ICMPD
International Centre for
Migration Policy Development

A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya

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Country Profile

Official country name
Great Socialist People's Libyan Arab Jamahiriya

Capital
Tripoli (Tarablus)

Official language
Arabic

Population
6.16 million (2007 census), 6.4 million (2009 estimate)

Annual population growth
1.9%

Surface area
1,759,541 km²

Currency
Libyan Dinar (LYD), approximate exchange rate: EUR 1 = LYD 1.75

GDP (US$ billions)
58.33 (2007)

Per capita GDP (US$)
16,114 (2007); ranking 35th in the world and 2nd in Africa (2008)

GDP annual growth
6.8% (2007)

Natural resources
Petroleum, natural gas, and gypsum

Agricultural & animal production

Wheat, barley, olives, dates, citrus, vegetables, peanuts, soybeans, and cattle; Libya imports 75% of its food stock

Post-colonial independence

10 February, 1947 (from Italy), 24 December, 1951 (from UK and France)

Type of governance

Jamahiriya (State of the masses); established as a result of *Al-Fateh* revolution of 1 September, 1969, at the leadership of Colonel Mu'ammar Al-Gaddafi and 300 other officers who revolted against the rule of King Idris I (from 1951 until 1969). *Jamahiriya* advocates the principle of "direct democracy" (not through political parties or representation), but rather through active citizen participation in People's Congresses

Provinces

Geographically and demographically, Libya is composed of 22 provinces (or *sha'biyat*); these are as follows: Al-Butnan, Darnah, Al-Jabal Al-Akhdar, Al-Marj, Benghazi, Al-Wahaat, Al-Kufra, Surt, Murzuq, Sebha, Wadi Al-Hayah, Misrata, Al-Murgub, Tarabulus (Tripoli), Al-Jfara, Al-Zawya, Al-Niqat Al-Khams, Al-Jabal Al-Gharbi, Nalut, Ghat, Al-Jufrah, Wadi Al-Shate'

Leadership

Composed of members of the "Revolution Leadership Council"

De facto head of state

Colonel Mu'ammar Gaddafi

Executive branch

General People's Committees (ministries)

Legislative branch

General People's Congress (equivalent to central parliament); each of the 22 *sha'biyat* mentioned above also has its own People's Congress (i.e. local parliament)

List of Acronyms

ACC	Assistance Advisory Committee
AU	African Union
AVR	Assisted Voluntary Return
AVRR	Assisted Voluntary Return and Reintegration
CARIM	Consortium of Applied Research on International Migration
Cen-Sad	Community of Sahel-Saharan States
CeSPI	Centre for International Policy Studies
CFA	Currency used in twelve formerly French-ruled African countries, as well as in Guinea-Bissau (a former Portuguese colony) and in Equatorial Guinea (a former Spanish colony). CFA 100 = EUR 0.152449
CIR	Italian Council for Refugees
EC	European Commission
EU	European Union
GICDF	Gaddafi International Charity and Development Foundation
GIFCA	Gaddafi International Foundation for Charity and Associations
GPC	General People's Committee
ICMPD	International Centre for Migration Policy Development
ICFTU	International Confederation of Trade Unions
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
IOM	International Organization for Migration
IOPCR	International Organization for Peace, Care and Relief
LYD	Libyan Dinar. LYD 1 = EUR 0.6

Med-MENA	Mediterranean Countries of the Middle East and North African
MoU	Memorandum of Understanding
MS	Manpower Survey
MTM	Dialogue on Mediterranean Transit Migration
NCYVW	National Committee for Youth Volunteers Work
NGO	Non Governmental Organization
NLC	National Legal Committee
NSYC	National Society for Youth Care
OAU	Organization of African Unity
OSH	Occupational Safety and Health
POC	Persons of Concern
RSD	Refugee Status Determination
SEM	South and East Mediterranean region
SGBV	Sexual Gender Based Violence
THP	The Hague Process on Refugees and Migration
UASC	Unaccompanied Asylum Seeking Children
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UN-ICMR	United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Acknowledgements

Doing a comprehensive survey on migration, covering topics as diverse as those addressed in this Report, is a challenge in any country. It cannot be undertaken without the commitment and trust of the relevant actors and organisations. We chose to actively involve as many relevant national and international actors as possible in this Survey in order to reflect their knowledge and understanding of the migration realities in Libya.

Most of all, we were fortunate to enjoy the full trust of our Libyan counterparts, and on behalf of ICMPD I would therefore like to express my sincere appreciation for the efforts exerted by several Libyan governmental institutions in the realisation of this Report. In particular, their cooperation and openness during the assessment missions, upon which the key findings of this report are based, proved extremely valuable. These institutions include the General People's Committee for Public Security (MoI), the General People's Committee for External Communication and International Cooperation (MoFA), and the Customs Administration, and their various Directorates General, Departments, and Divisions.

The foundation for this survey was laid by the quadripartite agreement on Libya. It was signed in 2008 by ICMPD and our three partner agencies: The International Organisation for Peace, Care, and Relief (IOPCR), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Italian Council for Refugees (CIR). I would like to especially thank IOPCR for their unwavering commitment and cooperation throughout the implementation of this project.

Our special thanks also go to the following organisations for the expertise they have contributed to the Report, specifically: The International Labour Organisation (ILO), the International Organization for Migration (IOM), the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime (UNODC) and the Centre for International Political

Studies (CeSPI). Thanks to our cooperation we were able to create and present this solid knowledge base upon which future migration-related activities in Libya can be based.

5 January, 2010

MARTIJN PLUIM

Director of Capacity Building and Operations

International Centre for Migration policy Development (ICMPD)

1. Executive Summary

1.1. The Libya Survey Report

The rapid increase in the number of migrants in Libya since the turn of the century poses serious challenges to its capacity to manage migratory flows, particularly as the existing institutional structure of Libya lacks a solid knowledge base on migration flows to/through Libya, and does not have the institutional experience and capacity in dealing with these events and developments.

Hence, the purpose of this study is to provide an assessment of the legal and institutional framework for migration management in Libya, as well as recommendations on how to address the challenges Libya is facing in this context.

The Libya Survey report is the key outcome of the project "*A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya",* which establishes a knowledge base upon which relevant future initiatives in Libya can be based. It was executed from November 2008 to October 2009, under the leadership of ICMPD, and in close collaboration with the Tripoli-based NGO International Organization for Peace, Care and Relief (IOPCR), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Italian Council for Refugees (CIR). The project was financed by the United Kingdom, Switzerland, and Italy.

The following chapters are the result of three inter-related levels of assessment of migration patterns and institutional capabilities in Libya, namely i) desk research, ii) primary information from the answers to a comprehensive questionnaire, and iii) four expert assessment missions to Libya, during which specialised organisations and experts addressed eight migration-related topics within their sphere of competence.

The topics addressed were 1) a mapping of migration flows (their composition as well as the conditions and intentions of migrants transiting or residing in Libya), 2) asylum and refugees, 3) return and readmission, 4) migration and integration, 5) labour migration, 6) development, 7) border management, and 8) smuggling and trafficking.

1.2. The Dynamics of Migration in Libya

Libya's official perspective on the approach to be taken regarding migration issues refers to 1) addressing the root causes of migration/push factors in countries of origin, 2) intensifying co-operation with the international community regarding technical assistance and capacity building of Libyan migration management, and 3) addressing the pull factors at the countries of destination.

The estimated number of migrants, asylum-seekers, and refugees in Libya is 1.5 million, among a total population of 6.4 million (in 2009). At present, Libya is faced with an increasing influx of irregular migration through its land borders - approximately 4,500 km of mostly desert border with Egypt, Sudan, Chad, Niger, Algeria, and Tunisia - on the one hand, while taking steps towards more regularisation of existing illegal migrants on the other, particularly to meet foreign labour demands.

In addition to the various push factors in the countries of origin, including poverty, conflict, persecution, climate change, and individual circumstances, national specificities also played a role as 'pull factor'. Following the *Al-Fateh* revolution of 1 September, 1969, Libya's wealth of oil and gas amplified its role as a country of destination, attracting Arab and African migrants in particular. At the same time, Libya's geographic proximity to southern Europe has increasingly contributed to its evolution into a transit country, whereby a mix of regular and irregular migrants (mostly originating from Sub-Saharan Africa) enter Libya with the ultimate objective of crossing the Mediterranean Sea and reaching the shores of the European Union (EU).

Combined with Libya's efforts at promoting post-embargo economic recovery, implementing an ambitious five-year infrastructure development plan, and fostering Pan-African co-operation, the country's open door policy towards African and Arab nationals (particularly from 2000 to 2007) has significantly contributed to an increase of migration.

The strong and visible presence of migrants in Libya has led to a policy change in recent years, which is also reflected in the perception of governmental institutions, where reservations about various aspects of migration exist. According to several official Libyan sources, migration has introduced new challenges to Libya's social and institutional fabric; these were presented as the emergence of new security problems, the spread of disease, and disruptions to basic values and traditions of the Libyan society.

This, in combination with European diplomatic pressure, has prompted Libya to take a firm stance on irregular migration, including clamping down on trafficking networks. In particular, the reintroduction of visas for nationals of Niger and Chad is an attempt to reduce their inflows into Libya, while for nationals of Sudan it has resulted in the temporary closure of the respective land border including the BCP Al-Kufra, to prevent entry. Intensified co-operation with Italy also led to tougher controls on the borders with Algeria and Niger; since 2007, several deportations took place to various sub-Saharan countries.

The legislative framework to deal with migration and asylum issues continues to generate challenges to both Libyan and international stakeholders alike. Nevertheless, Libya's introduction of a systemised regularisation process on 1 January, 2009, could positively affect Libyan migration management, as it is in principle open to all irregular migrants in Libya, regardless of nationality, and provides migrants with a certain standard of rights and social protection; its impact, however, is yet to be seen.

The combination of all of the above could lead to a decline in the irregular presence of sub-Saharan Africans in Libya in the coming years. However, irregular migration continues to be directly dependent on Libya's own commitment towards curbing irregular departure and entry. Finally, a deeper assessment of Libya's labour demands within the context of future development plans is needed in order to determine the nature, character and composition of future migrants in Libya.

1.3. Accommodation/Reception in Libya[1]

Libya's capacity to absorb, apprehend, detain, integrate and/or repatriate irregular migrants has not been able to cope with their rising numbers.

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[1] In the context of this report, the term "Accommodation Centre" is used. This term is in line with official Libyan terminology in reference to the centres. The terms accommodation/ reception are used in reference to the process related to the centres.

According to information from Libyan authorities, there are at least 18 accommodation centres throughout Libya, whereby irregular migrants apprehended 1) at sea on their way to Europe, 2) upon illegal entry through Libya's land borders, or 3) on Libyan soil (e.g. overstayers) are contained and accommodated, while awaiting deportation, voluntary return to their countries, or settling into Libyan society.

The already overwhelming population of detained migrants in these centres has increased even further since the second quarter of 2009, particularly due to Italy's new practice of returning boats carrying irregular migrants from international waters back to Libyan shores. According to IOPCR, in early May 2009 alone, Italy returned more than 470 migrants who were apprehended at sea. The total number of persons pushed back between May and September 2009 stands at around 800 according to the Italian authorities; other sources indicate more than 1300, including those apprehended in Libyan waters.

According to interviewed accommodation directors, currently most centres host an average of 20 to 40 detainees per room, with exceptional cases in which up to 80 people are accommodated per space unit during peak times. The number of migrants at accommodation centres is likely to increase further due to Libya's efforts to intercept and prevent boat departures from its territory.

It is clear that the issue of accommodation capacity in Libya presents various challenges which require immediate and long-term strategies to address its operational and institutional angles. Immediate needs are:
a) The improvement of humanitarian conditions at accommodation centres
b) The facilitation of assisted voluntary return (AVR) of detained migrants
c) The enhancement of infrastructure and human resource capabilities of accommodation centres
d) Liaison/dialogue with embassies in Tripoli to facilitate AVR coordination for their detained nationals.

1.4. Summary of Key Recommendations

1.4.1. Accommodation/Reception

One of the key recommendations regarding accommodation/reception facilities in Libya is the establishment of separate facilities for detained

migrants pending deportation on the one hand, and for asylum seekers on the other. In principle, asylum seekers should not be detained, but rather accommodated in reception centres where freedom of movement can be ensured.

Pending the establishment of accommodation centres for asylum seekers, various basic standards and procedures, including the following, should be observed: decent living conditions in accommodation centres should be guaranteed in line with all relevant human rights standards; the accommodation/reception period itself should be as short as possible; vulnerable persons, such as unaccompanied minors, pregnant women and elderly and sick persons should be set free and allowed admission to asylum procedures; various steps should be taken to end all forms of arbitrary detention; competent authorities should adopt and implement guidelines on the management of accommodation centres, ensuring respect for human dignity and the basic rights of arrested foreigners; competent authorities should investigate possible abuses committed by accommodation/reception personnel towards undocumented migrants, refugees and asylum seekers.

1.4.2. Asylum and refugees

In order to introduce and promote a coherent system related to the area of asylum and refugees in Libya, key reforms need to be considered by the relevant national institutions. These are, among others, aimed at facilitating and safeguarding basic migrants', asylum seekers', and refugee rights. Detailed recommendations are outlined at the end of the chapter on asylum and refugees, on the basis of the following:

The key areas for reform by the Libyan authorities are:
1) Legislation
2) Border services
3) Reception centres (facilities)
4) Access to legal remedies
5) Unaccompanied minors' protection
6) Involvement of UNHCR and national and international NGOs

Libya is advised to accede to the 1951 Geneva Convention on Refugees, and ensure basic standards for the reception of asylum-seekers. Libya is also advised to enter into a formal agreement on the presence of UNHCR in the country. Libya needs, too, to establish separate facilities for detained

migrants pending deportation, on the one hand, and for asylum seekers on the other hand.

1.4.3. Return and readmission

There is a need for training at all levels of migration-related public institutions in Libya. With respect to the area of return, Libyan authorities should be trained in Assisted Voluntary Return (AVR) processes, particularly as an alternative solution to deportation. Subsequently, sustainable financial support should be made available to facilitate AVR in Libya, particularly of detained migrants.

There is also a need for specific and basic training on both deportation and AVR to law enforcement officials, particularly those in direct contact with migrants pending deportation or AVR, on identification of vulnerable cases, and on identification of possible victims of trafficking.

Training should be provided to accommodation centre staff, particularly to the directors of these centres in managing and addressing issues related to AVR and deportation. Knowledge exchange programmes must be carried out between directors and their counterparts in other countries, to enable Libyan accommodation centre directors to familiarize themselves with best practices in countries that are facing similar migratory dynamics. Training should encompass basic standards and principles on human rights and protection of vulnerable migrants awaiting return, on administration, on procurement of supplies, on logistics, on recording of inmates and staff, and on management skills in general.

Targeted training is required in the area of humanitarian assistance in Libya (which is often misplaced with charity); a more professional approach, based on clearly identified mandates and competencies, is needed. Also the main actors within civil society should be identified and trained. This initiative should be put in place according to a long-term strategy that aims to promote dialogue and networking with non-governmental organizations, with the main stakeholders in migration management, such as law enforcement officials, judges and prosecutors, the Red Crescent Society, and governmental institutions.

1.4.4. Migration and Integration

From the integration context, Libya should aim at developing its migration policy with close consideration of all types of the immigrant/migrant population.

The drafting of legislation or changes and amendments to existing laws must be in line with the relevant international mechanisms and regulations and should take international best practices into account.

These best practices are based on 1) coherent immigration legislation which is harmonised with legislation in related fields such as employment, education, social services and health care, housing and others; and 2) guarantees of non-discrimination.

On the institutional front, Libya needs to enhance capacity building in public institutions dealing with all elements of migration management, including integration, by developing and strengthening permanent training systems for migration/integration-related staff.

Capacity-building measures should be built on an assessment of the situation, on a clear description and division of the role of various agencies, on existing knowledge and expertise, and on the basis of an analysis of the roles and competencies required for the implementation of a comprehensive migration policy.

The development and implementation of integration policy ought to be the responsibility of all relevant authorities, as well as all levels of government (national, regional and local) as an element of integrated migration management system.

1.4.5. Labour migration

Given Libya's ambitious infrastructure development plan, a coherent policy and institutional structure to properly supervise and administer labour migration flows is necessary.

To implement this institutional structure and promote the governance of labour migration, six key elements need to be addressed; namely 1) the interests of the Libyan government in allowing labour migration into the country, 2) the promotion of labour migration through sustainable development in Libya, 3) the rights of migrant workers in Libya that need to be protected, 4) the mechanisms that can best represent the interests of workers in Libya, 5) the impediments and bottlenecks in Libya's migration

management, and 6) the availability of infrastructure and equipment for Libyan authorities to develop coherent labour migration policy and systems.

To facilitate coherent labour migration policy in Libya, the following steps need to be considered:

1) The execution of in-depth analysis of the current systems in place regarding labour migration;
2) The revision and update of current labour migration policies that are not in line with anticipated labour demands, most notable in relation to Libya's five-year development plan;
3) The reassessment and improvement of existing migration management procedures, particularly in terms of capacity building for relevant governmental actors with direct involvement in migration management, particularly in relation to labour migration management;
4) The fostering and promotion of migrant labour rights, through the introduction of national legislation that guarantees the rights and responsibilities of foreign workers in line with international standards;
5) The establishment of structures and mechanisms to ensure the co-ordination and consultation among different line departments of the Government of Libya involved in the process of labour migration;
6) The adherence, and ratification, to international labour standards and other relevant international instruments and multilateral agreements concerning migrant workers (where this has not yet been the case);
7) The verification and guarantee that effective enforcement mechanisms for the protection of migrant workers' human rights are in place and the provision of training on human rights to all involved in migration through awareness raising campaigns.

1.4.6. Border management

While Libya is bent on the principle of open borders on the one hand, it is equally focussed on efforts to combat, and regulate, irregular migration on the other hand. Therefore, the pursuit and formulation of official migration policy is of paramount importance to provide guidance in this respect and to shape the future of border management efforts.

Currently, co-operation among Libyan border-related agencies is rather informal and ad hoc at best, therefore, a strategic vision and communication mechanism is in dire need in order to systemise Libya's ongoing efforts in border control and management.

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Qualitative standards of co-operation with neighbouring countries are diverse, depending on the political relationship with each respective neighbour. It is on that basis that a wider platform for co-operation would lay the foundations for more effective border management vis-à-vis Libya's vast land border, and a concerted effort of Libyan border agencies with counterparts in neighbouring countries would have a constructive impact on the regulation and control of irregular migration to/through Libya. Co-operation and information exchange with Tunisia could be adopted as model for cooperation with the Arab neighbours (especially Egypt), and enhanced communication should be sought with the sub-Saharan countries to identify areas of common interest and possibilities of cooperation.

Other BCPs in Libya would benefit from adopting the practices and procedures already adopted in Ras Ijdeir BCP (with Tunisia). In particular, the 1-stop-control implemented by the Libyan and Tunisian customs administrations at Ras Jdeir should be followed by the Directorate General for Passports Investigation and their counterpart on the Tunisian side.

Professional training was identified as a need by interviewed counterparts, particularly in the fields of management, languages and specialised training, where the introduction of updated and practical training material and modern, participatory teaching methodologies can be recommended. Therefore, a concerted effort needs to be taken in order to foster international co-operation with expert agencies.

1.4.7. Smuggling and trafficking

The response of Libya's criminal justice system to the smuggling of migrants and trafficking in human beings into/on its territory could be enhanced by the adoption of various inter-related steps and approaches to the following areas: 1) institutional framework, 2) legislation, 3) knowledge and information gathering, and 4) training and equipment. These are summarised below, while a detailed outline of recommendations can be found at the end of the chapter on smuggling and trafficking.

The institutional framework can be further enhanced by synergising activities aimed at strengthening criminal justice responses to smuggling and trafficking with other technical assistance projects (in related spheres). Internally, it is also recommended that a national inter-agency task force on migrant smuggling and trafficking is established, consisting of all relevant law enforcement bodies and mandated with 1) facilitating information

exchange, 2) executing risk analysis, 3) developing a strategic plan, 4) monitoring developments and efficiency of counter-measures, and 5) ensuring the implementation of capacity building activities.

The legislative framework should be completed through the adoption of legislation that defines and criminalizes migrant smuggling and human trafficking, in line with the United Nations Convention against Transnational Organised Crime (UNTOC) and its additional protocols.

The establishment of a mechanism that systematically collects information on migrant smuggling and human trafficking is recommended. Risk analysis should also be undertaken in order to ensure an accurate assessment of the current and future levels of the threat posed by migrant smuggling and human trafficking.

Training on the issue of migrant smuggling and human trafficking should target the capacity of practitioners, and ensure nationwide coverage of law enforcement actors familiar with the issue. This should include intelligence-led investigative techniques, information gathering, case management, and preparation of case files for the court. There is also a need to integrate basic and specialist training on migrant smuggling into the national training curricula, once the development of such curricula starts. The necessary equipment for the investigation of migrant smuggling cases should be available.

