have no protections under the law. Migrants are being exposed to exploitation and arbitrary detention in unofficial and official facilities at the hands of private employers, human traffickers and armed forces. These armed forces, as mentioned in the previous sections, are funded and trained to perform quasi-policing roles, such as in the Coast Guard. Human rights organizations have reported instances of detention, torture, (sexual) violence, kidnapping, trafficking and even slavery. The violence that migrants face at the hands of traffickers, armed groups and sometimes even community members means that they may not feel safe accessing care or reporting these crimes.⁵⁰ One respondent working with an organisation delivering life saving humanitarian aid to migrants mentioned that “exposure [of migrants] to violence by these communities also prevents them from interacting with us, or reporting issues.”⁵¹

CONFLICTS OF CONSCIENCE

Many of those interviewed also explained how their work, due to the funding streams and local pressures, requires them to effectively be implementers of the EU externalisation agenda, which at times conflicts with their humanitarian principles. One participant

shared this, saying that, “the issue is that Libyan staff are not given the overall picture of what the organisation is “paid” to do, so they join them on sometimes humanitarian grounds, they know that funding is coming from the EU but they don't link to the bigger picture of EU foreign policy and external funding on migration.”⁵²

As it relates to the voluntary return program, one respondent said they feel limited in the care that they can provide migrants in trying to find alternatives other than repatriation, saying that “[the migrants] come to us and say ‘I need to leave a form to be filled’, but that is it. I believe they are pressured because of the exposed violence [they are] dealing with. But also for the ones who do not have hope to go to the EU. They do not know or inform the information they need to make these decisions, the way they articulate their cases is not part of the criteria of seeking asylum. For instance, being gay can give you better chances in your application, or subjected to sexual abuse.”⁵³

These dilemmas were exacerbated by the dire economic situation for many Libyans, and the lack of stable sources of income. One respondent mentioned that, “I see organisations working not on providing assistance based on needs, but that they have already a list of people who agree to be repatriated back home and only those are given assistance, the others that approach the organisation cannot receive the same level of assistance. They do help more, but not on the same level. As if providing assistance is done in a way to encourage people to return home, in a way that is not very humanitarian. [...] This is a direct impact of securitisation of an issue, you are preventing people or sending them away, only helping them if they are going back to their countries. It's not very humanitarian, especially because of the voluntary nature of such returns, it's always [put into question] especially in a context of a country like Libya where they are detained in difficult conditions and then are asked if they want to remain where they are or return home. Of course, many would want to go home. So it's as if the organisations are using local staff to enforce such agendas, and the staff do it because they are employed by the UN agency and they have a stable job in a highly unstable environment. So this is a core issue for the researcher.”⁵⁴

47 MM. Phone Interview, August 8, 2022

48 MM. Phone Interview, August 8, 2022

49 MZ. Phone Interview, June 22, 2022

50 “Libya: New evidence shows refugees and migrants trapped in horrific cycle of abuses”, Amnesty International, September 24, 2020,

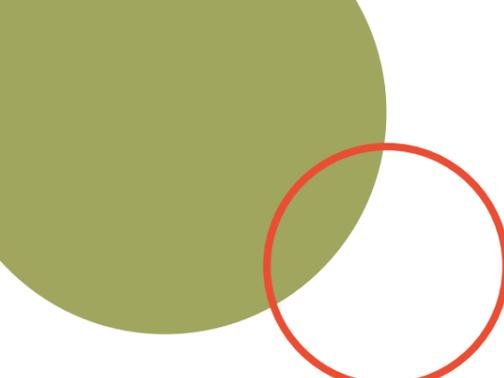
<https://www.amnesty.org/en/latest/press-release/2020/09/libya-new-evidence-shows-refugees-and-migrants-trapped-in-horrific-cycle-of-abuses/>

51 MM. Phone Interview, August 8, 2022

52 MH. Phone Interview, July 24, 2022

53 MZ. Phone Interview, June 22, 2022

54 MH. Phone Interview, July 24, 2022



RISKY BUSINESS

For those working on the issue of migration from a human rights perspective, the fear of authorities was a particular finding amongst local activists. They are considered or perceived by the authorities as “National Security threat” and even spies when they work on issues related to migrants and refugees. There are more dire consequences when working in reporting and monitoring the human rights situation, as opposed to if they had more humanitarian focused work, providing food and other services. This finding reveals a rigid and dangerous differential of the rule of law in the eyes of authorities, where rule of law is weaponized to criminalise the work of activists and humanitarians, and justified in committing crimes and violations for migrants and marginalised groups in the country.⁵⁵

Even for those working for humanitarian organisations, some report that the INGOs have become much more risk averse, requiring a lot of red tape before workers are able to access the communities and do the work that they think is needed. One respondent stated: “[I] disagree with [the] security assumption that INGOs do not protect their staff, in fact, security is so restrictive sometimes that the staff cannot do work.”⁵⁶

Yet, for local staff members, although they are usually doing the most dangerous work, the way that their contracts are set up do not provide them as much protection as international aid workers. For example, one respondent mentioned that “most Libyan staff are hired by [a private company, not registered in Libya] and there is a risk for Libyan staff then because there is no protection at all. This is especially the case in the south, where you are supposedly working with [the INGO] but are hired by [the private company] and therefore do not receive the benefits of working for [the INGO], this is a highlight example of vulnerabilities”⁵⁷

55 “Libyan security forces violently break up migrant protest”, Al Jazeera, January 10, 2022, <https://www.aljazeera.com/news/2022/1/10/libya-security-forces-violently-break-up-migrant-protest>

56 MH. Phone Interview, July 24, 2022

57 MH. Phone Interview, July 24, 2022

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CONCLUSION

INCOHERENT POLICY OF CONFLICTED INTERESTS

The European Union has been supportive of a foreign policy that is aligned with the United Nations Special Mission in Libya (UNSMIL), it includes support for a democratic transition, political stability, and an end to the current political crisis. However, when it comes to migration, the EU continues to externalise and outsource border management. Member states of the EU have been conducting “agreements” and providing “assistance” to different conflict parties in order to control migration flow with no regard to the situation of human rights of Migrants or their consequences on Libyans.

