

## Migration in Libya Transit zone or final destination?

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### Key messages

- Not all migrants who reach Europe via Libya intend to make this journey when they leave their countries of origin, but find themselves continuing their journey due to instability, peer behaviour (realising this is what a lot of other migrants are doing) or due to poor conditions in the country.
- Already fragile refugee/migrant protection has grown even more unpredictable since 2011, exposing migrants to increased abuse and exploitation and providing them with little means to seek protection from the authorities.
- Most humanitarian organisations have withdrawn their international staff from Libya and are working through national staff or local partners. This lack of access raises a number of challenges: context analysis is partial, providing accurate figures on the number of people affected is difficult and engagement with the authorities and militias is not uniform.

### Migration: not a new issue in Libya

Since the start of the Arab Spring in 2011, North Africa and in particular Libya has become a point of departure for people attempting to make the perilous sea journey to Europe. Dramatic images of people in unseaworthy boats continue to capture the media's attention, but these images obscure the long road – both in terms of distance and time – that many refugees and migrants endure before reaching Libya's shores, let alone Europe.

North Africa has long been a region of 'emigration, immigration and transit migration',<sup>1</sup> even if the approach to migration by individual countries in the region has served different purposes: as a means to manage unemployment in the 1960s in Morocco by encouraging emigration, or, in the case of Libya, actively encouraging immigration to meet the labour needs of the country's

<sup>1</sup> TM. Baldwin-Edwards, "Between a Rock and a Hard Place": North Africa as a Region of Emigration, Immigration and Transit Migration', *Review of African Political Economy*, 33:108, 2006.

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Photo: Migrant workers in Libya, April 2011.

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oil industry. Migration is therefore not an entirely new issue, though political instability following the overthrow of Muammar Ghaddafi has seen a significant increase in migration flows towards Europe.

General insecurity has had an impact on aid agencies, most of which withdrew to Tunisia in mid-2014. While humanitarian needs have risen sharply, access has diminished.<sup>2</sup> In December 2015 the UN declared that 2.4 million people were in need of humanitarian assistance, with an estimated 435,000 internally displaced alongside several hundreds of thousands of refugees and migrants.<sup>3</sup>

### Governance crisis

Libyans had high hopes for a better future after one of the most violent Arab Spring revolutions. What followed, however, was a combination of large numbers of ‘unemployed’ armed fighters, unfulfilled expectations among Libyans of rapid post-conflict reconstruction

and government institutions inexperienced in delivering services efficiently. Today, the initial success story is seen as a cautionary tale.

Libya has two competing governments (the House of Representatives (HOR) and the General National Congress (GNC)), and despite repeated attempts at forming a unity government no agreement has been reached. In January 2016 the HOR voted against the unity government proposed under a UN-backed plan. In many areas, local councils are the only functioning institutions.<sup>4</sup> Municipal leaders are key actors in addressing the needs of people affected by conflict, including migrants.

### Obstacles to the journey

People leave their places of origin for different reasons and with different endpoints in mind, yet often find themselves sharing the same routes that they hope will ultimately lead them to safety and prosperity. It is

## TERMINOLOGY

**Migrant:** The United Nations defines a migrant as ‘an individual who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate’.<sup>5</sup> This definition formally encompasses refugees, asylum-seekers and economic migrants. Other definitions vary among ‘different data sources, and between datasets and laws’.<sup>6</sup>

**Refugee:** A refugee is an individual who ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country’.<sup>7</sup> The Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa is broader including

in its refugee definition ‘every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality’.<sup>8</sup>

**Asylum-seeker:** An asylum-seeker is ‘a person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments. In case of a negative decision, the person must leave the country and may be expelled, as may any non-national in an irregular or unlawful situation, unless permission to stay is provided on humanitarian or other related grounds’.<sup>9</sup>

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2 ACAPS, *Crisis Overview 2015: Humanitarian Trends and Risks for 2016*, 2015.

3 ‘Statement of Special Representative of the Secretary-General for Libya Martin Kobler to the Security Council, “Peace in Unity”, 11 December 2015’.