2. Introduction

ICMPD's activities in Libya are rooted in the early initiatives of the Mediterranean Transit Migration Dialogue (MTM)[2], and the development of the interactive map (i-Map)[3]. Between 2002 and 2007, ICMPD's Director General undertook numerous missions to Libya, which laid the basis for closer and more intense cooperation between ICMPD and the relevant Libyan institutions.

In the spring of 2008, a quadripartite agreement of co-operation was signed between ICMPD, the Tripoli-based NGO International Organization for Peace, Care and Relief (IOPCR), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the Italian Council for Refugees (CIR). This framework of co-operation foresees the implementation of joint initiatives among the four partners in Libya, particularly within the context of UNHCR's 10-point Plan of Action on Refugee Protection and Mixed Migration.

Ultimately, the increasing and multifaceted challenges of migration patterns to/through/from Libya can only be appropriately addressed by adopting an integrated strategic approach, whereby the efforts of Libyan

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[2] Created in 2002, the informal, technical and intergovernmental MTM Dialogue gathers 37 Arab and European Partner States (APS and EPS) around the Mediterranean and as of 2009, Sub-Saharan Partner States along the migration routes for targeted activities. Articulated around two pillars (mixed migration and migration and development), the MTM Dialogue has entered its fourth phase A Dialogue in Action, in 2009. For more information on MTM and the MTM i-Map please consult: http://www.icmpd.org/906.html?&no_cache=1&F=lbfdvpmreym bwtc&tx_icmpd_pi1[article]=922&tx_icmpd_pi1[page]=926, and www.imap-migration.org

[3] At the end of 2006, ICMPD, Europol and Frontex developed an interactive instrument at the service of MTM Partner States for the purpose of exchanging information on the migratory situation in States around the Mediterranean and supporting the development and implementation of cooperation initiatives. The MTM I-Map provides for both a visualisation of the situation together with a presentation of the threats and risks faced by the MTM Arab and European Partner States and the past, present and future evolutions of migratory flows and routes.

national counterparts, Libyan civil society institutions, and international expert agencies are brought closer together. It is in this triangle of co-operation that ICMPD and its quadripartite partners find themselves today.

Realised with the financial support of the United Kingdom, Switzerland, and Italy, the project *"A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya"* constitutes the first practical step towards the realisation of the letter and spirit of the quadripartite framework of co-operation[4].

2.1. Background and Scope of the Survey

Although various reports have been published on different aspects of the migration phenomenon to and through Libya, no comprehensive survey on migration flows and relevant institutional capabilities in Libya had been conducted to date. Hence, the *"Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya"* was carried out with the aim of supporting the capability of Libyan authorities to manage mixed migratory movements by creating a knowledge base upon which further action may be established.

To do justice to the complexity of the migration phenomenon, the report covers seven topics, each of which outlines 1) the current situation, 2) the legislative framework, and 3) the relevant institutional capabilities. The topics are (a) mapping of migration flows, (b) asylum and refugees, (c) return and readmission, (d) migration and integration, (e) labour migration; (f) smuggling and trafficking, and (g) border management.

2.2. Expertise

ICMPD has adopted an inclusive approach in the implementation of the Libya Survey project, whereby experts from seven organisations were directly involved in the research and drafting of the document:
- **The mapping of migration flows:** Mr. Lorenzo Coslovi, Researcher – *Centro Studi di Politica Internazionale* (Centre for International Political Studies –CeSPI, Rome).

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[4] A second project granted to UNHCR under the EC Thematic Programme, entitled "A comprehensive approach to the effective management of mixed migration flows in Libya," started on 1 April, 2009, with ICMPD as a key partner mandated with, but not limited to, the management of the project's migration-related components.

- **Asylum and refugees:** Ms. Maria de Donato, Head of Legal Section – Italian Council for Refugees (CIR, Rome) and Ms. Tayba Sharif, International Protection Officer – Office of the United Nations High Commissioner for Refugees (UNHCR, Tripoli).
- **Return and readmission:** Mr. Michele Bombassei, Head of Technical Co-operation Unit – International Organization for Migration (IOM, Tripoli).
- **Migration and integration:** Ms. Felicita Medved – contracted expert, International Centre for Migration Policy Development (ICMPD).
- **Labour migration**: Mr. Azfar Khan, Senior Economist – International Labour Organization (ILO, Geneva).
- **Development**: Mr. Abdulmen'em Mohammad, National Programme Officer – United Nations Development Programme (UNDP, Tripoli).
- **Smuggling and trafficking:** Mr. Ahmed Ghanem, Project Co-ordinator – United Nations Office on Drugs and Crime (UNODC, Tripoli).
- **Border management:** Ms. Arabelle Bernecker, Programme Manager – International Centre for Migration Policy Development (ICMPD, Vienna).

In order to avoid repetition, the experts' input was edited by ICMPD, and the style and level of detail of the information gathered has been harmonized where relevant.

2.3. Methodology

The fluctuating and, at times, unclear nature of migration renders the gathering of reliable information a difficult task. This is particularly true in the case of irregular migration, including smuggling and trafficking in human beings, the complexity of migratory networks, and the numerous push and pull factors governing migration flows. Access to information is further complicated by the fact that statistical data is scarce, and the data collected is often not publicly accessible. Consequently, with respect to the present research on Libya, a wide range of challenges has to be dealt with. Apart from ensuring the support of the relevant Libyan authorities through IOPCR, a multi-step research methodology combining qualitative and quantitative data was adopted in order to counterbalance the above-mentioned challenges.

Based on the findings of a comprehensive desk research, ICMPD prepared and circulated in the first quarter of 2009 a questionnaire which addressed

each of the migration topics mentioned above. This questionnaire was translated into Arabic and distributed among the relevant Libyan authorities for completion.

ICMPD, together with international experts, conducted four expert assessment missions to Libya. Each mission covered two of the above-mentioned topics; IOPCR facilitated the required interviews with the relevant Libyan authorities. The respective expert assessment missions took place as follows:

Mission 1

Mission dates:	3 to 12 April, 2009
Mission topics:	**Labour migration**
Participating experts:	Mr. Azfar Khan (ILO, Geneva) and Mr. Abdelmenam Mohammad (UNDP, Tripoli)
Participating ICMPD staff:	Ms. Arabelle Bernecker and Mr. Rami Bathish

Mission 2

Mission dates:	2 to 10 May, 2009
Mission topics:	**"Migration & integration" and "return & readmission"**
Participating experts:	Mr. Michele Bombassei (IOM, Tripoli) and Ms. Felicita Medved (independent expert and researcher, Slovenia)
Participating ICMPD staff:	Ms. Daria Huss and Mr. Rami Bathish

Mission 3

Mission dates:	6 to 16 June, 2009
Mission topics:	**"Mapping of migration flows" and "asylum and refugees"**
Participating experts:	Mr. Lorenzo Coslovi (CeSPI) and Ms. Maria De Donato (CIR)
Participating ICMPD staff:	Mr. Martijn Pluim, Ms. Daria Huss and Mr. Rami Bathish

Mission 4

Mission dates:	12 to 26 July, 2009
Mission topics:	**"Border management" and "smuggling and trafficking"**
Participating experts:	Ms. Arabelle Bernecker (ICMPD) and Mr. Ahmed Ghanem (UNODC, Tripoli)
Participating ICMPD staff:	Mr. Rami Bathish (and Ms. Bernecker in her capacity as expert)

In drafting their respective chapters in the survey report, the experts utilised 1) the answers to the questionnaire, 2) the information obtained during the interviews[5], 3) legislative material, government decisions, and other material obtained (and translated) by ICMPD for the experts, and 4) their existing thematic and regional knowledge. The final survey report was presented before the second Project Steering Group meeting, at which point it was approved by all involved partners, including the official Libyan approval through IOPCR.

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[5] The reader is kindly requested to note that all figures outlined in this report were valid at the time of implementing the expert assessment missions (from April to July, 2009), and that fluctuations may have occurred since then according to emerging circumstances.

3. Mapping of Migration Flows

3.1. Introduction

Despite its classification as a transit country in recent years, Libya is also the most important country of destination in North Africa, both in absolute and relative terms. Official figures show that, although the peak of regular immigration has been reached during the decades of 1964-1973 and 1973-1984, Libya is still the most important immigration (regular and irregular) country amongst the countries of the South and East Mediterranean (SEM region).

Table 1. Estimated presence of Immigrants (regular and irregular) in SEM countries in early 2000

Country	Regular	Irregular (minimum)	Ratio regular/irregular
Algeria	80,238	10,000	0,1
Egypt	115,589	100,000	0,9
Israel	189,000	100,000	0,5
Jordan	392,273	600,000	1,5
Lebanon	302,315	400,000	1,3
Libya	**449,065**	**1,000,000**	**2,2**
Mauritania	48,000	10,000	0,2
Morocco	62,348	10,000	0,2
Palestine	N/A	422,000	n/a
Syria	55,000	700,000	12,7
Tunisia	35,192	10,000	0,3
Turkey	272,943	300,000	1,1

Source: Fargues, Regular and Irregular immigrants in SEM countries (early 2000) in: "Irregularity as normality Among Immigrants South and East of the Mediterranean". CARIM Analytic and Synthetic notes 2009/02, Irregular migration series, Background paper.

Five main migration routes to Libya can be identified, linked to the area of origin of the migrants: 1) from nearby and neighbouring Maghreb countries (Egypt, Tunisia, Morocco, Algeria) via the eastern and north western borders, 2) from Sub-Saharan western countries (Nigeria, Burkina Faso, Ghana, Mali)

via Niger and Algeria, 3) from the Horn of Africa (Ethiopia, Somalia, Eritrea) via Sudan, 4) from the Middle East (Jordan, Syria, Palestine, Iraq), and 5) from the Indian Sub-continent (Pakistan, India, Bangladesh). Regarding the nature of these flows, a distinction can be made between those from the Maghreb and the Indian Sub-continent, primarily composed of economic migrants, and those coming from Sub-Saharan countries, the Middle East and the Horn of Africa, consisting of both economic and forced migrants.

3.2. The Determinants of Migration Inflows

Libya became an immigration country in the seventies, due to the rise of the oil export revenue and the implementation of three ambitious development plans (1973–1975/ 1975–1980/ 1980–1985). By the mid–eighties, the worsening economic situation, resulting from a decrease of oil prices and the embargo imposed on Libya, led to restrictions in the contracting of foreign work forces. According to Pliéz[6], the number of immigrants in Libya decreased by one third between 1984 and 1995. In absolute terms, this data is not supported by a Libyan census quoted by IOM[7], while it is accurate in relative terms (% of foreigners on the overall population). The presence of the foreign population also decreased between the 1995 and 2006 census both in absolute and relative terms.

Table 2. Foreign population in Libya, according to national Census (1973-2006)

Year	Arab Nationals Total number – % on the number of foreigners	African Nationals Total number – % on the number of foreigners	Asian Nationals Total number – % on the number of foreigners	European-American Nationals Total number – % on the number of foreigners	Total	% on the overall population
1973	177,647 – 90.2%	2,420 – 1.2%	5,207 – 2.6%	11,296 – 5.7%	196,570	8.75%
1984	194,496 – 47.2%	19,241 – 4.6%	139,993 – 34%	54,092 – 13%	407,822	11.2%
1995	332,022 – 81.1%	34,519 – 8.4%	30,998 – 7.5%	11,267 – 2.7%	408,806	8.5%
2006	304,850 -	-	-	-	349,040	6.15%

Source: IOM 2008

[6] Pliez O. (2006) La frontiera tra la Libia e il Sahel. Uno spazio migratorio rimesso in discussione, in P. Cuttitta, F. Vassallo Paleologo (a cura di), Migrazioni, frontiere, diritti, Edizioni Scientifiche Italiane, Naples.
[7] Sofrani, Abdusalam O., Jwan, Saleh H. (2008) International Migration to Libya. IOM.

The fluctuation of oil prices and the consequences of the embargo (1992-2003) played an important role in Libyan immigration policy, which also depended on Libyan foreign policy. Due to the pan-Arab policy[8] launched by Gaddafi after the 1969 revolution, around 90% of immigrants registered by the 1973 census were Arab nationals, most of them Egyptians, Tunisians and Sudanese. The deterioration of bilateral relations among Libya and Egypt and Tunisia in the 1980s, jointly with the decline in oil prices, prompted the Libyan government to carry out mass expulsions of Tunisians and Egyptians[9]. In the 1984 census, the percentage of Arab nationals among the total of immigrant nationalities fell to 47%, while the number of Asian workers has grown both in absolute and in relative terms. With the restoration of diplomatic relations, the number of migrants of Arab countries went up again in the 1990's, when Arab nationals represented 81.11 % of the total number of legally residing foreign workers in Libya.

The presence of immigrants from sub-Saharan Africa has been growing since the 1990s, in the light of Libya's reorientation towards pan African unity and co-operation. As Pliéz[10] remarked, most sub-Saharan immigrants in Libya stem from the neighbouring countries of Sudan, Chad and Niger, who have a long-standing tradition of circular and seasonal migration to Libya. Nevertheless, from 1998 until 2007, all African nationals were allowed to enter Libya without visas.

Combined with the closure of other destination countries inside Sub-Saharan Africa, the economic, political and climatic crisis that negatively affected the African continent over the last decade pushed sub-Saharan migrants towards Libya. Libya was also chosen because of the accessibility of its desert borders, which are difficult to control.

In the framework of Libya's pro African policy, it has signed a series of bilateral and multilateral co-operation agreements, notably with Sudan, Chad, Tunisia, and Egypt. In 1998 Libya played a fundamental role in the establishment of the Community of Sahel-Saharan States (CEN-SAD) an organisation of twenty-eight African countries, headquartered in Tripoli, whose aim is to create a unified regional bloc, by promoting the free movement of individuals and capital as well as the freedom of residence, work, owner-

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[8] Implying closer economic, political, and security ties with the Arab World.
[9] More than 30.000 Tunisian were expelled in 1985.
[10] Pliez O. (2006), op.cit.

ship and economic activities and by gathering the interests of member state citizens[11].

Following the September 1999 extraordinary Summit of the Organisation of African Unity where Libya expressed its intention to welcome immigrants of African origin, tens of thousands of Africans arrived in Libya, seeking economic opportunities or fleeing from persecution or war. Arab migrants, on the other hand, continued to receive a privileged status.

Since 2000, Libya has also become an important transit*[12]* country for migrants from sub-Saharan Africa as well as North Africans wishing to emigrate to Europe. According to de Haas[13] "between 65,000 and 120,000 sub-Saharan Africans enter the Maghreb (Mauritania, Morocco, Tunisia, Algeria, and Libya) every year, of which 70 to 80% are believed to migrate through Libya and 20 to 30% through Algeria and Morocco. Several tens of thousands (not hundreds of thousands, as media coverage might suggest) of sub-Saharan Africans try to cross the Mediterranean each year".

The number of migrants who arrived on the coasts of Italy, most of whom had started their journey from Libyan coasts, increased to almost 37,000 during the last year (2008). The desire of European countries (particularly Italy and Malta) to curb the continuing influx of immigrants from Libya has offered the latter an opportunity for its re-emergence and return on the international scene. This has accelerated its conversion from a perceived "rogue state" (according to US foreign policy dictates in the 80s and 90s) to a partner, which began with Libya's decision to support the U.S.-led global "war on terrorism" following the events of 11 September, 2001.

Combined with closer economic relations, the issue of migration has enhanced the rapprochement between the EU and Libya, particularly in light

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[11] CEN-SAD web site, http:// www.cen-sad.org, 20 July, 2009.

[12] Transit country as well as transit migrants are concepts often blurred and very politicized. The term "transit migrants" started to be used in the nineties of the last century with reference to migration in central and east European countries but is now commonly used with reference to migrants moving to Northern African countries (and at a less extent to some West African countries such as Senegal) with the intention to move on to Europe. As de Haas (2006) suggested, in this context, transit migration has often been erroneously "used interchangeably with irregular immigration. Moreover, the intention to move on, which is used to brand migrants are not actually converted in actual movement […]. Transit migration has become a politicised and value-laden term […] even labour migrants to Libya or de facto settlers who have been staying in North Africa for years or decades have been recently re-blurred transit migrants".

[13] de Haas (2006) Trans-Saharan Migration to North Africa and the EU: Historical Roots and Current Trends, http://www.migrationinformation.org/feature/display.cfm?ID=484.

of Italy's increased and calculated pro-Libya advocacy[14]. It has also exacerbated the contradiction between the need to demonstrate full commitment to the fight against illegal migration and the need to count on a steady stream of immigration to cope with the demand for Libyan labour demands.

As Perrin[15] suggests, from 2004 onwards, Libya introduced measures intended to curb the inflow and presence of irregular migrants. As a result of Italian and European diplomatic efforts, Libya adopted a policy of detention and expulsion of illegal immigrants, targeting primarily immigrants from neighbouring sub-Saharan countries such as Niger, Sudan, and Chad (see Table 9).

The Across Sahara Project (management of the Libya - Niger border), financed by the Italian Ministry of Interior and the European Commission, was launched in the same year that Italy proposed the construction of three accommodation centres in Libya[16]. Italy also financed 47 repatriation flights expelling a total of 5,688 migrants from Tripoli to Egypt, Syria, Pakistan, Niger, Nigeria, Ghana, Bangladesh, Mali, Sudan, and Eritrea.

In 2007, visa requirements were reintroduced for all third country nationals, and a regularization process for citizens from countries having a labour agreement with Libya was launched. These measures aimed, on the one hand, to curb illegal entry into Libya, and on the other to "count" and control a part of irregular migration in Libya.

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[14] Italy and Libya have signed an initial agreement against terrorism, organized crime, drug trafficking in 2000. In 2002, in 2003 and in 2004 the co-operation has been strengthened through agreements, basically focusing on Italy's financial supporting: equipping and training Libyan police - construction of accommodation centres for illegal migrants in Libya - payment for the return of migrants from Libya. On 29 December, 2007, Italy and Libya signed an agreement in which Italy pledged to deliver to Libya 6 naval units to patrol Libyan waters jointly with the Libyan authorities. Finally in 2008 Italy and Libya signed the Trattato di amicizia, partenariato e cooperazione tra la Repubblica italiana e la Grande Giamahiria araba libica popolare socialista (Treaty of friendship, partnership and co-operation) which includes a special article dedicated to co-operation on combating illegal migration.

[15] Perrin, D. (2008) Aspects juridiques de la migration circulaire dans l'espace Euro-Méditerranéen. Le cas de la Libye. CARIM Analytic and Synthetic Notes 2008/23.

[16] Already in 2003 one was supposed to be built on the north of the country, the other two were to be constructed in the south. The involvement of Italy was denied by the President of the Council of Ministry Romano Prodi in 2007. Interviews held in Tripoli in the framework of this project, suggested that the centre financed by Italy is based in Garyian and is currently used for Libya Police Training.

On 1 January, 2009, Libya launched a new program of regularisation and fixed a final deadline whereby irregular migrants must either regularise their presence in Libya or leave the country. These measures, and their likely effects on migration flows, will be treated in the last section of this chapter.

Determinants of migration inflow for some specific nationalities

Egyptians move to Libya for economic reasons, whereas the Sudanese population in Libya is composed both of refugees (Darfur and North South conflict) and economic migrants. As regards Eritreans, the most common reason for them to leave their country is to escape compulsory military service which in practise is of unlimited duration and amounts to forced labour. The gender composition of these flows tends to be mixed. As a matter of fact, Hamood reported that while Egyptian and Sudanese women tend not to travel to Libya, Eritrean, Somali and Ethiopian women do.

As regards Asia, Libya seems to be open to a larger inflow of workers from this area, especially from Bangladesh and the Philippines. In 2006, Libya issued 200,209 visas to Asian workers. According to a recent declaration of the Department of Labour and Employment (DoLE) of the Philippines, Libya is asking for almost 16,000 skilled Filipino workers for 2009 (engineers, skilled construction workers, oil and gas workers). A memorandum of understanding has been signed between Libya and Bangladesh in December of 2008. By virtue of this agreement, thousands of Bangladeshi citizens will be recruited in the next years. These workers will be mostly employed in the construction sector. One who was interviewed in Libya stated that, in cases of the detention of their workers that are suspected of irregular migration, the companies will have to guarantee to cover the costs of their return.

3.3. How many Migrants are there in Libya?

The difficulty in presenting reliable estimates on irregular migration to Libya is largely due to the hidden nature of irregular migration, the liberal entry policy for Arab nationals, and the frequent amendments of the migration legislation in recent years which led to changes of the legal status of large numbers of foreign nationals[17].

The following table compiles estimates from various sources regarding the number of regular and irregular migrants in Libya.

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[17] See Hamood, S. (2006) African transit migration through Libya to Europe: the human cost. Cairo: FMRS/American University of Cairo.