From our findings it is clear that there is a lack of transparency and accountability mechanisms for many of these funding streams. An example is the Trust Funds that are created by the European Commission for implementation of development projects, but there is little information on how the projects are implemented outside of the EU nor how they are designed and monitored. Although many programs purport to support Security and Rule of Law and humanitarian action in Libya, their roots and loyalty to the externalisation agenda mean that they routinely exacerbate local conflicts and create conditions that fuel the conflict and as such make achieving sustainable peace in Libya more difficult.⁵⁸

The fact that important border control functions are relegated to commercial actors and armed groups is already a major cause of the intricacy of the migration industry stemming from the EUTF, the Libyan context adds a further layer of complexity. The borders in the country are not controlled by a unitary state-actor, but instead are managed by a number of military forces, numerous militias and groups of foreign armed security guards and mercenaries. This further cements the splintered nature of the security forces in Libya and makes arriving at a unitary military or police force more challenging.

58 Pacciardi and Berndtsson, “EU Border Externalisation and Security Outsourcing: Exploring the Migration Industry in Libya”

https://www.ohchr.org/sites/default/files/2021-12/Unsafe_and_Undignified.pdf

<https://www.msf.org/sites/default/files/2022-06/Rapport%20Out%20of%20Libya-FINAL-web.pdf>



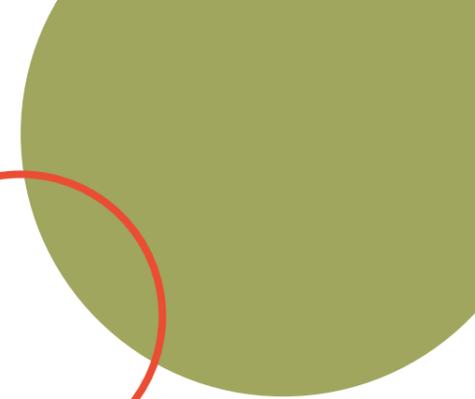
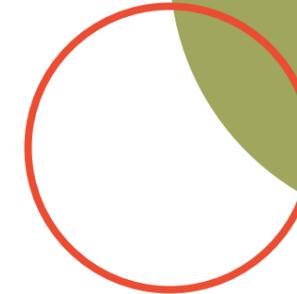
RECOMMENDATIONS:

FOR EU

- The EU must urgently prioritise the expansion of complementary pathways, including humanitarian admissions or corridors and community or private sponsorship. These would provide immediate relief for priority cases from Libya, and would allow CSO actors to play a better role in assisting migrants in third countries. This will allow safe third countries to take on their responsibilities and prevent further abuse, trafficking, violence and torture of vulnerable migrants.
- It is evident that more support for internal EU dialogue is needed regarding Libya, conflicts of interest must be addressed prior to any interventions, be it in security or development.
- The lack of accountability for all actors in Libya is a main hindrance towards any progress, and as it stands now Libya is not a safe place for migrants. The EU must adopt human rights safeguards, including conditioning any ongoing or future support with clear benchmarks in upholding migrants' human rights and access to justice. To hold themselves accountable and ensure their Libyan counterparts do the same.

FOR LIBYAN GOVERNMENT

- A diligent and comprehensive review of all currently opened detention centres is needed, as well as the creation and enforcing of a vetting system to ensure that human traffickers do not end up as guards or figures of authorities in the detention centres.
- Libyan government must refrain from forcibly returning migrants without undertaking an individualised assessment and in the absence of a legal procedure, with due process and procedural safeguards, including rights to fair proceeding, access to legal representation, access to interpreters and translators, the right to challenge the legality of return, and the right to restitution or remedy, in all return decisions and procedures.
- The Libyan government must adopt and legislate appropriate administrative and legislative mechanisms to grant status to migrants, refugees, and asylum seekers in Libya.



FOR DONORS

- Donors who are invested in supporting Migrants in Libya must ensure that their policies address the issue of transparency and human rights' due diligence to reduce corruption and ensure funds do not end up in the pockets of armed groups.
- Donors and their partners of international organisations must review their policies of using Libyan civil society organisations as implementers and invest further in their capacities to become equal partners. Further support to core funding is needed.

FOR INTERNATIONAL NGOS

- International NGOs must uphold their values by carefully considering when their actions contribute to further marginalizing already marginalized groups, for example by delivering aid in a location without consultation or proper understanding of the internal dynamics.
 - International NGOs must take on a critical analysis of their role in upholding some of the power imbalances described in this report and take active steps to remedy that, including through active consultation with Libyan civil society. Comment end
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**ASSESSING THE IMPACT OF THE EUROPEAN UNION'S BORDER
EXTERNALISATION AGENDA ON PEACE AND SECURITY
IN LIBYA FROM AN INTERSECTIONAL PERSPECTIVE**