4 Mattia Toaldo, ‘Libya’s Migrant-smuggling Highway: Lessons for Europe’, European Council on Foreign Relations, 2015.

5 See International Organisation for Migration, ‘Key Migration Terms’.

6 See The Migration Observatory, *Who Counts as a Migrant? Definitions and Their Consequences*, 2015.

7 Convention relating to the Status of Refugees, 1951, Article 1 A (2).

8 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

9 See International Organisation for Migration, ‘Key Migration Terms’.

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important to recognise that refugee and migrant flows are intimately linked: by definition they are mobile, which challenges in many ways traditional responses to displacement focused on camps. In addition, regardless of what motivates people to leave, moving across borders as part of irregular flows makes them vulnerable to abuse and exploitation.

The commonly held assumption that everybody passing through Libya has always harboured the ambition to go to Europe is incorrect. Some set out from their home country with the goal of reaching Europe, but others intend to settle in Libya, even if only temporarily. Sub-Saharan Africans may stop in countries along their route (Sudan, Algeria, Mali), and work there for some time. This might be in order to sustain themselves or to save enough money to proceed to the next stage of their journey. Some Sub-Saharan migrants only intend to migrate temporarily to earn money, intending to return home better off than they were when they left,<sup>10</sup> but may change their mind along the way. Some may consider crossing the Mediterranean to Europe only after learning of this option from others they meet on their journey.<sup>11</sup>

Insecurity in Libya since 2011 is not the only contributing factor in people's desire to leave. Changes in the wider region, including growing instability in the Sinai Peninsula, sustained violence in South Sudan and the presence of Boko Haram in northern Nigeria, have also 'diverted' flows to Libya.<sup>12</sup> Rising insecurity aside, there has always been significant migration in the region.<sup>13</sup> Cross-border trade and seasonal migration add to an already complex situation. Migration routes often cross several countries and events in one country may have repercussions on migration flows in another. Consequently, migration issues cannot be addressed on a national level, but need to be discussed regionally. Initiatives such as the Rabat Process and the Khartoum Process are an attempt at addressing migration issues through regional dialogue.

## The benefits and pitfalls of networks

No matter the route taken, networks of family and friends and loose contacts from similar ethnic/national backgrounds often represent the most crucial support migrants and refugees rely on throughout their journey. Some may have previous family connections in Libya or in places along the journey. These networks often extend to different countries and can influence the choice of final destination. Although many foreign workers never formally obtained residency status in Libya, they benefitted from a relatively high standard of living and a degree of economic stability. While some have left because of insecurity, some in stable employment have remained in Libya. They have now become reference points for migrants and refugees with the same ethnic or national origin. Testimonies by migrants also attest to the use of Facebook and other social media to obtain information about migration routes and connect with fellow migrants or relatives, as well as finding smugglers to arrange the journey across the Mediterranean.<sup>14</sup>

These informal networks of migrants are distinct from Libyan organised criminal groups engaged in people smuggling and human trafficking.<sup>15</sup> There may be collaboration between organised criminal groups and middlemen who have the same nationality as the migrants, and serve in effect to bridge cultural and linguistic barriers,<sup>16</sup> though such engagement in criminal activity may not necessarily happen knowingly.

## Lack of protection

Libyan law criminalises all irregular entry, stay or departure, with no distinction between migrants, refugees and victims of trafficking. The 2010 Law on Combating Irregular Migration allows for the indefinite detention, followed by deportation, of those considered to be irregular migrants.<sup>17</sup> Libya is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, although provisions of the Convention

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10 Altai Consulting for UNHCR, *Mixed Migration: Libya at the Crossroads*, 2013.

11 MHUB, *Detained Youth: The Fate of Young Migrants, Asylum-seekers and Refugees in Libya Today*, <http://www.mixedmigration.org>, 2015; Danish Refugee Council, 'We Risk Our Lives for Our Daily Bread'.

12 Toaldo, 'Libya's Migrant-smuggling Highway'.

13 Danish Refugee Council, 'We Risk Our Lives for Our Daily Bread'.

14 Christopher Miller, 'Smugglers Use Social Media To Lure Migrants in the Mediterranean', 25 April 2015

15 IOM, 'The International Organization for Migration and People Smuggling'.

16 Mattia Toaldo, *Migration Through and From Libya: A Mediterranean Challenge*, IAI Working Paper 15, 2015.

17 Amnesty International, *'Libya Is Full of Cruelty': Stories of Abduction, Sexual Violence and Abuse from Migrants and Refugees*, 2015.