Table 3. Estimated numbers of immigrants in Libya (regular and irregular)

Year	Source	Estimates (Millions)
June 2009 (interview in Tripoli)[18]	Libyan Authorities	1.5
2008	ICMPD	1 - 2
2007	Frontex	1.2 – 1.5
2006	De Haas	1 – 1.5
2003	ICMPD	1.5

In 2005, Fargues[19] wrote: "[how] many migrants from country A reside in country B? Even in a world of perfect statistics this question might receive at best an ambiguous response". This is particularly true in the case of the Mediterranean Countries of the Middle East and North Africa (Med-MENA countries), and equally true in the case of Libya. Libya doesn't produce statistics on migrant stocks and flows, neither legal nor illegal. This is due to technical reasons (e.g. there is a lack of an online computer database able to link the different entry/exit points equipped)[20] as well as to certain ambiguities that characterise the Libyan authorities in the use of the data, including lack of centralised information systems and lack of institutional capacities to utilise such information. As Fargues remarked regarding Med-MENA countries, the main source of data on migrant stocks is the population census, conducted every ten years. However the census has several limitations. Firstly it misses any migration which takes place between census counts, as well as all migration which takes place after the last census. Finally, the census is unable to pick up on the greater part of irregular migrants, who are, to a large extent, inherently and inevitably unaccounted for.[21]

The lack of official data on international migration to Libya has been confirmed by an exhaustive review of the international databases available on the web. Except for the United Nations Department of Economic and Social Affairs (UNDESA) data, which basically consists of estimates, there is an almost complete lack of reliable data on migration in Libya[22]. An important

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[18] Interview on 9 June, 2009.

[19] Fargues, P. [ed.] (2005) Mediterranean Migration Report, Co-operation Project on the social integration of the immigrant, migration, and the movement of persons, financed by the EC MEDA Programme, Florence: EUI –RSCAS, CARIM Consortium.

[20] Waniss A. Otman, Erling Karlberg (2007) The Libyan economy. Springer.

[21] Fargues, P. [ed.] (2005), op.cit.

[22] The following online databases have been checked: UNDESA data reported in the UNDESA International Migration Report 2006 – World Bank; ILO Database on Labour Statistics (LABOR-STA) (The database has been searched with regard to migration from the following countries:

exception is represented by the recent IOM publication, "International Migration to Libya"[23], which compiled unpublished data presented by the Libyan General Information Authority, as well as data collected by the Directorate General for Passports Investigation.

This lack of reliable data published by Libyan authorities could be at least partially remedied by the data published by the countries of origin of immigrants to Libya. The data reported by countries of origin are largely based on Consular records. The limitations of such data are due to the fact that registration is voluntary and many of the registered migrants fail to communicate any successive migration. Moreover, the Consular records could diverge from data of the country of immigration due to several differences methods of counting and defining migrants.[24]

However, consular services are able to register (partially) the irregular presence.

Regarding this last option, the database of Consortium of Applied Research on International Migration (CARIM)[25] which includes statistics issued by consular authorities of Morocco, Algeria, Tunisia, and Egypt presents at least partially useful statistics. But immigration from neighbouring Sub-Saharan African countries to Libya is hardly assessable due to the substantial lack of reliable statistics compiled by those countries. Some data on Asian immigrants in Libya can be extracted from the official publications of their countries of origin.

As regards refugees in Libya, UNHCR statistics reported an overall number of 12,365 refugees and 200 asylum seekers in 2006. The main nationalities were Palestinians (8,873), Somalis (2,938), Liberians (152) and Sierra Leoneans (94).

The lack of reliable statistics is complicated by the fact that "much of the foreign community residing in or passing through Libya does not have a legal status and this renders them outside of the framework of statistics

Algeria, Bangladesh, Burkina Faso, Cameroon, Chad, Congo, Congo Democratic Republic, Cote d'Ivoire, Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, India, Iraq, Italy, Kenya, Korea, Kuwait, Liberia, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Philippines, Senegal, Sierra Leon, Somalia, Sudan, Tunisia); UNHCR database.

[23] Sofrani, Abdusalam O., Jwan, Saleh H. (2008), op.cit.

[24] See Fargues, Le Bras, H. (2009) Migrant et Migrations dans le Bassin de la Méditerranée. Les notes IPEMED, N°1. September 2009.

[25] This database offers the most complete and updated statistical data on Migration in MENA countries.

collected either by their own governments or by the Libyan government"[26]. This is confirmed by a field survey conducted in 2004 by the Passports and Citizenship Administration[27]. According to this source, the number of foreigners illegally living in Libya was 468,335, while the total number of foreigners was 536,324 (among an estimated total population of 5.9 million in Libya at the time).

In 2005, according to World Bank data, Libya counted a stock of 90,138 emigrants, equalling 1.5% of the total population. The top ten destination countries were reported to be: Israel, Chad, United Kingdom, United States, Germany, Turkey, Canada, France, Australia and Italy. As regards immigration, the stock of immigrants was reported to be 617,536 equalling 10.6 % of the total population, out of which 35.5% were females. The number of refugees was estimated at around 12,300, corresponding to 2 % of the total stock of international migrants. The most relevant source countries were: Egypt, Tunisia, West Bank and Gaza Strip, Syrian Arab Republic. This data is however partially contradicted by the population census of 2006[28], according to which the foreign population in Libya was around 349,040, at a rate of 6.15 % of the total population.

Table 4. Data on legal immigration/emigration in Libya

Source	Pop. (million)	Emigrant stock	% population	Immigrant stock	% population	Emigrant/ immigrant stock
World Bank	6	90,138	1,5	617,536	10.6	527,398
IOM 2008	5,673	/	/	349,040	6.15	/

Source: World Bank 2005, De Haas 2008, IOM 2008.

As regards the historical trend, UNDESA data[29] shows an increase in absolute terms of immigrants during the years 1995 – 2005, from 505,600 in 1995 to 617,500 while the percentage of immigrants of the total population remained the same (10.5%). However, according to official Census data, the percentage of the foreign population in Libya on the overall population has been decreasing since 1995.

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[26] Hamood, S. (2006) op.cit., p.24.

[27] Quoted in Sofrani, Abdusalam O., Jwan, Saleh H. (2008), op.cit.

[28] Quoted in Sofrani, Abdusalam O., Jwan, Saleh H. (2008), op.cit.

[29] UN ESA (2009) International Migration Report 2006: A Global Assessment
http://www.un.org/esa/population/publications/2006_MigrationRep/report.htm.

Table 5. Historical trend

Year	Population	Percentage of the Total Population
1954	47,274	4.3%
1964	48,868	3.2%
1973	196,865	8.75%
1984	411,517	11.2%
1995	409,326	8.5%
2006	349,040	6.15%

Source: IOM 2008

As regards nationalities, according to the field survey carried out by the Passports and Citizenship Administration quoted in IOM 2008, Arab nationals in 2004 were still ranking first among foreigners residing legally and illegally in Libya, with 304,850. Egypt ranked first with 152,085 immigrants (21,224 legal and 130,861 Illegal), Sudan second, with 78,652 (2,653 legal and 74,890 illegal), Mauritania third with 16,229 (130 legal and 16,099 illegal), Morocco fourth with 13,586 (1,422 legal and 12,164 illegal) and Tunisia fifth with 10,642 (3,133 legal and 7,509 illegal).

As regards Asian and African nationalities, the statistics reported by IOM are unfortunately not consistent. The data referring to legal immigrants are repeated in the section dedicated to irregular migrants.

Also, sources from countries of origin present diverging figures. Egypt is one of the highest migrant-exporting countries in the Arab World. Jointly with Kuwait, Libya is the third recipient country for temporary and permanent Egyptian migration[30], behind Saudi Arabia and Jordan. Official statistics from the Central Agency for Public Mobilization and Statistics (CAPMAS) reported a number of 332,600 Egyptian temporary migrants settled in Libya in 2000. The number of Egyptian immigrants in Libya has grown to around 855,000 in 2006.

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[30] Egyptian legislation distinguishes between temporary and permanent migration. Based on Law 111/1983 on Emigration and Egyptians Welfare Abroad and its executive statutes as issued by Ministerial Decree 14/1984: "All non-studying, non-loaned, or non-delegated Egyptian making his ordinary residence or centre of his activity abroad, and having a work from which he makes a living shall be considered a temporary emigrant once his stay abroad lasts for more than one continuous year and he has taken no permanent emigration procedures as prescribed in the present law, or has taken such procedures and returned to his homeland before realising any of the conditions prescribed in article (8) of the present law, shall be considered a temporary emigrant".

According to official data collected by the Tunisian Consulate in Libya, the number of Tunisians was also much larger than reported by IOM. In 2006 there were 71,500 Tunisians registered in the Libyan consulate, 77,877 in 2008. The same goes for the number of Moroccan immigrants in Libya.

Table 6. Available figures on Immigration (regular and irregular) to Libya from selected African and Asian countries

Country	Source	1998	1999	2000	2001	2002
Tunisia	CARIM				47,751	53,601
	IOM					
Egypt	CARIM	950,000		332,600	650,000	
	IOM					
Morocco	CARIM					120,000
	IOM					
Algeria	CARIM					
	IOM					
Philippines[31]	Commission on Filipinos overseas	7,084	5,937	5,952	6,489	4,910
	IOM					
Sudan	Young 2007					
	IOM					
Bangladesh	Ministry of expatriates' welfare, overseas employment					

Country	Source	2003	2004	2005	2006	2007	2008
Tunisia	CARIM	60023	67,300	71,500	71,500	77,877[32]	
	IOM		10,642				
Egypt	CARIM				855,000		
	IOM		152,085				
Morocco	CARIM		120,000	78,852			
	IOM		13,586				
Algeria	CARIM						
	IOM						
Philippines[32]	Commission on Filipinos overseas	6542	6,005	4,247	10,230	10,245	7,000
	IOM		5,487				

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[31] Republic of Philippines, Commission on Filipinos overseas: http://www.cfo.gov.ph/statistics.htm.
[32] Population registered in the consulates.

Country	Source	2003	2004	2005	2006	2007	2008
Sudan	Young 2007		150,000 – 250,000 Darfurians				
	IOM		76,562				
Bangladesh	Ministry of expatriates' welfare, overseas employment						20,000

Sources: CARIM; IOM 2008, Ministry of expatriates' welfare and overseas employment (Bangladesh), Young *and others* 2007, Commission on Filipinos overseas

This data shows the existing difference between Libyan official figures and other available sources. It is also remarkable that the table reports data both on regular and irregular immigration. The IOM data are in fact referred to both categories and data recompiled by Consular authorities of origin country in Libya did not specify the administrative status of their citizens.

An important indicator for irregular migration is the repatriation statistic, even though it is susceptible to various distortions: the number of apprehended migrants is not indicative of the total number of irregular migrants.

Secondly, the ranking of migrants at accommodation centres according to nationality is not representative for the ranking of the illegal population in absolute numbers, as authorities can target specific nationalities for apprehension and return. Thirdly, in the case of Libya, apprehensions and repatriations might not always be directly linked to the legal/illegal status of migrants, as for example Hamood[33] suggests: "as different sources reported, Libyan authorities targeted sub- Saharan Africans with arrests, detention and deportations (…) often of arbitrary nature and affected migrants from Niger, Ghana, Mali who have been working in Libya for more than a decade". Finally, if statistics are referred to the repatriations, it must also be noted that the selection of nationalities depends on the co-operation of the countries of origin.

In 2004 the EC Technical Mission collected the following figures that show Sudanese, Nigeriens, Chadians, Malians, Ghanaians and Nigerians were the more apprehended nationals. The figures also show the increasing number of apprehensions during the period 2000-2003. As the Technical Mission reported, the methodology used to collect this data is unknown.

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[33] Hamood, S. (2006), op. cit.

Table 7. Apprehension 2000-2003

Nationality	2000	2001	2002	2003
Sudan	194	160	1,553	2,570
Chad	61	2,137	1,147	846
Niger	115	227	1,519	1,274
Mali	586	735	804	464
Ghana	813	181	477	162
Nigeria	368	165	372	61

Source: EC Technical Mission to Libya 2004

The 2008 IOM report[34] named 55,129 deported migrants in 2004, between 30,551 and 33.028 in 2005, 33,147 in 2006, 30,940 in 2007. Also in this case, other sources reported different numbers. Hamood[35] reported a total of 64,330 returned in 2006, and a total of around 145,000 foreigners repatriated between 2003 and 2005.

Table 8. Number of detained and deported migrants 2004-2007

	2003	2004	2005	2006	2007
Detained				32,164	Around 60,000
Deported	43,000	55,129	between 30551 and 33,028	53,842 33,147	30,940 64,330

Source: IOM 2008, Frontex 2007, EC Technical Mission to Libya on Illegal Immigration, 27 Nov – 6 Dec 2004, Hamood 2006.

While the IOM publication leaves some questions open[36], the data provides an idea of the main reasons behind deportations and the main targeted nationalities along the period 2004-2007.

As the table below shows, six nationalities (Sudan, Niger, Chad, Mali, Nigeria, and Ghana) ranked first in the period 2004-2008 regarding illegal entry, although their position in the ranking changed slightly over the years.

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[34] Sofrani, Abdusalam O., Jwan, Saleh H. (2008), op.cit.

[35] Hamood, S. (2006), op. cit.

[36] The publication contains statistics on the reasons for deportations carried out by Libya in 2004-2005-2006-2007. Some of these reasons are unclear (for example "Higher Committee"- "instructed to travel), others appear and disappear during different years.

Table 9. Number of migrants deported for Illegal Entry

Nationality	2004	2005	2006	2007
Niger	13,453	5,752	4,622	6,230
Sudan	5,827	1,378	1,482	
Ghana	4,800		464	1,929
Nigeria	3,039	598	1,046	2,164
Mali	1,803	1,001		826
Chad		602	2,479	3,220

Source: IOM 2008

Obviously, as remarked above, the ranking changes if we look at the number of deportees for irregular presence. In general, according to the same report, the Arab population (Egypt, Sudan, Mauritania, and Morocco) constituted the main source of irregular migration to Libya (266,294 in 2004). African states ranked second in the number of illegal residents, 170,042. The majority of them were from the nearby African states: Chad – 47,428, Niger – 40,284, Mali – 28,816, Nigeria – 21,411[37].

As regards existing estimates on different nationalities, in 2004 around 150,000 and 250,000 Darfurian migrants were estimated to live (illegally and legally) in Libya[38]. Boubakry[39] reported 200,000 Moroccans, 60,000 Tunisians, and 20,000-30,000 Algerians. Pliéz[40] estimated the number of Chadians in early 2000 at almost 500,000, while the number of Sudanese nationals was reported to range between 500,000 and 800,000 and the number of Nigerians between 5,000 and 10,000.

Interviews with members of the Somali, the Ghanaian, the Liberian and the Eritrean communities conducted in the framework of this project gave some indications related to the size of their communities in Libya. According to the estimates of these interview partners, there are almost 600 Liberians. The number of Eritreans was estimated to be at 5,000. Due to the

[37] Sofrani, Abdusalam O., Jwan, Saleh H. (2008), op.cit., pp. 20-21.

[38] Yung, H., Osman, A., Dale, R. (2007) Darfurian Livelihoods and Libya: Trade, Migration, and Remittance Flows in Times of Conflict and Crisis. In: International Migration Review, vol. 41, n. 4, winter 2007, pp. 826-849.

[39] Boubakri, Hassen (3 September, 2004) Transit migration between Tunisia, Libya and Sub-Saharan Africa: A study based on Greater Tunis. Council of Europe [MG-RCONF (2004) 6e] http://www.coe.int/t/f/coh%E9sion_sociale/migrations/MG-RCONF_2004_%206e%20-%20Report%20by%20Boubakri.pdf.

[40] Pliéz, O. (2006), op.cit.

sizeable Eritrean Diaspora in different countries, most Eritreans in Libya reportedly receive financial aid from relatives abroad.

The overall population of Somalis in Libya is estimated to be around 2,500[41], most of them coming from Mogadishu. As the main reason for Somali migration movements to Libya is instability in the country of origin, these migration flows vary according to the situation in Somalia. In the period between 2000 and 2004 many Somalis returned back home due to the improvement in conditions. These return flows, however, reversed between 2006 and 2008, when conditions in Somalia again deteriorated and many Somalis fled back to Libya. Around 1,000 Somalis are reported to be in accommodation centres. Official figures collected during the mission research reported the following figures: the accommodation centre of Zletin hosted between 200 and 300 Somalis, the accommodation centre at Al-Zawya hosted 31 Somali women, while an unknown number of Somalis are detained pending deportation in Gharabuli and Tweisha. However, very few Somalis have been deported in the last years as compared to other African communities (508 in 2004; 53 in 2005; 152 in 2007; 348 in 2006). The main reason why so few Somalis have been deported was stated to be the lack of co-operation of the Somali embassy with relevant Libyan authorities.

The number of Ghanaians in Libya is reported to comprise around 10,000 people[42], 65% of them living in Tripoli. Their community is organised in 15 units - concentrated in Tripoli and Benghazi, according to region of origin, language and cultural background.

According to the Ghanaian interviewed, most of the Ghanaians come to Libya in order to try to cross the Mediterranean Sea, but there is no change in inflows. The majority of Ghanaians want go to Europe, a small part intends to return to Ghana and a small part wants to stay.

3.4. Legal Framework and Regulation of Entry

As already remarked, published data on regular entry is very difficult to find. The only available data refers to released visas in 2006 and shows how the majority of sub-Saharan African workers entered Libya without a visa (due to the fact that until 2007 they were allowed to enter without visa).

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[41] Interview on June, 2009.
[42] Interview on June 2009.

"Out of 449,065 visas issued in 2006, only 39,361 were delivered to Africans, compared with 200,209 to Asian and 157,804 to Americans"[43].

There is no special law in Libya regulating the migration issue independently (except for the case of migration of Arab experts). The question of migration is regulated under the Citizenship Act, and the entry and exit of foreigners in Libya are regulated by Law 6/187, admission and residency of foreigners, and its Regulation 125/2005[44].

Perrin[45] reported that until August 2005, legal entry to Libya was allowed at official border crossing points[46] to the bearer of a valid passport[47] and an invitation Letter (from the employer, travel agency or a resident). Since August 2005, foreigners not holding an invitation letter were asked to carry a sum of LYD 500[48] (ca. EUR 286) with them. (Article 15 of Regulation 125/2005 (conditions for visa deliverance). This amount is usually asked from non-Arabs at their entry at the southern land border (interview carried out by the author).

In December 2007, visa requirements were reintroduced for all third country nationals (Regulation 125/2005 stipulated that "the entry of aliens into the Libyan territories shall be through an entry visa, granted to them in accordance with the regulation of this Law." An alien is a person who does not hold Arab citizenship, in accordance with the citizenship Law 18/1980[49]). Perrin[50] reported that this decision was accompanied with an ultimatum that fixed the date of 28 February, 2007 for the departure of all irregular foreigners in Libya. Nevertheless, the complaints of Tunisian and

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[43] Fargues, P. (2009) Irregularity as Normality Among Immigrants South and East of the Mediterranean. CARIM Analytic and Synthetic Notes 2009/02, Irregular migration series, Background paper, p.5.

[44] The General People's Committee Resolution 125/2005.

[45] Perrin, D. (2008), op.cit.

[46] For a complete list of Libya's border crossing points, please see Chapter "Border Management".

[47] Passport has to be valid for at least 6 months.

[48] Perrin, D. (2008), op.cit.

[49] Algeria, Egypt, Mauritania, Morocco, Sudan, Tunisia, for stays of up to 3 months to Syria, for stays of up to 1 month to Jordan, United States (including their family members, even if having another nationality provided they are travelling together & holding a letter from an established company in Libya sponsoring their visit. If family members of United States nationals travel individually the above letter should also confirm that prior arrangements were made with the Libyan Immigration Department to secure entry into Libya) & those holding a valid re-entry visa

[50] Perrin, D. (2008), op.cit.

Algerian authorities prompted Libya to exclude nationals from Maghreb countries from the visa regime[51]. Entry may be through an "entry visa" (i.e. for tourism, work, visit, official business, or to join another resident alien) or a transit visa. A new entry visa for citizens of the countries with whom Libya concluded bilateral or regional agreements relating to the labour force has been introduced by article 10 of the General People's Committee Decision 98/2007. This visa allows the bearer to stay in Libya to seek a job for a period of three months. If the foreigner does not find a job within this period, he has to leave the country (article10).

In order to get a work visa, a foreigner has to possess "a return trip ticket, a sponsor that would guarantee the entry of a visa applicant for the purpose of employment contract provided that the sponsor should be the employer and there should be a preliminary employment contract approved by the General People's Committee for Manpower Training and Employment along with a possession of (the above mentioned) LYD 500"[52]. Tourist groups, those granted entry visas for the purposes of business, study, official invitation or to join a resident alien are exempted from the possession of LYD 500, together with nationals of Egypt and Tunisia.[53]

3.4.1. Irregular Migration Routes

The route from Sudan to Libya

> **Nationals of Sudan and the Horn of Africa usually begin their journey to Libya in Sudan; from there, 3 routes have been in operation: the first through Darfur, a route which is currently closed but, according to interviewed migrants, still very much in use. The second most frequent route passes through Dongola in northern Sudan; and the third one goes via Chad.**

Interviews with Somalis confirmed that the main route from Somalia via Sudan is still operative, despite the closure of the border: arrivals from Khartoum – Al 'Auianat (border between Sudan and Libya) – Kufra are reported. Smugglers are contracted in Khartoum, and migrants pay the fees for the trip until Kufra. Sudanese drivers leave them at the border where they are taken in by drivers of Libyan lorries.

Interviews with an Eritrean informant reported a trip from Eritrea to Libya (2007) Tsaorona – Shire (Ethiopia), Shimelba (UNHCR Sudan). Contact be-

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[51] Ibid.
[52] Sofrani, Omran and Jwan, Husein (2008), op.cit.
[53] Ibid.

tween five Eritrean migrants and one Ethiopian smuggler took place inside a UNHCR-run refugee camp. It took the Eritreans five days by foot to reach Sudan. An Ethiopian guide, who had been paid the entire amount of US$ 100 for the trip until Khartoum before departure, left the five people to meet a Sudanese driver. The driver met the migrants at the border and brought them to Shedorf. Then the guide accompanied the migrants on a bus trip from Tasri to Khartoum, to an Eritrean reception place. The interviewee had received money from his mother in Italy, and contacted an Eritrean middle man who worked for the Sudanese smuggler. From Sudan – Al 'Auianat - Kufra, the trip took 4 weeks. This is still the main route, although in the opinion of the informant the inflow from Eritrea is decreasing as the conditions for immigrants in Libya deteriorate.

In general it can be said that the journey from Eritrea to Libya is very dangerous. Robberies and fatalities along the route have been reported. It seems that drivers used for the smuggling of migrants tend to be Libyan nationals.

The route from Niger to Libya

According to Libyan authorities, about 80% of illegal migrants who pass through Libya hoping to cross the Mediterranean to Europe enter the country from Niger. Two main routes have been identified by literature and media reports. The first is Agadéz - Dirkou – Madama (Niger), Al Qatroun – Shabâ (Libya). In 2006, the price for transportation on this route was between CFA 7,000 (ca. EUR 11) for Nigeriens and CFA 50,000 (ca. EUR 76) for other nationalities. In addition to these costs, migrants had to pay around CFA 1,000 (ca. EUR 1.5) to the police at the entry point of Agadéz and CFA 1,000/2,000 (ca. EUR 1.5/3) at the exit point of the city. Finally migrants had to pay CFA 7,000 (ca. EUR 11) in order to enter Dirkou, CFA 5,000 (ca. EUR 8) for police, and CFA 2,000 (ca. EUR 3) for Customs Officers (Liberti, 2006, "L'esodo a ritroso dei clandestini del Sahel", Reportage presentato in occasione della Conferenza Internazionale Migrazioni e Sviluppo, sfide e opportunità per le relazioni Euro-Africane Roma, 6-7-8 giugno 2006).
The second route is Agadéz – Arlit (Niger), Djanet (Algeria), Ghat (Libya). In 2006, the price for this route was between CFA 30,000 (ca. EUR 46) and CFA 40,000 (ca. EUR 61) (Liberti, 2006). Before the outbreak of the Tuareg revolt (2008), around 10,000 people took each of these two routes yearly. In 2009, due to the revolt, which particularly affected the Air Mountains, the migration flow through Arlit – Djanet and Ghat significantly decreased. The migration flows have been re-oriented to the Agadéz Dirkou route, for which smugglers charge around CFA 30,000/40,000 (ca. EUR 46/61). Due to the state of emergency, travel along this route is now organized along more military lines: once every three weeks truckloads of migrants (around 30) leave Dirkou together with a military escort (Liberti, 2009, interview with the author).

Two Nigerian informants reported that the price for the trip in 2008 was CFA 7,000 (ca. EUR 11) from Agadéz to Dirkou for a Land Cruiser passage with 15 people, with a Nigerien driver. The three-day-journey from Dirkou to Al Qatroun cost CFA 60,000 (ca. EUR 92) and the journey from Al Qatroun to Sebha cost LYD 140 (ca. EUR 80). An interview with one informant in the camp confirmed that the route through Niger-Algeria is very dangerous due to Nigerien rebels, who carry out robberies and attacks against migrants. Meanwhile the price for the route from Agadéz to Dirkou increased. One Nigerian informant also noted that there is an increase of Nigerians trying to pass to Italy.

Recent press reports[54] remarked on the importance of Niger as gateway for irregular migration to Libya. Gatti reported that almost 10,000 sub-Saharan migrants transited every month via Niger to Libya between November 2008 and March 2009.

The route from Senegal to Libya

> Two interviewed Senegalese reported that in 2008, the cost of being smuggled along the route linking Senegal, Bourkina Faso, Niger (Agadez - Dirkou) and Libya (Al Qatroun- Sebha) amounted to CFA 100,000 (ca. EUR 153).

Routes inside Libya

> The main routes used by people smugglers inside Libya are those from Kufra to Ajdabya, and from Ajdabya to Tripoli. An Eritrean informant mentioned that, in his opinion, the Libyan police could easily control the flows of irregular migrants along the road from Ajdabya to Tripoli. However, as there is currently no Libyan surveillance of this route, it is being frequently used by irregular migrants.

Additional interviews suggested that inflows from sub-Saharan countries (in particular Ghana and Nigeria) and from the Horn of Africa (Somalia and Eritrea) are continuing. Nevertheless, in the opinion of some interviewed immigrants, the worsening conditions of migrants in Libya, combined with the recently emerged difficulty of leaving its coast, could discourage some potential migrants from coming to Libya in the first place.

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[54] Gatti (26 March, 2009) La Nuova Ondata. L'espresso.

3.4.2. Map of Migration Routes to/through Libya
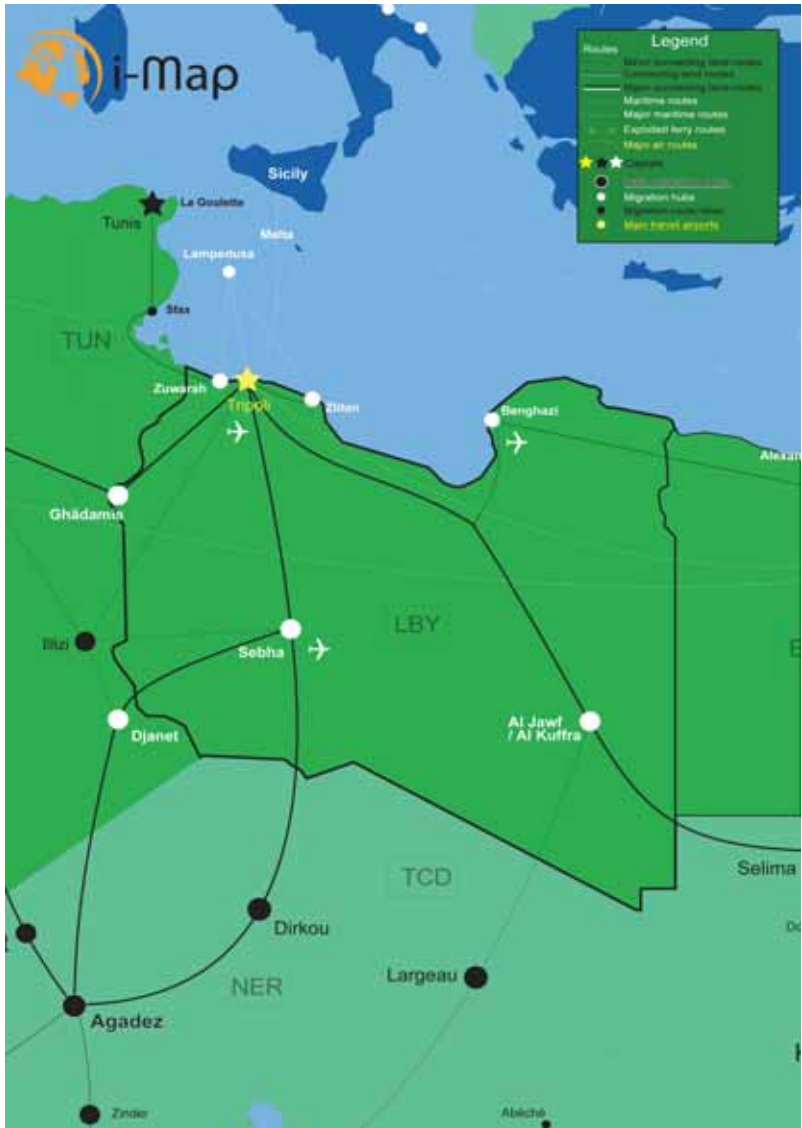
3.5. Outflow of Migrants

It is difficult to assess how many migrants in Libya intend to stay, how many of them intend to return to their countries of origin after a temporary stay, and how many of them plan to cross the Mediterranean and enter Europe. However, it can be estimated how many people effectively left Libya for Europe. At the same time it is also possible to analyse the external factors that can affect the migrants' decision-making process on whether or not to cross the Mediterranean Sea. Both can be used to get an idea about the future development of irregular departures, at least to a certain extent.

Official data from the Italian Ministry of Interior, combined with data referring to people who had arrived in Malta, allows us to estimate roughly how many immigrants crossed the Mediterranean Sea. In order to complete the picture, this has to be complemented with the number of fatalities and the number of people apprehended during their attempt to emigrate irregularly. Data on the last two categories is hard to find. An Italian website (www.fortresseurope.blogspot.com) registers and regularly updates the number of migrants who died during their attempt to reach the coasts of Italy and Malta. Although the point of departure cannot be tracked back with certainty, it is thought to be Libya in most cases. As the number of migrants who embark on a ship is often unknown, it is impossible to determine the number of casualties in cases of shipwreck. Finally, not all shipwrecks become known. The following table shows the number of detected casualties in the Sicily Channel.

Table 10. Number of casualties in the Sicily Channel (1994-2009)

Year	Dead	Dispersed	Total
2009 (Until 30 June)	42	297	339
2008	119	1,055	1,274
2007	146	410	556
2006	96	206	302
2005	78	359	437
2004	111	95	206
2003	90	323	413
2002	127	109	236
2001	8	0	8
1998	14	2	16
1997	6	0	6

Year	Dead	Dispersed	Total
1996	284	19	303
1994	0	2	2
Total	1,117	2,982	4,099

Source: www.fortresseurope.blogspot.com

Libyan authorities did not provide official figures on the number of apprehended irregular migrants in the course of the research missions, but stressed that almost 90% of the detained people were apprehended either during their attempt to emigrate (and during preparations), or while crossing the southern border, i.e. while entering Libya irregularly. This information has been denied by almost all interviewed migrants, who reported that they were caught in their houses or in the streets. The only available data refers to deported people for different infractions of Law 6/1987, and its Regulation 125/2005 and Decision 98/2007 (e.g. illegal entry, illegal migration, begging, etc).

The following table 11 on Malta and table 12 on Italy show the number of immigrants who arrived at the Italian coast (1998-2000), while the successive table shows their nationalities. It appears that starting from 2002, arrivals to Sicily Coast increased tremendously, due to the conversion of Libya into an en route point for irregular immigrants directed to Europe[55]. As table 13 shows, the composition of the flows also changed. Northern African immigrants are the most represented between 2001 and 2006, but the number of sub-Saharans increased.

Table 11. Migrants arrived at Malta's coasts

Year	2002	2003	2004	2005	2006	2007
Arrived Migrants	1,686	502	1,388	1,822	1,780	1,715

Source: Fortresseurope.blogspot.com (2002-2006), UNHCR (2007)

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[55] From the earlier 2000, the Italian-Tunisian co-operation in fighting irregular migration led to a shift of the irregular departure from Tunisia to the Libyan coasts.

Table 12. Migrants arrived at Italian Coasts (1998-2009)

Year	Apulia	Sicily	Calabria	Sardinia	Total
1998	28,458	8,828	873	n/a	38,159
1999	46,481	1,973	1,545	n/a	49,999
2000	18,990	2,782	5,045	n/a	26,817
2001	8,546	5,504	6,093	n/a	20,143
2002	3,372	18,225 Lampedusa 9,669	2,122	n/a	23,719
2003	137	14,017 Lampedusa 8,819	177	n/a	14,331
2004	18	13,594 Lampedusa 10,497	23	n/a	13,635
2005	9	22,824 Lampedusa 14,855	88	8	22,939
2006	243	21,400 Lampedusa 18,096	282	91	22,016
2007	n/a	16,585	n/a	n/a	20,455
2008		34,540 Lampedusa 31,252	n/a	n/a	36,951
2009	n/a	n/a	n/a	n/a	Over 6,000

Source: Coslovi 2007, Spagna e Italia nel tragico domino degli sbarchi. - Limes (Roma) n° 4, p. 227-236; Italian Minsitry of Interior

Table 13. Nationalities (declared) of apprehended immigrants that arrived at the Italian coasts

Year	2001	2002	2003	2004
Northern Africa (Morocco, Egypt, Libya, Algeria, Tunisia)	2,398 Morocco 1,199 Tunisia 607 Algeria 500 Egypt 92	4,017 Morocco 1,856 Tunisia 1,183 Algeria 716 Egypt 262	1,676 Morocco 812 Tunisia 577 Algeria 185 Egypt 102	/
Sub-Saharan Africa	769 Eritrea 322	5,833 Liberia 2,129 Sudan 1,351 Eritrea 1,071	5,927 Somalia 1,963 Eritrea 1,195 Liberia 1,159	/
Indian Sub-Continent (Bangladesh, Pakistan, India, Sri Lanka,) +Philippines + China	3,103 Sri Lanka 1,535	5,339 Sri Lanka 2,642 India 1,369 Pakistan 787	1,155 Pakistan 533 Sri Lanka 1	/

Year	2001	2002	2003	2004
Middle East (Lebanon, Turkey , Syria, Jordan, Palestine)+ Saudi Arabia +Iran +Yemen +Iraq	8,895 Iraq 4,913 Turkey 3,444 Palestine 538	6,916 Iraq 5,246	5,344 Palestine 3,420	
Former Yugoslavia, Balkans (Albania, Yugoslavia, Kossovo)	4,543 Albania 4,018	1,250 Albania 1,247	62 Albania 62	/
Unknown	43,5	36,4	167	/
Total	20,143	23,355	14,331	13,635

Year	2005	2006	2007[56]	2008[57]
Northern Africa (Morocco, Egypt, Libya, Algeria, Tunisia)	15,961 Egypt 10,288 Morocco 3,624	15,526 Morocco 8,146 Egypt 4,200	/	Egypt 551
Sub-Saharan Africa	5,644 Eritrea 1,974 Sudan 732 Ethiopia 718 Ivory Coast 511	5,454 Eritrea 2,959 Ghana 530 Nigeria 491 Etiopia 479	Somalia 892 Eritrea 3007	Somalia 2,556 Nigeria 1,859 Ghana 853 Burkina Faso 290 Ivory Coast 277 Eritrea 240
Indian Sub-Continent (Bangladesh, Pakistan, India, Sri Lanka,) +Philippines + China	1,164 Bangladesh 512 Pakistan 479	808 Bangladesh 361	/	/
Middle East (Lebanon, Turkey , Syria, Jordan, Palestine)+ Saudi Arabia +Iran +Yemen +Iraq	120 Sirya48	201 Lebanon 95, Iraq 50	/	/
Former Yugoslavia, Balkans (Albania, Yugoslavia, Kossovo)	19 Albania 19	9	/	/
Unknown	31	18	/	/
Total	22,939	22,016	/	36,951

Source: Coslovi 2007, Spagna e Italia nel tragico domino degli sbarchi. - Limes (Roma) n°4, p.227-236; Italian Minsitry of Interior

[56] Data on nationalities refers to July, 2007. (Source, Italian Ministry of Interior)
[57] Data on nationalities refers to 8 July, 2008 (Source, Italian Ministry of Interior)

By combining the available data, it is possible to deduct roughly the number of irregular outflows from Libya in the last six years. On the basis that all the migrants who disembarked at the Sicilian and Maltese coasts departed from Libya (which is not necessarily the case), we have a total of 125,211 immigrants. If we add the number of fatalities and dispersed people in the period 2002-2006 (i.e. 3,763 people), the number of migrants who attempted to cross the Mediterranean from the Libyan coast from 2002 until 2008 increases to 128,974. But this number only reflects part of the reality. As opposed to other South-European cases, in Sicily the number of apprehended migrants corresponds to the number of disembarkments. This is due to the method of disembarkment, which usually takes place in the high sea when the Italian coastguard rescues migrants.

On the other hand, these statistics do not take into account the fact that many migrants can be detained more than once[58]. As regards the nationalities, table 13 shows that, until 2006, most of the arriving migrants were from Northern African countries. As regards sub-Saharan countries, Eritreans, Somalis, Nigerians and Ghanaians are the most represented nationalities. It has to be also noted that the number of Eritreans decreased from 3,007 in 2007 to 240 in mid-2008. This could be related to the increase in arrests of Eritreans in Libya. This could also explain the increase of Eritrean migrants directed to Israel through Egypt in the last two years. The increase of other nationalities, such as Liberians, appears to be strictly linked to the internal situation of this country.

During May 2009, the outflow from Libya ceased almost completely and Libya started to accept migrants pushed back by Italy after interception at sea. The Libyan authorities stressed that an important smuggling network has been dismantled, and that this will lead to a decrease of departures.

Between 2006 and 2008, Europe received an increasing number of asylum applications, which increased from 227,100 to 289,800 respectively. A significant difference exists among the 15 old and the 12 new EU countries. There was an increased of around 9% of asylum claims among the old countries between 2006 and 2008, while the new countries registered a 15% drop in the same period. There is also a significant difference among the older EU countries. In southern Europe, more than 75,000 individuals applied for international protection in 2008 (+20%) with the largest number

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[58] Italian authorities indicated that some migrants are apprehended 2 or 3 times. See Sciacca, A. Gli «irriducibili» dello sbarco: via impronte e identità" Corriere della Sera, 15/01/2009.

being recorded in Italy[59] and Greece (31,200 and 19,900 claims). On the contrary, in the Nordic countries the number of claims dropped by 2%.

The increase in the number of asylum claims in the case of Italy can be realistically related to the number of disembarked people at the southern Italian coast in the same year. The most represented nationalities among the new claims were as follows: Nigeria (5,300), Somalia (4,500), Eritrea (2,700), and Afghanistan (2,000). With the exception of Afghanistan, the same nationalities were among the most declared nationalities of the disembarked people in 2007 and 2008 (see table 14). The same discourse seems to be applicable to Malta. Jointly with Cyprus, between 2004 and 2008, Malta received the highest number of asylum-seekers compared to their national population, respectively 38 and 18 applicants per 1,000 inhabitants. In the case of Malta, the increasing number of asylum claims from 1,000 in 2004 to 2,610 in 2008 can be also referred to the relevant role acquired by Libya in the geography of irregular migration through the Mediterranean.

More generally, referring to the 44 industrialized countries which provided monthly data to UNHCR[60], in 2006, 2007, and 2008 Africa was the second most important continent of origin of asylum seekers after Asia (30% and 45% of asylum applications respectively), as well as the only continent which experienced an increase in 2008 with more people from Eritrea, Nigeria, Somalia and Zimbabwe. In 2006, 2007, and 2008, taking in account the first 40 nationalities among the asylum claims registered in EU 27, sub-Saharan nationals represented 19.5%, 24% and 23% of the overall asylum claims (respectively).

Table 14. Asylum applications submitted by country of origin in EU 27

Country of Origin	2006	2007	2008
Iraq	19,375	38,117	27,607
Russian Federation	13,721	16,738	18,183
Somalia	**5,996**	**10,102**	**17,093**
Serbia (and Montenegro)[61]	13,662	13,348	12,633

[59] Comparing with 2007, in 2008 Italy almost doubled the figure of asylum applications (respectively 14,100 and 31.200)

[60] 27 European countries plus Albania, Bosnia and Herzegovina, Croatia, Iceland, Lichetnstein, Montenegro, Norway, Serbia, Switzerland, the former Yugoslav republic of Macedonia, Turkey, the Republic of Korea, Australia, Canada, Japan, New Zealand, the United States of America.

[61] Data of 2006 are referred to Serbia and Montenegro. Data referred to 2007 and 2008 are referred only to Serbia but may include citizens of Montenegro in the absence of separate statistics available for Serbia and Montenegro.