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forbidding the repatriation of refugees exist in the national Constitution and in the Organisation of African Unity Convention, which Libya has ratified.

Since 2011 the precarious legal status of migrants and refugees has been compounded by political uncertainty, growing prejudice, in particular against Sub-Saharan Africans, and general insecurity. Asylum-seekers and refugees are at risk even if they can prove that they have registered with UNHCR.<sup>18</sup> Migrants and refugees are vulnerable to a range of threats, including detention, abduction and forced labour.<sup>19</sup> Conditions in overcrowded facilities are poor, without basic medical care, ventilation and sanitation.<sup>20</sup> Female migrants and asylum-seekers are particularly vulnerable to abuse and ill-treatment in detention. UNHCR has been assisting some detainees through the provision of soap and clothing and helps arrange the release of registered refugees and asylum-seekers, though by its own admission its capacity to register new arrivals to Libya is limited given the volatile security environment.<sup>21</sup> IOM too has been providing hygiene kits and non-food items to detained migrants, as well as helping stranded migrants to return home.<sup>22</sup>

Few international organisations provide support to migrants outside of detention centres. Many extremely vulnerable Sub-Saharan migrants are difficult to reach as they live in hiding, fearing detention by the authorities or militias.<sup>23</sup> As a result, and due to limited physical presence, international aid agencies work with local NGOs, civil society organisations, youth groups and universities to support urban migrants, and organise referrals to other organisations if needed. For international organisations, lack of access raises a number of challenges: context analysis is partial, providing accurate figures on the number of people affected in inaccessible areas is difficult and engagement with the authorities and militias is not uniform. Significant

underfunding of the Humanitarian Response Plan (HRP) is an added challenge.<sup>24</sup>

## Recommendations

There has been a surge in people attempting to reach Europe from North Africa since 2011. Their precarious legal status, coupled with general insecurity, exposes migrants and refugees to a multitude of threats. The Libyan authorities, donors and international/national organisations have a role to play in ensuring better protection for those at risk.

The UN is yet to successfully broker a comprehensive agreement that would be endorsed by the GNC and the HOR and, as a result, a consolidated approach to address the refugee/migrant question has not been possible. As the armed conflict unfolds within Libya and across its borders, a concerted diplomatic effort is needed. The refugee crisis will have long-term repercussions, not only in North Africa but across the Mediterranean. Consequently, efforts by the international community and Libyan parties to form a unity government must continue.

Research points to the specific vulnerabilities of migrants, in particular those originating from Sub-Saharan Africa. In the current legal framework in Libya no distinction is made between irregular migrants, refugees and asylum-seekers and victims of trafficking. All categories are considered to be 'illegal migrants' and subject to fines, detention and expulsion. Their access to services such as healthcare, education and legal support is limited. There is a need for clear procedures and legal norms to ensure that migrants/refugees are protected. Positive steps were taken in 2012 with efforts to establish a Libyan migration policy, including an inter-ministerial working group on illegal migration.<sup>25</sup> Efforts by international organisations and donors to this end should continue.

Fighting and political uncertainty continue to affect the daily lives of people living in Libya. Most international aid agencies operate remotely, relying on national partners to deliver much-needed assistance. International agencies should continue their efforts to advocate for better access, while at the same time providing the necessary support to national partner organisations.

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18 MHUB, *Detained Youth*.

19 *Libya: Inter-agency Rapid Assessment*, 2014.

20 ACAPS, *Libya/Mediterranean Sea: Vulnerable Migrants*, Briefing Note, 2015.

21 'UNHCR and Partners Help Sea Crossing Partners in Libya Detention Centres', News Stories, 28 April 2015.

22 IOM, 'Libya: Humanitarian Support to Migrants and IDPs', 30 January 2016.

23 Altai, 'Migration Trends Across the Mediterranean: Connecting the Consulting Dots', 2015.

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24 Financial Tracking Service, 'Libya 2016: Total Humanitarian Funding'.

25 RMMS, *Going West*.