Country of Origin	2006	2007	2008
Pakistan	6,284	13,369	12,007
Afghanistan	7,612	8,321	13,497
Nigeria	**5,153**	**6,509**	**11,280**
Eritrea	**4,382**	**6,188**	**6,974**
Islamic Rep. of Iran	7,065	5,883	6,734
Turkey	7,427	6,220	6,299
Bangladesh	5,967	5,654	5,665
Sri Lanka	3,794	5,270	6,040
China	5,450	5,634	4,281
Syrian Arab Rep.	3,390	5,035	4,162
Georgia	3,164	3,725	4,849
Dem. Rep. of the Congo	**4,764**	**3,999**	**4,220**
Armenia	3,578	3,568	3,961
Zimbabwe	**3,808**	**2,496**	**4,646**
Côte d'Ivoire	**4,147**	**2,533**	**3,672**
Bulgaria	4,081	/	/
India	3,557	3,281	2,867
Algeria	2,704	2,618	3,133
Guinea	**4,470**	**2,301**	**3,209**
Mali	**/**	**975**	**3.415**
Viet Nam	4,265	2,415	1,758
Sudan	**2,590**	**2,009**	**2,068**
Ghana	**/**	**1,402**	**2,584**
Colombia	2,909	2,775	1,037
Bosnia and Hervegovina	1,320	/	/
Stateless	3,905	2,026	1,656
Lebanon	3,356	1,749	1,347
Azerbaijan	2,392	1,398	1,691
Cameroon	**3,543**	**1,319**	**1,620**
Romania	3,532	/	/
Mongolia	3,492	1,382	1,518
Rep. of Moldova	2,417	1,603	955
Haiti	1,850	/	/
Congo	**2,781**	**1,236**	**1,226**
Ethiopia	**/**	**1,184**	**1,277**
Albania	2,570	1,076	1,256
Occupied Palestinian Territory	/	1,419	888

Country of Origin	2006	2007	2008
Togo	/	770	1,379
Belarus	3,290	1,053	962
Angola	3,233	/	/
Ukraine	4,721	1,016	938

Source, UNHCR 2006 and 2008, "Asylum levels and trend in Industrialized countries" www.UNHCR.org

Due to the deteriorating situation in the country at that time, Somalia registered the highest increase in the number of asylum seekers, with more than a triplicate from 2005 to 2008. It is interesting to note that while in 2007 only 757 Somalis submitted their asylum claim in Italy and 585 in Malta, their number increased to respectively 4,473 and 1,081 in 2008. Similarly, the overall number of Nigerian asylum seekers in EU 27 had more than doubled, passing from 5,153 in 2005 to 11,280 in 2008. As in the case of Somalis, while in 2007 around 1/5 of Nigerians submitted their application in Italy, this proportion changed to more than 1/3 in 2008. The relevance acquired by Italy and, to a letter extent, in Malta as country of asylum for these nationalities witnessed the increased relevance of the Libyan gateway. In 2008, Italy had also lodged 30% of the overall number of applications submitted by Eritrean citizens in the 44 industrialized countries.

3.6. Conclusions and Future Perspectives

Following European diplomatic efforts, Libya strengthened controls on irregular migration inflows and outflows, particularly in terms of firmly clamping down on smuggling networks on its territory. This has had a strong effect on circular cross-border migration from Niger, Chad, and Sudan. The reintroduction of visas for citizens of Niger and Chad restricted their movements, while in the case of Sudan it has led to the closure of the relevant border section to prevent their legal entry into Libya. Moreover, as Perrin[62] 2009 pointed out, Libya concluded a network of agreement whit some neighbouring countries, in order to facilitate the repatriation procedures and fight against the illegal migration.

As regards irregular migration, co-operation with Italy will lead to a reinforcement of controls on the border of Algeria and Niger. As already

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[62] Perrin, D. 2009. La gestion des Frontières en Libye, CARIM Notes d'analyse et de synthèse, 2009/31

pointed out, Libya has taken measures to limit the presence of irregular migrants on its territory, through a process of regularization (2007) and an increase in the number of expulsions. During the months of April - August, 2009, Libya has proven its ability to slow down the departure to European coasts. Libyan authorities have dismantled, or at least frozen, some human smuggling networks and sent more irregular migrants to accommodation centres. Libya has said that it will continue to hinder departures by boat, and will return migrants, but in return it requests more than the EUR 20 million promised by EU Commissioner Ferrero Waldner on the occasion of the second round of negotiations for the signing of the EU-Libya Association Agreement. The Libyan Minister for European Affairs, Ramadan Bark, requested US$ 300 million per year, while in a recent statement Gaddafi asked for US$ one billion. These funds have yet to materialise.

The regularisation introduced by a Government Decree on 1 January, 2009 (see Chapter 8, on Labour Migration) allows employees holding a valid travel document (passport) with a job offer in Libya, to legalise their presence in the country and obtain a work permit for one year. The process of regularisation is a positive step, the basis of which may be conducive to a more coherent Libyan migration management system. It sets precedent to migrants in terms of acquiring rights and responsibilities on the one hand, and underlines a clear set of regulations to legalise their status, regardless of their initially irregular means of entry/stay.

Ultimately, the decline or rise in irregular migration to Libya will directly depend on the future commitment of Libya itself in curbing irregular departure and entry. Libya has always alternated measures of openness with measures of closing immigration from particular regions (Arab countries/sub-Saharan countries/Asia).

Moreover, the current regularisation process may not affect the subsistence of a significant number of irregular migrants: work permits will be issued only for one year, and most regularised migrants will probably fall back into irregularity when the permit expires. Secondly, the LYD 500 exit tax imposed on migrants leaving Libya voluntarily after the end of the regularisation process will probably produce a stratification of irregular presence. Thirdly, many migrants are unable to go back to their country of origin due to the length and danger of the journey by land[63].

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[63] This is not the case of neighbouring countries. Due to the worsening conditions of life in Libya, many Sudanese left the country at the beginning of 2009. In January 2009, the Sudanese

More information on Libyan labour shortage will be needed in order to understand to what extent Libya can renounce African workers. For example, the existing project for the building of infrastructures[64] and new small towns in the south that is intended to stabilise the nomadic population might depend upon a workforce of sub-Saharan immigrants. In this sense, the southern border will be a reliable test of the new direction of the Libyan migration policy. As Perrin suggests[65], the closure of the southern border which Libya is pursuing[66], also under European pressure, neither fits the economic and demographic need of Libya nor that of its neighbouring countries. New regional and bilateral agreements are needed - jointly with a harmonized legal and judicial norm related to entry, stay and labour conditions of migrants - in order to promote a more coherent and well managed migration policy among Libya and its neighbouring countries and to assure the protection for migrant workers. Outside of this general framework, each measure is likely to remain futile.

Expatriates' Office in Khartoum declared a Plan to voluntarily repatriate initially 5,000 Sudanese citizens from Libya. Total number registered pending repatriation is 17,000 people. See www.Mirayafm.org.

[64] Libya's national development plan focuses, among other things, on 50,000 housing units, 2.000 km. of road improvements, power and electricity projects, water and sewerage, construction of schools and hospitals, airports and ports construction, etc. See Libya's National development plan 2008 -2012

[65] Perrin 2009 op.cit.

[66] In October 2009, Finmeccanica, an aero-spatial group controlled by the Italian Ministry of Finances announced a EUR 300 million contract with Libya for a large Border Security and Control System. The first tranche of EUR 150 million has already started. Finmeccanica will provide all the typical functions of a C3 (Command, Control & Communication) system, such as command decision support tools, information processing, integration of data gathered by different sensors, the sensors themselves, and emergency management.

4. Accommodation/Reception

4.1. Introduction

Arrests are made by police authorities against undocumented foreigners entering and residing illegally in Libya. Asylum seekers and "mandate refugees," while in accommodation centres, are treated as any other migrant who irregularly entered, stayed or tried to escape from Libya and are, therefore, subject to legal provisions governing immigration and to bilateral agreements signed by Libya and the countries of origin of the people concerned.

At various points in time, Libyan authorities carried out arrests of undocumented migrants, including asylum seekers and refugees. According to several accounts by interviewed migrants, they can be detained in police stations, ordinary prisons (together with regular criminals), military bases, in tent camps in the desert or in one of the 18 accommodation centres around the country.[67]

Throughout the period of accommodation/reception, migrants have no access to a lawyer nor are they presented before judicial authorities. Non-Arabic speakers are not provided with interpretation facilities. Prisons and accommodation centre authorities allow the use of goodwill or the services of fellow detainees who are able to speak and understand Arabic.

Detainees can be set free by commanders (directors of accommodation centres) and Ministerial authorities, or sometimes following UNHCR and IOPCR interventions. An Eritrean asylum seeker interviewed in Tripoli claimed he could escape from the accommodation centre by breaking the door, during the night time, but other detainees were allowed to escape after they paid guards a bribe. The Libyan government has taken action to eradicate abuses by police officers, including corruption[68].

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[67] Human Rights Watch (2006) op.cit.
[68] Bribery is punishable under Law 2/1979.

During the visit to Tweisha accommodation centre on 6 June, 2009, accommodation/reception guards explained that they have very strict rules regarding the use of firearms: i.e. staff would risk imprisonment in the case of shooting a detainee.

According to an interview partner[69] "*police authorities arrest migrants trying to enter or exit illegally from Libya and bring them to accommodation centres. If, during the attempt of migrants to enter or exit Libya illegally, somebody is found dead or injured, the arrested migrants are placed in ordinary prisons where they remain for about one year and are fined LYD 1,000*." The same person can be transferred from an ordinary prison to another one, or to one or more accommodation centres despite their personal situation.

According to Libyan law, irregular migration is a crime punished with imprisonment. After having served their sentence of one year, on average, irregular migrants are transferred to accommodation centres and deported at a later stage. However, according to an interview partner[70], these legal provisions are only applied in case these migrants were survivors on a boat on which other migrants lost their lives.

According to the interviewed interlocutors in Libya, in addition to ordinary prisons there are 18 official accommodation centres. The official accommodation centres for illegal migrants and refugees are: ZWARA, SURMAN, AL JIMAYL, AL-ZAWYA, TWEISHA, GARABULI, GHARIYAN, BANI WALIB, ZLETIN, MISRATA, SIRT, AJDABYA, BENGHAZI, AL MARJ, SEBHA, AL QATROUN, AL KUFRA, SABRATA. Ten out of these 18 accommodation centres are located on the coast or nearby, most of which are not too far away from Tripoli, with the exception of Benghazi which is 1,000 km from the capital. The other accommodation centres are located in the desert or near the borders. Combined with the long distance from Tripoli, the fact that there are no UNHCR/IOPCR (or any other humanitarian organisations') offices located in those areas prevents asylum seekers and refugees from benefiting from the services that are provided in other centres near Tripoli.

Since 2006, UNHCR obtained limited access to different accommodation centres within the country, where irregular migrants and potential asylum-seekers are detained. In those centres, UNHCR was provided, upon request, access to screen detainees in order to determine whether they were in need of international protection.

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[69] Interview on 13 June, 2009.
[70] Interview on 7 June, 2009.

In August 2007, UNHCR was allowed for the first time to conduct refugee status determination interviews in Misrata accommodation centre. In the following years, UNHCR together with IOPCR managed to gradually gain increasing access to accommodation centres on *ad hoc* authorisation from the Directorate General for Passports Investigation. As of early 2009, ICMPD and CIR have gained access through IOPCR to various accommodation centres, as part of the collective efforts exerted under the framework of the above-mentioned quadripartite agreement. IOM, under a separate agreement with IOPCR, also has access to several accommodation centres in Libya.

The Director of the Garabuli accommodation centre explained that "*in case an asylum request is made the centre co-ordinates with IOPCR and in some cases they make exceptions and set them free. However there is no official procedure. The key task of accommodation centres is to implement Law 6/1987.*"

4.2. Accommodation/Reception Conditions

The assessment mission in June, 2009, which included visits to accommodation centres, revealed that the due to their limited resources it is a challenge for most centres to provide detainees with basic needs, such as a balanced diet, sanitary products, health service and adequate lodging. According to UNHCR *"The Director of Al-Zawya accommodation centre already asked to improve the accommodation/reception conditions. He asked to cover the soil with cement, to create more recreational spaces where people can take fresh air and benefit from the positive effect of the sun on their physical and mental condition. The requests made by the director are a clear indicator that little by little there is a growing awareness of the need to improve living conditions of detainees in the camp and this would be also beneficial to the management personnel themselves."*

Accommodation/reception personnel, including directors, IOPCR, and interviewed migrants all confirmed that there is a strong need for doctors in such centres. An interview partner[71] stated that "a *small number of doctors come to the centre through IOPCR. Currently there are no doctors."*

According to IOPCR and UNHCR, although there are, in fact, improvements in a few accommodation centres, the health services are largely insufficient

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[71] Interview on 9 June, 2009.

to adequately respond to the challenge of managing such a big number of detainees.

The Directorate General for Passports Investigation gave IOPCR[72] the task of furnishing the clinics at accommodation centres, which then would either obtain doctors from abroad on a permanent basis or facilitate medical care through IOPCR, as it is extremely difficult to recruit medical personnel locally. According to IOPCR, Medicins Sans Frontiéres (MSF) or doctors from India, Pakistan or Iraq who are presently living in Libya could be an option. When the expert mission visited Tweisha accommodation centre on 7 June, 2009, IOPCR's efforts to furnish the clinic were still at a very early stage. In the framework of the mentioned quadripartite project, the Libyan Ministry of Health has placed at the disposal of UNHCR and IOPCR an ambulance for medical checks to be carried out in some accommodation centres. In case medical personnel detect serious health problems, detainees are referred to the hospitals located the closest to the respective accommodation centres.[73]

Recently, the IOM office[74] in Libya has entered into a key partnership with three leading Libyan non-governmental organisations to provide humanitarian assistance to undocumented migrants in accommodation centres. This partnership with the World Islamic Call Society (WICS), IOPCR, and Al-Wafa has facilitated the provision of thousands of clothing items and some 30,000 units of medical supplies as well as disposable medical items. Until June 2009, IOM and its partners have provided non-food and medical assistance to about 500 migrants who are currently held in three accommodation centres around the capital Tripoli.

4.3. Accommodation/Reception Personnel

All interviewed Directors of accommodation centres pointed out the main problems of understaffing and difficult working conditions for accommodation/reception personnel in their centres due to long 24 hours shifts and lacking support during peak times, in which the number of detainees can exceed the capacity of the centres by far, as illustrated by an interview partner[75]:

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[72] Interview on 7 June, 2009.

[73] No mandatory HIV/AIDS testing is required for foreigners in detention.

[74] IOM Press Briefing Notes (12 June, 2009) Partnership with Libyan Civil Society Assist Detained Migrants.

[75] Interview on 7 June, 2009.

"*There are 852 detainees. The number goes up and down, but on average this centre accommodates about 300 people. Eight staff members are not enough as we have only one guard for 100 detainees. The presence should be eight at any given time, but sometimes it is less. The guards work in 24 hours shifts.*"

This problem of understaffing may lead to security concerns in the centres, as it is difficult for few staff to control the centre population. One example for security problems is the incident that was described by another interview partner[76] as follows: "*The centre was planned with a capacity of 150 detainees, but the number can reach 450 depending on the season. Presently there are 300 detainees and among them there are persons intercepted and sent back from the Italian authorities last May, 2009. The psychological condition of these people was very concerning. They broke toilets and attacked staff of the centre. There are four guards working in shifts of 24 hours. After one shift the officers can rest for two days. Even in times when they have more detainees, the number of staff is not increased. In case of emergency situations, we call swift units of the regular police*".

There is also a need for additional female personnel due to the fact that in accommodation centres there is a substantial number of women and children. This is particularly needed at Al-Zawya accommodation centre, where most detainees belong to these vulnerable groups. However, there seems to be little awareness among Directors of accommodation centres on this issue, as none of them explicitly mentioned a need for additional female staff. Only one of the accommodation centres had one female staff member out of the six officers at the centre.[77] This lack of female personnel is considered problematic, as the situation of general understaffing and the hence resulting lack of monitoring may open doors for inadequate and abusive treatment of female detainees. Another interview partner[78] stressed the need for female guards for the above mentioned reasons.

4.4. Registration of Migrants in Accommodation Centres

Registration usually takes place at the beginning of the deportation process, with the advisory and coordinated assistance of UNHCR, IOPCR, IOM, and increasingly through CIR and ICMPD. *"There is no finger-printing proce-*

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[76] Interview on 8 June, 2009.
[77] Interview on 9 June, 2009.
[78] Interview on 8 June, 2009.

dure in place at the accommodation centres, where registration of detainees is done manually" explained an interview partner,[79] adding that *"...it is a question of money."*

In principle, the registration process should take place upon the arrival of detainees, unless there is a huge number of new arrivals (which is commonly the case). The process is, therefore, often delayed until the end (namely, shortly before actual deportation). During registration, detainees give their particular details/information but no interviews on their personal situation takes place.

An interview partner[80] explained that upon registration *"[…] migrants often provide fake names and nationalities. Upon entry into the accommodation centre, staff take photos of detainees who have to fill out a form, one copy of which stays in the centre and the other one is sent to the respective embassy". The involvement of the* Directorate General for Passports Investigation *(central level) starts with the deportation procedure. A one way travel document is issued by the Verification and List Administration Unit within the* Directorate General for Passports Investigation*. Once the document is issued, the deportees are blacklisted and forbidden re-entry. In exceptional cases, the mentioned unit can lift the ban."*

Once registration ends, accommodation/reception authorities contact relevant embassies in order to verify whether there are suitable conditions for repatriation, a precaution taken in the event that detainees have no valid passports or identity documentation. When embassies recognise persons as their own nationals, they issue a laissez-passer and, depending on the financial resources, they provide payment for the air ticket[81]. However, some embassies do not co-operate with the Libyan authorities in the identification and repatriation process. Due to this lack of collaboration, a large number of foreigners end up being detained from a few months up to a few years.

Accommodation/reception authorities claimed that, for example, the Nigerian embassy is particularly reluctant to co-operate.[82] Nigerians interviewed in Garabuli accommodation centre confirmed that they would have liked to be repatriated but they did not even get the chance to meet

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[79] Interview on 11 June, 2009.
[80] Interview on 8 June, 2009.
[81] Repatriation to Somalia is impossible due to the lack of flights.
[82] Interview on 8 June, 2009.

the embassy personnel[83]. In the case of Gambians, on the other hand, there is no embassy based in Tripoli, therefore their queries and attempts to be repatriated are usually channelled to the Gambian community in Libya, as an alternative.

4.5. Accommodation Centres

All potential asylum seekers and persons of concern (PoC) detained in the several accommodation centres amount to some 1,000 in Tweisha, 400 in Garabuli, 400 in Zletin, 800 in Misrata, 150 in Zwara, 150 in Surman and 1,000 in Al-Zawya.

In the course of the project the following centres were visited; their detainees came mainly from Nigeria, Eritrea, Somalia, and Ethiopia:

4.5.1. Misrata accommodation centre:

Most foreigners sent back from the high seas by the Italian Authorities at the beginning of last May were transferred to Misrata, Tweisha and Al-Zawya accommodation centres. Misrata is located about 220 km east from Tripoli and has a maximum capacity of 700 detainees.

Women, children and men from Eritrea are living in this centre.

According to IOPCR[84], daily assistance, medical care, and potable water are provided to detainees. There is a clinic inside the centre where three doctors work on rotation, (1 from Libya, 1 from Ukraine and 1 from Iraq); there is also one nurse to provide primary health care and a gynaecologist. Almost all patients who require hospitalisation, surgery and specific treatment are referred to Misrata Hospital.

UNHCR, IOPCR, ICMPD, and CIR access this centre at least 5 times per month, but this frequency of visits can be increased depending on the specific situation and needs that arise. IOPCR has an office outside of the centre where UNHCR officers interview asylum seekers and refugees. Detainees are accompanied to the office by police, IOPCR or UNHCR staff. This is considered a great improvement since the interviews are conducted in an environment where both interviewers and interviewees are free of the pressure of being in a accommodation centre, allowing the person con-

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[83] Interview on 8 June, 2009.
[84] Interview on 13 June, 2009.

cerned to be more confident given that privacy is also ensured. However, given the huge number of cases to deal with, some interviews are still conducted in the accommodation centre, where rooms are put at the disposal of UNHCR and IOPCR staff.

No cases of sexual, gender based or domestic violence have been reported in 2008 in this centre according to UNHCR.

Education is provided according to the age of detainees. Arabic and English language classes are provided while, concerning vocational training, mechanical, electrical, and hairdressing courses and equipment could well be beneficial. Sports, such as football, ping-pong and Volleyball were also introduced in the framework of recreational activities together with satellite TV.

On the basis of requests by IOPCR and UNHCR, the Libyan authorities have agreed to release 10 detainees per week on humanitarian grounds from Misrata, in recognition of the search for durable solutions, such as a resettlement programme.

4.5.2. Al-Zawya accommodation centre:

The accommodation centre is located 60 km west from Tripoli. At the time of the mission's visit to this centre in June 2009, the Director explained that there were 748 detainees of 25 nationalities (mainly from the Horn of Africa and West Africa) and that the capacity of the centre had reached its maximum. There were men, women and children. Most detainees came from Nigeria (more than 400, half of them women), followed by Eritreans, Ethiopians, Somalis, Ghanaian. Eritreans were generally transferred to Misrata accommodation centre where Libyan authorities are centralising them. About 60 persons sent back from the Italian Authorities at the beginning of last May were in the centre during the mission visit. However, in October 2009 the number of detainees at Zawya accommodation centre had decreased to 180 migrants due to the fact that all men had been transferred to different centres in the course of its specialisation in women. Only 15 husbands of female detainees were kept in Al-Zawya. At the time of the assessment in October, Al-Zawya centre hosted 11 children.[85]

Concerning medical care, according to the Director of the centre, a small number of doctors are provided through IOPCR.

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[85] Information provided to the quadripartite partners by the Director of the Centre.

4.5.3. Garabuli accommodation centre:

This centre is located approximately 90 km south east of Tripoli and its capacity is 150 detainees according to the director of the centre. During the mission's visit there were 300 male detainees. The director refuses to have women and children in this centre, so there were only men, mostly from Nigeria, Ethiopia, Somalia, and few others from Egypt and Tunisia. At the time of the mission's visit the centre was overcrowded, with about 80 people living in each cell.

According to the director of Garabuli centre "*when the centre is overcrowded, detainees are transferred to Sebha accommodation centre. As Sebha is closer to the southern borders, people who will be deported by land are transferred there before deportation.*" He added that *"detainees are very young; they are between 15 and 30 years old. The length of stay depends on their status. Once detainees are documented they are deported within one week. The average accommodation/reception period is one year.*"

According to an interview partner, what is needed is: "*sanitation, humanitarian support, infrastructural improvements, offices, air conditioning, maintenance, medical care as well as training at administrative level on management of relations with migrants as guards have only a security background*[86]"

4.5.4. Tweisha accommodation centre:

This accommodation centre is near the airport of Tripoli. According to UNHCR officer in charge of registration, the capacity of this centre is of maximum 800 places, the biggest of the accommodation centres situated on the coast. It is considered a transit centre for people that have been previously detained and/or have to be transferred to other centres.[87]

During the mission's visit at this centre, an interviewee explained that there are 852 detainees in Tweisha centre; sometimes the number goes up to 950, although after May no more boats left because migrants were discouraged by the sent-back boat people. The centre still gets migrants from the South and from Benghazi. He added "*the main nationalities are separated as they would start fighting amongst each other. As irregular migrants have to register after the end of June we expect the number of detainees to increase afterwards.*" During an assessment mission in October 2009, the

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[86] Interview on 8 June, 2009.
[87] Interview on 7 June, 2009.

quadripartite partners were informed that Tweisha accommodation centre held some 400 migrants at that time.

4.5.5. Zletin accommodation centre:

This centre has a capacity of 200. There are men and women. Only women are allowed access to the courtyard. Foreigners coming from Nigeria, Niger, Mali and Eritreans are generally transferred to Misrata.

4.5.6. Ajdabya accommodation centre:

The capacity is 200 maximum. Detainees, including men, women and children, are from a number of different countries, including Bangladesh.

4.5.7. Surman accommodation centre:

This centre has a maximum capacity of 90 people. There are only men here, mostly from Somalia, Eritrea, Nigeria, and Mali.

They are provided with food items in addition to clothes, blankets, mattresses and the necessary hygienic items for women detainees.

UNHCR and its implementing partners (IPs), CIR, ICMPD, and IOPCR also assisted in providing those 430 persons who were sent back in May 2009 from Italy to Libya, with food items, medical, and other supplies.

The general health conditions are regularly monitored by doctors hired by UNHCR as well as the implementing partners.

4.6. Conclusions and Recommendations

- The establishment of separate facilities for detained migrants pending deportation on the one hand, and for asylum seekers on the other is recommended.
- Asylum seekers, as a matter of rule, should not be detained but accommodated in reception centres where freedom of movement should be ensured.
- Pending the establishment of accommodation centres for asylum seekers the following standards should be observed:
  - The living conditions in accommodation centres should be in line with all relevant human rights standards.
  - Accommodation/reception should be as short as possible.

- Vulnerable persons, such as unaccompanied minors, pregnant women and elderly and sick persons should not be detained and allowed admission to asylum procedures. They should instead be admitted to the Libyan territory and be accommodated in adequate reception centres.
- Steps should be taken to end all forms of arbitrary detention.
- Competent authorities should adopt and implement guidelines on the management of accommodation centres, ensuring respect for human dignity and the basic rights of arrested foreigners.
- Competent authorities should investigate abuses committed by accommodation/reception personnel towards migrants.
- UNHCR and specialised organisations should have access to all accommodation/reception facilities where refugees and migrants are held in order to assess the protection needs of detainees and to prevent *refoulement* from taking place.
- Legal counseling on asylum procedures should take place upon or soon after the arrival of asylum seekers. Information on asylum seekers' rights and duties, verbally or in writing, in a language the protection and asylum seeker can fully understand, must be ensured.
- Access to legal remedies should be ensured and obstacles to seeking redress should be removed.
- Free legal aid should be ensured.
- An adequate number of personnel to deal with asylum seekers should be guaranteed at accommodation centres.
- Accommodation centres should always be gender oriented by ensuring the presence of female staff able to address the specific needs of female detainees.
- Accommodation centre personnel should be trained on migration and asylum issues, including how to deal with migrants and other people in need of international protection.
- Health care services by specialized doctors should be provided.
- Qualified and skilled care staff should be present to deal with vulnerable persons, including unaccompanied minors, torture victims or victims of violence.
- An adequate number of qualified interpreters should ensure proper interpretation.
- Detainees should be allowed to meet visitors.
- Access to telephone and internet should be provided.

5. Asylum and Refugees

5.1. Introduction

This chapter analyses the existing national and international legal instruments of Libya relating to refugees and asylum seekers and how the gaps in the protection system affect the life of the refugee community in Libya. It further provides recommendations for those in need of international protection in Libya and for durable solutions for them.

Since around 2000, Libya has increasingly become a gateway from Africa to Europe, since Turkey and the Balkan countries have tightened their border controls. Thanks to its long coastline and proximity to southern Italy and to Malta, Libya is used by migrants as a temporary stop along the way to reach their final destination in Europe. Among these people there are asylum seekers as well as refugees recognised by first asylum countries.

One of the main protection gaps faced by refugees in Libya is the lack of distinction in the national immigration legislation between irregular migrants and refugees. Without regard to their special protection needs, undocumented asylum seekers and refugees run the risk of financial penalties and criminal prosecution for unauthorised entry, departure and irregular presence in the country, and consequently of expulsion and a re-entry ban.

Migrants have reported arbitrary arrests to UNHCR, mainly at or near the borders, and also during urban sweeps. They are invariably not informed about the duration of their accommodation/reception period, an omission which they see as a way to pressure them to return.[88]

Among these detainees there are also "mandate refugees" recognised by UNHCR, or refugees recognised under the 1951 Geneva Convention relating to the Status of Refugees by the authorities of other states.

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[88] Based on interviews with migrants during ICMPD's 3rd assessment mission to Libya.

An issue that raises particular concern to the UN and international organisations as well as the European human rights organs relates to the recent push-backs of irregular migrants to Libya seized by Italy in international waters. According to UNHCR[89] at least 900 persons were pushed back as of June 2009, mainly to Libya, while trying to reach Italy. At the beginning of May 2009, over 500 migrants, including pregnant women and children, were intercepted by the Italian coastguard and forcibly returned to Libya without any assessment of their need for protection. Upon their arrival in Libya, these people were transferred to accommodation centres, where they run the risk of being deported back to their countries of origin. Most of these migrants have been transferred in Zuwara, Garabuli, Tweisha and Al-Zawya accommodation centres.

The UNHCR office in Tripoli was approached by 600 asylum seekers and refugees at the end of May, in addition to around 400 migrants at the beginning of June, mainly from Somalia and Eritrea, who cannot return to their countries of origin because their lives would be at risk and are now stuck in Libya with no prospect of local integration.

Although some improvements have been noted in Libya, there is still a need for a sharing of responsibilities from the Libyan authorities, EU Institutions, EU Members States, destination and transit countries, as well as the countries of origin.

5.2. Asylum – Legislative Framework

5.2.1. International Asylum Law

Libya has ratified all core international human rights treaties but has signed neither the 1951 Geneva Convention relating to the Status of Refugees (hereafter the UN Refugee Convention) nor its 1967 Protocol. These key legal instruments define who is a refugee[90], set out refugee rights - merely

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[89] United Nations High Commissioner for Refugees (UNHCR) (14 July, 2009) l'UNHCR incontra i richiedenti asilo respinti in Libia. Press release.

[90] According to article 1(2) a refugee is a person who *"[….] owing to a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it".*

ensuring physical safety - and stipulate the legal obligations of States towards refugees.

Refugees should have access to a durable solution; either local integration in their country of asylum, resettlement in another country, or voluntary repatriation to their country of origin.

While the UN Refugee Convention remains the basic and universal instrument of international refugee protection, it has been complemented by regional instruments pertaining to refugee issues. Of relevance to the Libyan context is the 1969 Organization of African Unity (OAU) Convention on the Specific Aspects of Refugee Problems in Africa (hereafter OAU Refugee Convention) to which Libya is a State Party.

Libya ratified this Convention on 25 April, 1981 without any reservation, although no national implementing legislation has since been adopted.

It should be recalled that the OAU [now the African Union (AU)] Refugee Convention incorporates the definition of a refugee contained in the UN Refugee Convention and further expands it to include people fleeing their countries of origin *"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"*.

Furthermore, the OAU Refugee Convention calls on signatories to accede to the UN Refugee Convention and its Protocol. Article 1 (6) of this Convention places responsibility on the Contracting State to determine whether an applicant is a refugee, although in practice this responsibility is often executed with the assistance of UNHCR.

Article 2 (1) of the OUA Refugee Convention speaks of Contracting States using *"their best endeavours, consistent with their respective legislation […]"* to secure asylum of refugees on their territory.

On the regional level, Libya was among the States that adopted the 1981 African Charter on Human and People's Rights (Banjul Charter) foreseeing a wide range of fundamental human rights contained therein, including "when persecuted, to seek and obtain asylum in other countries", the right to be expelled from a State only by virtue of a decision taken in accordance with the law, and the prohibition against mass expulsion of non-nationals *"aimed at national, racial, ethnic or religious groups"*.

Article 8 of the OAU Refugee Convention requires contracting States to co-operate with UNHCR and describes itself as the "effective regional com-

plement" to the UN Refugee Convention. On the other hand, the OAU Refugee Convention does not contain any article that gives UNHCR a supervisory role in relation to the instrument, as in article 35 of the UN Refugee Convention.

This role is, to some extent, given to the OUA Secretariat (now A.U.), which is supposed to receive information and statistical data relating to the condition of refugees in each contracting State.

In addition, Libya is a member of the Arab League, which reached an agreement with UNHCR on 27 July, 2000, concerning co-operation and consultation, including exchange of information and data.

Asylum seekers in Libya who meet the criteria of the UNHCR Statute are recognised as "mandate refugees", given that Libya has neither ratified the UN Refugee Convention nor its Protocol and that UNHCR is the only body to conduct the refugee status determination procedure.

5.2.2. Principle of *non-refoulement*

One of the most fundamental principles regarding the protection of refugees, established in the UN Refugee Convention, is the principle of *non-refoulement*, a principle widely accepted under international customary law as binding on all States, regardless of whether or not they are party to the UN Refugee Convention.

Article 33 prohibits the return of anyone to a country "*where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.*"

Article 2 (3) of the OUA Refugee Convention also prohibits "*measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in article 1, paragraph 1 and 2*".

Libya has ratified the International Covenant on Civil and Political Rights (ICCPR) in 1976 and the ICCPR's first Optional Protocol in 1989 which prohibits arbitrary expulsion and entitles every foreigner to an individual decision on his or her removal or expulsion (article 13).

Libya has also ratified the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter CAT) on 16 May, 1989. Article 3 of this Convention prohibits *refoulement* by stating that "*No State party shall expel, return (refouler) or extradite a person to an-*

other State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

The 1969 Libyan Green Charter and Libyan National Law 20/1991 issued by the General Peoples' Congress (Parliament), makes, in article 21, an explicit reference to the principle of *non-refoulement* and international conventions related to basic human rights. "*Article 21 Great Jamahiriya provides shelter for oppressed people and those struggling for freedom. It is prohibited to extradite to any destination refugees seeking safety in Jamahiriya*".

However, Libya only refrained from returning unauthorised asylum seekers and refugees on a *de facto* or *ad hoc* basis and not out of any recognised compliance with an enforceable legal obligation.

Although Libya refrains from deporting Somalis and Eritreans, the irregular legal status of asylum seekers and refugees has a significant impact on their sense of security, due to the constant risk of arbitrary arrest, apprehension and deportation to their home countries. This sense of insecurity is further exacerbated by the push-backs to Libya being carried out by the Italian Authorities since the beginning of May 2009.

5.2.3. Libyan Law

The absence of domestic asylum regimes is one of the principal characteristics of refugee protection in the Maghreb and Mashreq region[91], where asylum seekers and refugees are not distinguished from other migrants residing in the country, all of whom fall under the generalised category of "economic migrants". Libya has not developed its own national asylum legislation nor does it have administrative structures in place to deal with refugees and asylum seekers who, consequently, are not accorded special treatment.

On 11 December, 1969, Libya adopted a Constitutional Proclamation, intended as a provisional measure until a permanent Constitution could be adopted. At the time of writing, Libya still has no unified Constitution, but instead is governed by the Proclamation and a series of fundamental laws deemed to have constitutional weight. These laws are:

- the Declaration of the People's Authority, adopted on 2 March, 1977, which does not directly address human rights

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[91] Hilal, Leila and Samy, Shahira (December 2008) Asylum and Migration in the Mashreq. Euro – Mediterranean Human Rights Network, web site: www.euromedrights.net

- The Great Green Charter for Human Rights of the Jamahiriya Era, adopted in June 1988.
- Law 2, On Enhancing Freedom, adopted in 1991.

According to article 11 of the Libyan Constitutional Proclamation, which entered into force in 1969 *"the extradition of political refugees is prohibited"*. However, Libya has not adopted regulations or administrative measures to make this right functional and accessible to asylum seekers. Libya has granted asylum to a handful of high-level cases over the years, as in the case of the former Ugandan leader Idi Amin who fled to Libya in 1979 where he stayed two years before moving to Saudi Arabia, dying there in 2003.[92] It appears that this was a political decision rather than the application of legal provisions.

Relevant to human rights is the Great Green Charter, which *inter alia* prohibits any punishment that *"would violate the dignity and the integrity of a human being"* (article 2). In addition, article 17 states; "*The members of the society of the Jamahiriya reject any discrimination between human beings on ground of their colour, sex, religion or culture"*.

Law 20/1991 - On Endorsement of Freedom - makes an explicit reference to the principle of *non-refoulement*. Article 21 of this Law states that "*Great Jamahiriya provides shelter for oppressed people and those struggling for freedom. It is prohibited to extradite to any destination refugees seeking safety in Jamahiriya"*.

Beyond these provisions, there is no asylum legislation providing access for refugees to the Libyan territory or governing their stay in Libya.

Asylum seekers, in fact, are subject to a series of laws broadly relating to domestic legislation regulating the entry, stay and departure of foreigners. Possible penalties often include detention and expulsion, and thereby put refugees at risk of being returned to a country where their life or freedom would be threatened.

Draft Asylum Law

On 6 May, 2006, the General People's Committee for General Justice (Ministry of Justice) issued Decision 79, to form a High Committee for drafting a national asylum legislation including the asylum and migration nexus. In

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[92] Human Rights Watch (2006) Stemming the Flow: Abuses Against Migrants, Asylum Seekers and Refugees.

2007, the mission signed a partnership agreement with the head of the National Legal Committee (NLC), which provided technical and legal assistance for drafting the legislation. In 2008, the NLC drafted the national asylum legislation and shared it with both UNHCR Tripoli and UNHCR Headquarters in Geneva, which provided technical legal support. The draft was then forwarded to the committee for amendments. The draft was finalised and should be submitted to the General People's Committee for General Justice (Ministry of Justice) for review.

According to the draft Asylum Law[93], the future law will implement the UN Refugee Convention and its Protocol, set up a procedure for granting refugee status; a Committee will be constituted for this express purpose. The rights and obligations of refugees will also be regulated and a specific agreement between the Libyan authorities and UNHCR will be signed on the basis of which UNHCR will work in close co-operation with the competent authorities.

Currently, due to the lack of specific regulations related to asylum seekers and refugees, legal immigration provisions apply to those people in need of international protection.

Arrest, detention and expulsion

As already mentioned, Libya is a party to the International Covenant on Civil and Political Rights, article 9 of which states that *"No one shall be subjected to arbitrary arrest or detention [or] be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law"*. Detention is considered "arbitrary" if it is not authorised by law or in accordance with law. It is also arbitrary when it is random, capricious, or not accompanied by fair procedures for legal review.

According to article 17 of the Libyan Law 6, an alien can be deported if a judicial decision is issued or on the basis of a substantiated decision of the General Director of Immigration and Citizenship. Only in a few cases has deportation taken place on the basis of a judicial decision[94].

Article 18 of Law 6 is of particular importance, as it sets out the deportation procedure of foreigners and the competent administrative authority.

The Directorate General for Passports Investigation as the right to restrict a foreigner who is to be expelled to a certain area of residence or to instruct

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[93] Interview, 11 June, 2009.
[94] Ibid.

him/her to visit the nearest security location on certain dates. He is also allowed to detain him/her until the completion of expulsion arrangements.

This provision foresees also a re-entry ban. In fact, "*[t]he one way travel document is issued by the Verification and List Administration Unit within the* Directorate General for Passports Investigation. *Once the document is issued, the deportees are blacklisted and forbidden re-entry. In exceptional cases the mentioned unit can lift the ban. Migrants are also blacklisted in case of voluntary return*"[95].

According to an interview partner[96], there is no legal provision limiting the accommodation/reception period. The length of stay in accommodation centres depends on the Directorate General for Passports Investigation on a case by case basis.

On 8 August, 2004, a Committee in the General People's Committee for Public Security issued Guidelines to protect the life and property of arrested foreigners; although it remains unclear to what extent they are implemented.

Decision 67/2004 of the Secretary of Public Security accompanying these guidelines calls for the formation of a committee to monitor the arrests, detentions and deportations of unauthorised migrants. Article 5 of this decision requires the Committee to consider *"the special constraints relating to human rights that guarantee the safety of people and property of illegal immigrants"*[97].

According to Law 4/181 for the establishment of the Peoples' Legal Council every migrant is entitled to legal representation to which every irregular migrant has access free of charge or, if they have money, for LYD 30 or LYD 40 (i.e. ca. EUR 17 to 22). In this regards Libyans and foreigners are treated equally. However, in its capacity the Directorate General for Passports Investigation can make exceptions, for instance, in case of foreigners who entered Libya illegally and lack documentation[98].

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[95] Interview, 8 June, 2009.
[96] Interview, 11 June, 2009.
[97] Human Rights Watch (2006), op.cit.
[98] Interview, 11 June, 2009.

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5.3. Statistical Data

The relevant constituent of the population registered with UNHCR Libya is mainly comprised of urban asylum seekers and refugees from Palestine[99], Sudan, Iraq, Eritrea, Somalia, Chad and other neighbouring Arab and African countries. With the exception of a noticeable increase in the number of asylum seekers from Eritrea, no significant change has taken place in the trend of asylum applications and in the nationalities of asylum seekers approaching the UNHCR office since 2006.

Refugees: At the end of June 2009, the refugee population consisted of 8,171 Refugees, composed of 4,446 males and 3,725 females. They originated from 21 different countries, including Palestine (3,446) Iraq (2,587), Sudan (741), Somalia (593), Eritrea (417) and others (387).

Table 15. Number of refugees by country of origin

Country of Origin	Number
Palestine	3,446
Iraq	2,587
Sudan	741
Somalia	593
Eritrea	417
Others	387
Total	8,171

Table 16. Number of refugees by age group

Age group	Males	Females
0-4	221	202
5-11	541	412
12-17	533	523
18-59	2,882	2,403
60+)	359	185
Total	4446	3,725

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[99] In August 1995, the Libyan government ordered the expulsion of some 30,000 Palestinians to Palestinian self-ruled areas in the West Bank and the Gaza Strip to protest against the Declaration of Principles (Oslo agreement) between the Palestine Liberation Organisation and Israel. On this occasion the Libyan government requested UNHCR to assist about 1,000 Palestinian refugees stranded in a desert camp in Libya near the Egyptian border. This is the reason why Palestinians make up the largest group of refugees registered with the UNHCR Tripoli office today. Palestinians are considered "prima facie" refugees, together with Iraqis by UNHCR. The prima facie recognition for Iraqis and Palestinians is according to UNHCR internal policy.

Asylum-seekers: At the end of June 2009, the asylum-seekers population consisted of 1886 asylum seekers registered in the UNHCR Office, 1,314 of who were males and 572 females. The asylum-seekers originated from 21 different countries, including Sudan (478), Eritrea (604 out of which 300 are detained), Iraq (300), Chad (249), Somalia (139), and other countries (116).

Table 17. Number of asylum seekers by country of origin

Country of Origin	Number
Eritrea	604
Sudan	478
Iraq	300
Chad	249
Somalia	139
Others	116
Total	1886

Table 18. Number of asylum seekers by age group

Age group	Males	Females
0-4	48	51
5-11	67	88
12-17	91	76
18-59	1079	350
60+)	29	7
Total	1314	572

As of June 2009, UNHCR processed a total of 2,887 asylum seekers and reduced the backlog of 2008 of 4,773 to 1886 asylum seekers. In 2008, 4,773 individuals registered with UNHCR in Tripoli, which represents an average of 400 per month. This is a double increase compared to 2007 where 2,777 individuals were registered. UNHCR processed a total of 1896 cases in 2008 compared to 516 cases in 2007.

The majority of the caseload is comprised of Palestinians and Iraqis. Palestinian refugees in Libya are outside UNRWA's area of operation (mandate); therefore, they fall under the protection of UNHCR's mandate. Accordingly, they have been recognized by UNHCR on a prima facie basis since 1991.

In addition to the data on asylum seekers and refugees mentioned above, the following table gives data on accommodation centres collected during an in-depth interview with UNHCR Libya. However, no information on the percentage of asylum seekers and refugees arising from this data is available.

Table 19. Accommodation centres in Libya, additional information

Centre	Capacity –	Sex	Main Nationalities	Number of Detainees (6-14 June, 2009)
Zawya	60	f/m	288 Eritrean men, 275 Nigerians and, among other nationalities, several Ethiopians and Somalis have been displaced to other centres. The centre hosts 60 migrants rejected by Italian authorities.	748
Al Garabuli	150 (director of the centre) 200/300 (UNHCR)	m	Mainly Nigerian, 60 of who were rejected by Italy in May 2009 and later transferred to Al-Murgub and Tripoli. Other nationalities include Ivorian, Burkinabe, Ethiopian, Sierra Leonean, Somali, Malian, Nigerien, Bangladeshi, Angolan, Moroccan, Senegalese, Eritrean, Chadian, Sudanese and Cameroonian.	300; at certain times even up to 450
Zletin	200/300		Somalis	
Surman	100		Nigerians	
Benghazi	-		-	-
Misrata	600/700		Eritrea	
Tweisha	700/800	f/m	Nigerians (around 300) Ethiopians, Tunisians, Egyptians, Eritrean, Gambians, Somalis, Algerians, Ghanaians, and around 40 Bangladeshis	852

(Table prepared by Lorenzo Coslovi, CeSPI)

5.4. Relevant Activities in Libya

5.4.1. Office of the United Nations High Commissioner for Refugees (UNHCR)

Libya and UNHCR have never concluded a co-operative agreement - a Memorandum of Understanding (MoU) - according to which the Libyan Government would officially recognise the presence of UNHCR in the country, despite the intervention of the European Commission. Nevertheless, the relationship between UNHCR and Libyan authorities have signifi-

cantly improved over the past years and, according to the draft asylum law, UNHCR will play a fundamental role, together with the Libyan authorities, in the future Libyan asylum system.

The UNHCR office opened in Tripoli in 1991 when the Libyan government accepted some 300 Somali refugees whom UNHCR had resettled from Saudi Arabia during the first Gulf War. The Libyan authorities then invited UNHCR to manage a Somali refugee camp on Kennedy Street in Tripoli. After being moved to Salah al-Din for better protection and control, the refugee camp was closed for security problems. Today, the UNHCR office is based in Tripoli and its activities are carried out by 20 staff members (2 internationals, 18 nationals) and 7 UNV nationals.

The main activities of the UNHCR office in Tripoli are as follows:

A. Advocacy and Capacity building activities

Despite the lack of a formal co-operation agreement, UNHCR continues to communicate regularly with the government to lobby and advocate the promotion of a national asylum law, providing technical and legal expertise.

B. The Refugee Status Determination (RSD) procedure

In the absence of a national asylum framework, UNHCR is the only body to conduct full Refugee Status Determination (hereafter RSD) in Libya.

Access to UNHCR

UNHCR has one site office in Tripoli that makes it impossible for many asylum seekers who live in rural areas or far away cities to approach UNHCR Office. The caseload is mainly urban refugees due to the difficulties to reach all eligible cases for registration.

RSD may be conducted in the UNHCR Office in Tripoli or in accommodation centres by protection and registration staff including a senior legal officer who is the supervisor of the protection division.

Registration and RSD procedure in Tripoli:

UNHCR office is open for the public three days a week. The registration team will receive new registration requests on Sunday, Monday and Tuesdays from 9:00 to 13:00 on a 'first come first served' basis. Registration staff provide new arrivals with a copy of the information leaflet for asylum seekers and refugees in Libya and read/translate/explain the information

contained therein to new applicants whenever is necessary. At all times, registration staff are available to respond to applicant's queries regarding the procedure.

UNHCR reception and registration staff identify individual with special needs and if the persons concerned are considered vulnerable their asylum applications are processed with priority. In addition, their vulnerability will be assessed and addressed in case they are in need of medical or financial assistance they will be referred to UNHCR implementing partner for further assistance.

Procedures for Referral for Medical Examination and Treatment

Applicants who are found to be seriously ill or traumatized should be referred to the Implementing Partner Al Wafaa for medical examination and treatment. (For specific procedures on medical referral of victims of torture, see section below). On an exceptional basis, this referral can be made after registration or first instance interview.

Should it be necessary, one-time emergency assistance may be provided. In both cases, eligibility staff fills in an assistance referral form and submit it to the RSD Supervisor for approval. Whenever possible, a UNHCR staff member accompanies the applicant to Al Wafaa. If not, the referring officer give clear directions on how to reach Al Wafaa and hand over the referral form to the applicant in a sealed envelope addressed to the Al Wafaa Project Manager.

The referring officer includes a copy of the referral form in the applicant's file. Eligibility staff then follows up by sending the form via email to Al Wafaa Project Manager.

Assistance to Unaccompanied Minors

The RSD Supervisor designates a focal point for minors. As soon as an unaccompanied minor is identified, the designated focal point for minors should be informed. As soon as possible, the focal point for minors undertakes a counselling interview to explore concrete needs of the minor and fill in the Registration Form for Unaccompanied Minors. After filling in of the registration form, the focal point for minors liaises with the implementing partner Al Wafaa to ensure suitable placement for the applicant. A Best Interest Determination is undertaken (in line with UNHCR BID guidelines) prior to any decision affecting the applicant. If necessary,

the protection focal point for minors will identify a guardian to be appointed as soon as possible.

If necessary, the focal point for minors will liaise with specialized agencies for the initiation of family tracing procedures. Once basic support has been provided, the protection focal point should schedule an RSD interview with the minor depending on his-her needs. Minor applicants should also be prioritized with regards to scheduling and interviewed by the focal point for minors or adequately trained eligibility staff.

Priority RSD Scheduling for Vulnerable Cases

Applicants who are identified as vulnerable cases will be given priority at all stages of the RSD Procedure and processed in an accelerated manner. Depending on the degree of vulnerability, the first instance RSD interview should be scheduled within a maximum of four weeks. Moreover, applicants with special needs should only be referred to adequately trained eligibility staff.

Information leaflets and office working hours are posted in Arabic, English and French outside the UNHCR premises and within the reception area.

Pre-registration: takes place 3 days a week from Sunday to Tuesday. The procedure entails the scheduling registration interviews and the issuance of appointments for the registration of asylum seekers with the UNHCR.

Registration is conducted 5 days per week at a minimum rate of 12 cases per day. In 2009, registration interviews took place on an average of 3 weeks following pre-registration. At the end of the registration, asylum seekers are issued with Asylum Seeker Certificate valid for 6 months and given an appointment for RSD interview with RSD eligibility staff. In 2009, the average waiting time was of 2 months between registration ant the first instance RSD interview.

An asylum seeker interviewed in Tripoli[100] showed a certificate issued by UNHCR valid for one year. "*I was informed by some friends of UNHCR activities in Tripoli. After having filled in a form I was told to come back on the 8th of April for registration. On the 27th of April I received 100 dinars and the asylum seeker certificate valid from 27th of April 2009 till 26th of April 2010. I don't know when I will be interviewed by the* legal officers yet."

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[100] Interview on June 10, 2009.

First instance interview and decision: This interview is conducted by 5 eligibility officers who make 3-4 interviews per day Eligibility officers are responsible for timely assessing every case within 3 or 4 weeks from the interview. Exceptionally, the assessment might be delayed in the following circumstances:

- Cases for which additional country of origin information is needed might be pending until a reply is received
- Those cases that require a specific analysis (such as exclusion cases) or are otherwise particularly complicated.
- Cases that require a complementary interview

Appeal: The denied asylum seeker can make an appeal within one month from the notification of the negative decision by filling a written appeal form. The written appeal application must contain new elements and additional information to those already given during the first instance interview.

The appeal decisions are taken by UNHCR officers - who are not involved in the first instance decision - on the basis of documentation provided by the appellant or, if necessary, on one or more interviews. The first instance decision is upheld when there are no new elements provided or when these ones are considered not pertinent to the RSD procedure.

RSD procedure in accommodation centres

UNHCR is allowed to conduct RSD interviews in accommodation centres whenever is required and allowed by the Libyan authorities. UNHCR works closely with its implementing partner IOPCR that facilitates the access to accommodation centres and assist UNHCR in identifying detecting the persons of UNHCR's concern in Libya accommodation centres.

UNHCR registration and screening interview: Three UNHCR protection staff are responsible for screening and identifying persons of concern to UNHCR in accommodation centres. Through the screening interview the UNHCR protection staff can identify if the person is an asylum seeker or a recognised refugee in other countries before his/her entry in Libya and his/her specific needs to be addressed for material assistance. Once persons of concerns are identified, UNHCR staff would take persons photos and register them in mobile computers. UNHCR registration forms are distributed and are filled in with the relevant information of the detainee.

Once all new applicants have been registered, the registration clerk will migrate the information into the Office ProGres server without changing

the instance number. On the basis of the data provided at registration, the Head of the Protection Unit would organize regular RSD missions to identified accommodation centres. Priority will be given to the assessment of cases pursued by applicants who are particularly vulnerable or those who have been in accommodation centres for a longer period of time.

Before every mission, the Head of the Protection Unit should prepare a detailed list of targeted cases. While the list should generally be observed, the RSD team deployed to the accommodation centre should take a flexible approach in processing requests submitted on spot taking into account the vulnerability of asylum seekers in accommodation centres.

The Head of the Protection Unit and the RSD team deployed to the accommodation centre should take every possible measure to ensure that interview conditions preserve, to the greatest extent possible, the applicants' right to confidentiality in the RSD procedures. The Head of the Protection Unit and the RSD team deployed to the accommodation centre also ensure the identification of adequate interpreters who should be requested to sign the undertaking of confidentiality and receive training on UNHCR code of conduct.

Once the RSD interviews were finalized the assessment and decision will be processed in the office.

Appeal: Denied asylum seekers have also the possibility to make an appeal within one month in written form on the basis of new relevant elements or documents not provided in the first instance interviews. The appeal interview is taken by UNHCR protection staff who was not involved in the first instance phase on the basis of provision of new information or documentation that were presented in the first instance interviews.

According to the UNHCR staff in charge for registration and screening procedure in accommodation centres "*UNHCR doesn't issue any certificate to asylum seekers and refugees in detention.*"

Access to accommodation centres

UNHCR through the partnership with (IOPCR) was able to improve the general protection space and welfare of refugees and asylum seekers in the country. Currently, UNHCR has access to intervene and to provide, protection, medical and humanitarian assistance to detainees in Misrata and other accommodation centres. UNHCR is allowed to conduct RSD/RRFs interviews in detention whenever is required. The authorities in good faith

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with UNHCR have agreed to release 10 detainees per week from Misrata in recognition, and exchange, of the continuation of UNHCR durable solutions program. Although the authorities agreed to release detainees in regular bases but the release is still not automatic.

UNHCR will continue to work closely with its implementing partner IOPCR in having access to accommodation centres and granting legal and material assistance to the most vulnerable cases and people of concern to UNHCR in Libya accommodation centres.

C. Resettlement

Since 2004, UNHCR co-ordinates a resettlement program in Libya. The majority of cases for resettlement are selected in accommodation centres, primarily in Misrata.

Refugee status recognized under the UNHCR mandate is the pre-requisite for resettlement. The duration of the resettlement process is from three months to one year, depending on the individual case. UNHCR co-ordinates the resettlement process with the Regional resettlement hub in Beirut, which reviews and processes the cases before final submission to the potential resettlement countries for acceptance. Once a refugee is accepted, UNHCR co-ordinates with the ICRC office in Tunisia to issue the travel documents. As soon as they provide assistance in obtaining travel documents, UNHCR co-ordinates with IOPCR and the Libyan authorities to obtain the exit visas. UNHCR also co-ordinates with IOM regarding travel arrangements. UNHCR, IOPCR and IOM escort the refugees to airports.

In the event that a candidate is rejected his or her case may be sent to another potential resettlement country.

The majority of refugees and asylum seekers are resettled in Italy, Spain, Netherlands, Sweden, Canada and Norway, and some of them are processed through the Romania Transit Centre. The majority of resettlement candidates are from Eritrea and only since May 2009 have vulnerable Iraqi cases been considered for resettlement.

The Number of refugees who were resettled with UNHCR's assistance from Libya in 2007, 2008 and 2009:

In 2007: 43 cases (40 Italy, 1 Canada, 1 Sweden, 1 Netherlands)

In 2008: 215 cases were submitted to the hub, 159 of which were resettled in the following countries: 30 to Italy, 23 to Canada, 20 to the Netherlands,

38 to Sweden, 38 to Romania, 5 to Ireland, 4 to Switzerland, and 1 to Norway). 82 refugees are still with the hub pending acceptance by Italy.

During 2009: 193 refugees were referred to the hub. Out of these, 92 refugees submitted by the hub to the US were mainly Iraqis and Eritreans. 11 refugees have been submitted by the hub during 2009 to different countries (5 refugees to be submitted to Switzerland. Pending acceptance, 1 person submitted to Portugal. Pending acceptance, 2 persons accepted by Sweden. Pending departure, 3 persons accepted by Finland, pending departure).

D. Assisted Voluntary Return

200 asylum seekers and refugees were voluntarily repatriated to Sudan during 2007. 300 asylum seekers and refugees were repatriated to Sudan in 2008 with the assistance of UNHCR and IOPCR. None of these were from the Darfur area.

UNHCR also directly assisted Iraqi refugees to repatriate safely to Iraq during 2007 (46 refugees), 2008 (57 refugees) and in 2009 49 refugees). The total number of 152 Iraqi refugees registered with the UNHCR office in Tripoli and were assisted during 2007, 2008 and, as of June 2009, provided with transportation to return in safety and dignity to their countries of origin. In addition, the office assisted refugees released from accommodation centres with transportation to their places of origin in Libya. During the reporting period, some 370 refugees and asylum seekers benefited from this assistance.

The repatriation movements are limited due to the unstable security and political situation in the refugees' countries of origin such as Iraq, Eritrea, Sudan (Darfur) and Palestine.

E. Community Services:

Refugee committees have already been established in three out of seven urban refugee centres. Among these, there is one for women, which played an important role in decision making, as regular members of the ACC, for the provision of all sources of regular and emergency assistance (financial, medical, in-kind, food items), including vocational training and provision of tool kits. They are also involved in awareness campaigns such as Sexual Gender Based Violence (SGBV), HIV/Aids, etc. Community committee teams are established in different accommodation centres and

provided with necessary materials, which were distributed among the most vulnerable, especially children & women.

Capacity training was provide by UNHCR to Al Wafa, IOPCR, the National Committee for Youth Voluntary Work on how to protect refugees against SGBV and on how to identify and address SGBV reported cases.

There are five established refugee committees (Palestinians, Somalis, Sudanese, Eritreans and Iraqis), which actively participate to the Assistance Advisory Committee meetings taking place monthly in Al-Wafa. Besides members of refugees Committees, the Committee includes the Implementing Partner and UNHCR staff in order to make transparent assessments on how to address refugees' needs. The Committee reviews all applications for assistance requested by any refugee, and identifies and advises on the most suitable support. A total of 6 women (2 Palestinians, 1 Somali, 1 Eritrean and 1 Iraqi) are full members of the above mentioned committee and participate regularly to their meetings.

Moreover, there are some 1000 asylum seekers and other relevant persons in Tweisha, 400 in Garabuli, 400 in Zletin, 800 in Misrata, 150 in Zwara, 150 in Surman and 1000 in Al-Zawya.

HIV/AIDS cases are very limited among the refugee population according to reports. The reported cases are referred /transferred to special centres where they receive special medical and health care. UNHCR IPs monitor such cases regularly and provide financial assistance and food items on an emergency basis to those who are unable to work and meet their basic needs.

UNHCR, together with the International Organisation for Peace, Care and Relief (IOPCR), was able to improve the general protection space and welfare of refugees and asylum seekers in Libya. Currently, UNHCR provide protection and medical and humanitarian assistance to persons who they are concerned about in the Libyan territory as well as in some accommodation centres (7) - together with IOPCR - where most asylum seekers and refugees are detained.

5.4.2. The International Organisation for Peace, Care and Relief (IOPCR)

IOPCR is a Libyan Non Governmental Organisation with Special Consultative Status with the Economic and Social Council of the United Nations. The mandate of IOPCR is to promote global peace that considers people's

social and cultural differences, to denounce and fight all forms of persecution targeting refugees and migrants, and to promote human rights principles and values.

In 2000, UNHCR concluded a partnership agreement with IOPCR that has since exerted significant efforts to lobby and advocate UNHCR presence and activities in Libya. IOPCR plays a crucial role using its influential position and good relationship with the relevant governmental bodies, in particular granting UNHCR and its partners' access to at least 12 accommodation centres.

IOPCR has been supporting UNHCR in the undertaking of Voluntary return of people who do not need international protection. In this regard, IOPCR has organised return trips and provided returnees with financial assistance to facilitate their arrival and stay in their countries of origin. IOPCR provides humanitarian assistance, medications and food as well as cleaning materials to those persons that UNHCR/IOPCR considers most vulnerable in the various reception centres in Libya, or to those who seek assistance after their release. Thanks to IOPCR and UNHCR, the living and health conditions in the Misrata centre have been improved.

During 2008 UNHCR was able to release 100 refugees from Misrata and more than 90 refugees and asylum seekers of different nationalities from other accommodation centres in Libya. As of June 2009, UNHCR and IOPCR released more than 70 persons from different accommodation centres, including Misrata.

5.4.3. International Centre for Migration Policy Development (ICMPD)

Founded in 1993, the International Centre for Migration Policy Development (ICMPD) serves as a support mechanism for informal consultations, and to provide expertise and efficient services in the landscape of multilateral co-operation on migration and asylum issues. ICMPD is an international organisation with headquarters in Vienna, Austria, a mission in Brussels, Belgium, and regional offices and representatives throughout Europe, CIS, Northern Africa and the Middle East. ICMPD holds UN observer status. The purpose of ICMPD is to promote innovative, comprehensive and sustainable migration policies and to function as a service exchange mechanism for governments and organisations.

To date, ICMPD's Libya-based projects are implemented within the framework of the quadripartite co-operation between ICMPD, CIR, UNHCR, and IOPCR (for whom joint premises/project office in Tripoli have been operational since April, 2009). These projects could be summarised as follows:

A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya (November 2008 – October 2009): As mentioned above, the aim of the project, hence this current survey report, is to fill a knowledge gap regarding the nature of migration flows in Libya, and to further promote Libya's institutional capabilities to manage these flows.

A comprehensive approach to the effective management of mixed migration flows in Libya (January 2009 – December 2011): With the lead of UNHCR, this project is implemented in partnership with ICMPD, CIR, and IOPCR. ICMPD will be specifically responsible for the implementation of the migration components of the project, whereas CIR and IOPCR will cover their respective thematic/operational areas (namely, refugee assistance-related components (CIR) and liaison with local authorities and facilitation (IOPCR).

The project contributes to strengthening the capacities for effective and protection sensitive management of mixed migration movements in Libya. Specifically, it fulfils three objectives: 1) to strengthen the reception management capacities to deal with mixed migration movements, 2) to strengthen the legal and procedural capacities in the fields of asylum and migration to address mixed migration movements, and 3) to implement and strengthen capacities to undertake voluntary returns.

5.4.3. Italian Council for Refugees (CIR)

The Italian Council for Refugees (CIR) is an independent, humanitarian, non-profit organisation, founded in 1990 under the patronage of the United Nations High Commissioner for Refugees (UNHCR). CIR works with the aim to empower and co-ordinate actions in defence of refugees and asylum seekers' rights in Italy. Among its members, CIR counts important humanitarian associations and organisations, the four main Italian trade unions, national and international research institutes. CIR is member of the European Council for Refugees and Exiles (ECRE), as well as of the Euro-Mediterranean Human Rights Network (EMHRN).

CIR has been carrying out an extensive lobbying activity with the Italian Parliament and Government in order to have a national comprehensive law on asylum. A lobbying activity is also carried out at the European level with the

EU institutions. The Organisation provides social protection and legal assistance to refugees and asylum seekers at its main office in Rome and through its offices all over Italy, particularly at crucial entrance borders as the airports of Milan (Malpensa), Venice, Brindisi; at the seaports of Venice, Ancona, Brindisi. In February 2009 CIR also opened an office in Tripoli, Libya[101.]

Operators, through specialised interpreters, work directly with competent authorities in order to ensure that vulnerable people such as unaccompanied minors, disabled persons and victims of torture obtain adequate assistance. In addition to this, CIR also runs projects in favour of vulnerable groups of people such as women, victims of gender violence, unaccompanied minors and victims of torture, financed by the United Nations and the European Union.

CIR is also partner to the project "A comprehensive approach to the effective management of mixed migration flows in Libya", financed by the European Commission under the Programme of Co-operation with Third Countries in the Areas of Migration and Asylum. As mentioned above, this is carried out jointly with the quadripartite partners. In the framework of this project, and in cooperation with its partners, CIR is involved in strengthening the Libyan authorities' capacities for an effective and protection sensitive management of mixed migration movements in Libya. In particular, CIR is involved in activities aiming to strength the reception management and the legal and procedural capacities in the field of asylum and migration.

The organisation also provides legal counselling and assistance in accommodation centres for foreigners, included rejected asylum seekers served with an expulsion order. Moreover, CIR is presently involved in voluntary return operations of migrants and rejected asylum seekers. Finally, CIR participates in activities concerning study visits and media work as well as advocacy for durable solutions perspectives.

Until October 2009, CIR has repatriated some 24 migrants and provided migrants in accommodation centres with necessary clothing.

5.4.5. The International Organization for Migration (IOM)

The IOM Tripoli, within the framework of migration management in Libya and in agreement with the Libyan authorities, is dealing with four main

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[101] Joint project offices with ICMPD, IOPCR, and UNHCR.

areas of work: 1) capacity building; 2) border management; 3) assisted voluntary return and reintegration (AVRR) and other movements; 4) research and information.

From April 2006 until 30 November, 2008, within the framework of projects TRIM and TRIM Plus[102], a total of 3,021 migrants stranded in Libya managed to return to their countries of origin through the assisted voluntary return and reintegration programme. The aim of the project is to improve the capacity of Libyan authorities managing irregular migration as well as the quality of the services. The project focuses on consolidating the AVRR – a reception centre for voluntary returnees waiting to return to their home countries, improving the migrants' conditions in reception centres managed by the Libyan authorities by implementing counselling services, and ensuring that stranded migrants have the opportunity of voluntary return assistance and reintegration in their home countries through an Assisted Voluntary Return Program.

5.5. Local Integration of Asylum Seekers and Refugees

The OAU Refugee Convention is comparatively silent on the rights of refugees once they are on the territory of a contracting state. While this Convention guarantees non-discrimination (article 4) and provides for the issuance of travel documents (article 6), its lack of provision on obligations relating to the content of refugee status further highlights the need for Libya to accede to the UN Refugee Convention.

Libya has not established any formal framework for the welfare of asylum-seekers and refuges, who are subject to the same legislation that is applied to migrants on the basis of immigration legal provisions and bilateral agreements. Given that bilateral agreements are different, depending on the signatory country, asylum seekers and refugees' rights may vary substantially.

Those who come from Arab countries benefit from privileged rights in comparison to those from non-Arab countries. For instance, privileged treatment is foreseen for Palestinians, Iraqis, Egyptians and Tunisians.

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[102] Trim Plus, entirely funded by Italy, represents the second phase of the Trim project (Programme for the Enhancement of Transit and Irregular Migration Management in Libya) funded by the European Commission and Italy under the AENEAS 2004 Programme, with the external support from the UK (IOM - Quarterly Newsletter N.1, Tripoli, January 2009).

Palestinians have been largely unaffected by irregular migration-control measures and related limitations on the freedom of movement affecting other foreigners. Palestinians also enjoy some equal rights with Libyan nationals, such as free access to public education, access to public health-care facilities/structures and local employment opportunities. Consequently, the majority of Palestinian refugees are already well integrated in Libya.

The situation of African nationals remains more complicated, as they might be subject to discriminatory treatment on the basis of their color and/or race. UNHCR continued to receive allegations and reports of assaults and verbal harassment of refugees by the local community, particularly affecting refugees from sub-Saharan Africa.

For these reasons, refugees and asylum seekers' lives are characterised by a sense of constant insecurity and inability to actively participate in the social and economic life of the host community. These factors make local integration difficult, noting that the living conditions of these persons are often below minimum standards.

Women are a particularly vulnerable group; the primary source of protection for women in Libya is through male relatives and the extended family. Refugee women living alone are sometimes equated with (and misperceived as) prostitutes, and they claim to be frequently exposed to verbal and physical harassment. Unable to access legal employment, these women engage mainly in domestic work in the informal sector, and are exposed to potential sexual and economic exploitation.

5.5.1. Documentation and freedom of movement

After being registered with the UNHCR Office, asylum seekers and mandate refugees (excluding those in accommodation centres) are issued a certificate attesting to their status in both English and Arabic.

Recently asylum seekers and refugees have been "tolerated" by the authorities, who are becoming more flexible with the UNHCR Certificates' holders.

Asylum seekers and mandate refugees are not issued with any Libyan identity cards allowing them to move freely within Libya. Considered to be illegal migrants, they try to live together and avoid leaving the cities, where they are known, in order to avoid the risk of expulsion. According to asylum seekers and refugees interviewed in Tripoli *"Police authorities are not*

aware of what a refugee is neither of UNHCR role and activities. They do not understand what the UNHCR Certificate is for and they tend to destroy them".

Recently IOPCR[103] have been issuing a plastic Certificate in English and Arabic for persons who they are concerned about in order to make it harder for authorities to destroy it, and to facilitate the daily life of migrants who are facing abusive treatment due to their irregular presence in Libya.

Birth certificates are provided by the authorities upon release by the hospitals of a specific certificate declaring the parents' names and nationalities. Should the asylum-seekers and refugees be without valid Identity Documentation, UNHCR intervention is necessary to make the medical authorities issue the requested documentation.

Death certificates are also issued to asylum seekers and refugees by the authorities upon showing the specific certificate from hospitals.

For Muslim asylum-seekers and refugees, marriage certificates are issued by the local court upon presentation of two witnesses. Christian asylum-seekers and refugees can obtain a marriage certificate from the Orthodox and Catholic churches in Tripoli and Benghazi.

No travel documents are issued to mandate refugees.

5.5.2. Right to work

The right to work and to practice professions are regulated by the national legislation applicable to all foreigners. No legal provision foresees exceptions for asylum seekers and refugees. Palestinians and Iraqis have the right to work.

Asylum seekers and refugees, like foreigners, are allowed to work if they satisfy the requirements foreseen by national and bilateral agreements. In practice, the lack of Identification documents has prevented the vast majority of asylum seekers and refugees to "regularise" their position on the basis of the recent Decree issued by the Directorate General for Passports Investigation and expired at the end of June 2009.

The only possibility they have is to work in the informal sectors of the urban economy and agriculture due to the high demand of low skilled labour on the market. Those who managed to obtain employment in the

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[103] Interview on 13 June, 2009.

informal sector are in many cases inadequately compensated due to the generally negative attitude prevailing towards illegal foreigners.

Refugee women living alone are more exposed to verbal and physical harassment. This vulnerable situation subjects these women to potential exploitation and abuse. Not having access to legal employment, such women engage mainly in domestic work in the informal sector.

In the framework of the self-reliance Program, UNHCR has undertaken several efforts to promote vocational training and job placement activities and counselling. Vocational skills training in areas of beauty, hairdressing, car-mechanics, electricity, computing and Arabic language for non-Arabic speaking is carried out through Al-Wafa implementing partner. Moreover, UNHCR has provided refugee trainees with transportation, food and one-time rent subsistence. Certificates are obtained upon completion of a training organised by UNHCR in the framework of the self-reliance Program.

Since 2007, Al-Wafa has assisted more than 1000 refugees. Some of them were able to establish their own business and others found informal jobs with partners or in the market.

Local Integration: Arrangements were made with relevant local vocational training centres and 346 refugees (of which 75% were female) were enrolled in the various training courses. During 2008, 345 refugees were enrolled in the various training courses. 335 registered/skilled refugees (men & women) were job-placed through Al-Wafa during the reporting period in 2009.

5.5.3. Health care

Foreigners residing in Libya should benefit from access to public health services under payment of regular standard fees. Only Palestinian asylum seekers and refugees receive free medical treatment due to the fact that Palestinians are treated like Libyan nationals. Sub-Saharan refugees who usually lack of IDs refrain to approach public health services without UNHCR and Al-Wafa assistance. However, UNHCR can refer recognised refugees and asylum seekers to its partner NGO Al-Wafa that provide community based services such as health care. A medical unit is located in the Al-Wafa premises with the objective to integrate refugee medical services into the local structures. In 2008, some 746 asylum seekers and refugees benefited from health care services provided by and through Al-Wafa.

The lack of public health services lead to the use of the informal and traditional health care system. An interview partner explained that "*Migrants*

more and more refer to people who have no medical qualification but only know how to make injections. This phenomenon is very worrying and could lead to dangerous consequences for the persons concerned."[104]

Together with Al-Wafa, UNHCR established the standard operating procedures for the prevention and fight against SGBV. UNHCR briefed social Counsellors, doctors and nurses on the aim of the SGBV programme. UNHCR has conducted several meetings with refugee committees explaining the goal of the programme and referral mechanisms that have to be followed, ensuring confidentiality and dignity of identified victims. In cases of reported SGBV, social counsellors carry out social counselling and refer cases to the specialised doctor for medical examination and care.

5.5.4. Education

Primary and secondary level education in Libyan public schools was free of charge for all Arabic speaking refugees until October 2007. Later on the government required foreigners to pay high tuition fees, which affected almost all refugee children who are under threat to be expelled from schools. As a result of UNHCR's and IOPCR's intervention with the concerned authorities, a decision was issued which exempted all refugee students and granted them free education till university level.

UNHCR assisted with the enrolment of non Arabic speaking refugees in private schools and provided financial assistance to cover - partially or totally, depending on the agreements reached with schools- tuition fees for African refugee children attending private schools.

Despite the school fees imposed by the Government on non-Libyans to be enrolled in public schools, 100% of refugee children, particularly girls, were enrolled in private and public schools during the 2008-2009 academic year. All recognised refugee children are enrolled in public and private schools.

All non-Arabic speaking refugee children were provided with private school fees, transportation assistance, school bags and stationary.

Several English learning classes for detainees and their children were established in different accommodation centres and provided with all school materials and stationary.

UNHCR succeeded in granting free education to University students after negotiation with Libyan authorities.

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[104] Interview on 8 June, 2009.

5.5.5. Access to legal remedies

Asylum seekers and refugees lack access to the state justice system. Due to the absence of legal provisions in refugee law, asylum seekers and refugees' access to the judicial system is ineffective, very limited and not equally available amongst those most in need. Although free legal assistance and legal counselling are foreseen by Law 4/1991 for the Establishment of the People's Counselling, the Directorate General for Passports Investigation can make exceptions to these rules.[105]

According to UNHCR, there are no organisations or agencies that provide migrants or refugees with legal counselling and assistance. UNHCR itself has a very limited capacity in covering this gap due to its non-formal presence in Libya and the absence of a formal co-operative framework between UNHCR and the Libyan government. UNHCR refers individual cases approaching its office for legal and judicial support to the few solicitors who are willing to represent asylum seekers' cases at court. However, the Libyan Arab Human Rights Association, Trade Unions, the Society of Human Rights within the Gaddafi Foundation for Development assists detainees claiming asylum in accommodation centres and prisons[106].

5.5.6. Unaccompanied minors

Libya ratified the Convention on the Right of the Child (CRC) in 1993 and its two Optional Protocols in 2004.

No legal provisions or mechanisms to determine the best interests of the child and its basic needs have so far been adopted. Nevertheless the Convention on the Right of the Child applies to all children in the Libyan territories including, in principle, refugee children. Pursuant to article 28 of that Convention, primary education is accessible to refugee children.

Separation from nuclear family members occurred mostly in countries of origin; for instance after the child lost contact with his or her parents following his or her flight. Children frequently travelled together with other relatives or extended family members from whom they separated during the trip. Girls have sometimes been sexually harassed en route.

Another main concern is foster arrangements for UASC, in particular finding long-term and ethnically appropriate foster homes. UNHCR and Al-

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[105] Interview on 11 June, 2009.
[106] Interview on 11 June, 2009.

Wafa works with refugee communities and the Catholic Church in Tripoli to identify potential families, although not always successfully.

As most of the UASC are teenagers, they live among their community in private apartments and receive financial assistance from UNHCR in order to meet their basic needs. UNHCR also give them priority in terms of registration, RSD interviews and referral to resettlement countries for finding durable solutions for them according to the principle of family unity and the best interest of children. UNHCR also co-ordinates with other UNHCR offices, resettlement countries and ICRC for family tracing.

Al-Wafa conducts home visits and interviews with the caretakers almost regularly.

UNHCR and its implementing partners have limited capacity and financial resources to provide adequate protection to separated/unaccompanied minors in urban areas and accommodation centres. No specialised organisation, in fact, deals with unaccompanied minors or separated children. Specific training on the treatment of refugee minors as well as legal and social counselling is badly needed.

5.6. Conclusions and Recommendations

5.6.1. Legislation

- Ratify the 1951 Refugee Convention and its 1967 Protocol and fully implement it.
- Implement the 1969 OUA Convention Governing the Specific Aspects of Refugee Problems in Africa to which Libya is signatory.
- Adopt the draft asylum Law currently under review that will introduce a national legislation implementing the International instruments on asylum.
- Adopt and implement legislation to fulfill Libya's existing human rights obligations, in particular the International Covenant on Civil and Political Rights (ICCPR), the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Protection on the Rights of the Child (CRC).
- Introduce laws and procedural safeguards to respect the absolute prohibition on *refoulement* and with the guidance of UNHCR establish an effective and fair mechanism to ensure access to the territory and the asylum procedure.

- Take concrete steps to bring Libyan laws and regulations into conformity with international standards, particularly by making urgent amendments to the Law of entry, stay and exit from the country in order to exempt asylum seekers and refugees from the crime of illegal entry. Persons registered with UNHCR should be exempt from penalties for violations of national immigration laws. Ensure that administrative authorities and the judiciary do not penalise refugees and asylum seekers on grounds of illegal entry or stay.
- Persons in need of international protection should not be deported in conformity with Libya's obligations under international human rights law, particularly the internationally recognised principle of *non-refoulement*.
- Foresee legal provisions to enable local integration by recognising the right to legally stay in Libya, the right to education, health care and work.
- Formally recognise UNHCR by finalising a Memorandum of Understanding with UNHCR Tripoli, allowing the organisation to carry out its full mandate in ensuring refugee protection.

5.6.2. Border services

- Libya should formally establish by national law services for legal counseling and first reception of asylum seekers arriving at borders.
- Border services should be delivered by immigration authorities specialised in asylum issues to ensure a balance between security needs and human rights protection. UNHCR and specialised NGOs should be involved in this admission phase, as they are better equipped than immigration authorities to establish a relationship based on trust and understanding with asylum seekers arriving in stressful conditions.
- An adequate number of personnel should be foreseen to deal with asylum seekers at border points.
- Establish close co-operation between border staff and immigration authorities; meetings should be held regularly to improve the quality of services.
- A training programme on refugee issues should be envisaged for immigration authorities, border staff and accommodation/reception facilities personnel. This training should include periodic refresher courses on national, European and African refugee law developments

and country of origin information (COI). In developing this programme, sufficient account should be taken of the existing expertise and resources of UNHCR, other international organisations and NGOs.

- Decisions on non-admission to the Libyan territory and/or to the asylum procedure should be always in writing and notified to foreigners in their own language or in a language they understand.

5.6.3. Access to legal remedies

- Ensure access for migrants, asylum seekers and refugees to proper appeal procedures against expulsion and detention decisions. Obstacles to seeking redress should be removed.
- Free legal aid should be ensured.
- *T*raining should also be envisaged for judges, lawyers, civil servants and local NGOs working in the field of migration and asylum. In developing these *ad hoc* programmes, sufficient account should be taken of the existing expertise and resources of UNHCR, international organisations and NGOs.

5.6.4. Unaccompanied minors

- The 1989 Convention on the Rights of the Child and its 2 Optional Protocols should be implemented.
- Legal provisions and mechanisms to determine the best interest of the child and its basic needs should be adopted.
- Unaccompanied minors should be admitted to the Libyan territory and accommodated in adequate reception centres.
- Unaccompanied minors willing to request asylum should benefit from refugee status determination procedure and resettlement opportunities on a priority basis.
- Specific training on the treatment and protection of asylum seekers and refugee minors should be provided.

5.6.5. UNHCR and NGOs involvement

- Authorities should continue their open policy on co-operation with the UN, international organisations and international and local NGOs, which play a fundamental role in improving the state's institutional and capacity building and, therefore, provide adequate assistance to migrants.

- Training and refresher courses for stakeholders should be regularly provided. Libyan authorities could deliver such courses, benefiting from the expertise of UN Agencies, international organisations and NGOs.
- The Libyan authorities should launch – in collaboration with civil society organisations and the UN agencies – campaigns to correct public stereotypes and prejudices against refugees and migrants.

6. Return and Readmission

6.1. Introduction

In its recent history, Libya has often played a contradictory role, squeezed between the manpower demand to support its growing economy and the need to be consistent with Gaddafi's Pan-African ambitions on the one hand, and public opinion on the other, which blames migrants for Libya's high level of unemployment as well as the increase in criminality and spread of transmittable diseases. Moreover, the flow of migrants towards Southern Europe represents an important political bargaining chip for Tripoli in its relation to the EU and its Member States.

In the light of such considerations, the picture of irregular migration to Libya appears twofold: on the external side, Tripoli emphasizes problems and costs it has to bear in order to fight irregular migration and to meet European requests for enhanced border control. On the internal side migration has become a priority in the national agenda independently from Europe.

This situation requires a comprehensive migration management system, of which return policies are a key element. Return migration can occur due to a wide range of reasons[107] and can broadly be divided in voluntary return and forced return:

- **Voluntary return** – A tool frequently used by destination countries to promote return is the provision of assistance packages to returnees.

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[107] Whilst some migrants may decide to return because they failed to integrate or advance professionally in the destination country, or due to family-related issues, or once they have achieved their goals (voluntary return); others may be compelled to do so, like those individuals holding an irregular status (overstayers), unsuccessful asylum seekers, persons whose temporary or subsidiary protection came to an end, or migrants who have violated national laws of the country of residence and are therefore expelled (forced return). Return can also occur on a temporary or permanent basis as well as in a 'virtual' manner, through the use of information and communication technologies (ICTs).

There are 2 types of assisted voluntary return (AVR) programmes[108]: a) those targeting migrants with a legal status (i.e. migrants with a permanent/temporary residence permit, or recognized asylum seekers, or individuals under temporary/subsidiary protection); b) those targeting migrants in irregular status (i.e. as an alternative to expulsion). The IOM often plays an important role in assisting governments in the implementation of AVR programmes. UNHCR understands return to home countries (voluntary repatriation) as a possible durable solution to refugee situations. On the other hand, various developing countries have created programmes to encourage the return of their highly skilled Diaspora in order to harness their benefits for development.

- **Forced return** – In absence of voluntary return programmes or in case the returnees refused to return voluntarily, forced return is often applied for the removal of undocumented migrants from the territory of the destination country. Most of the times these individuals do not have an official travel document. Getting one can be time-consuming and burdensome, depending on the will to collaborate of the country of origin. The negotiation of readmission agreements between country of origin and country of destination can facilitate the return process.

Most attention has been paid to the return of 'illegal' migrants and the core issue of how governments should deal with those individuals who do not fulfil the criteria necessary to stay legally in a country's territory and particularly for this form of return a human rights based approach is crucial. International human rights instruments protect all human beings regardless of their nationality and legal status. There are several guiding principles recognised in these instruments that are relevant to return. First and most important, the principle of *non-refoulement,* contained in the 1951 Geneva Convention relating to the status of refugees and the 1967 Protocol on the status of refugees, which Libya has not ratified. It declares that the sending state must establish that the returning person's life, freedom or physical integrity is not threatened by reasons of his or her race, religion, nationality, membership of a particular social or political group in the third country of destination or of transit (where he/she will return). However, the UN Convention against torture, to which Libya has acceded in 1989, establishes a similar principle. The UN Convention on the Rights of the Child, to which

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[108] Since the 70's, many EU countries have developed Assisted Voluntary Return (AVR) programmes.

Libya has acceded in 1993, establishes that the best interest of the child should always be respected and that a child deprived of his or her family environment shall be entitled to special protection and assistance provided by the State (article 20).

The Libyan Government considers forced return as the main measure in decreasing the presence of irregular migrants in accommodation centres and as the main deterrent against newcomers.

6.2. Legal Framework for Return and Readmission

Aliens are allowed to enter the country following the specific bilateral agreements between Libya and their country of origin, usually on a reciprocal basis, which provide for preferential treatment of Arab nationals, particularly Iraqis and Palestinians, due to difficult circumstances in their respective countries of origin (e.g. employment in the public administration). However, there are common criteria that govern entry, exit and residence for all aliens, irrespective of their nationality. As specified in Law 6/1987, these are:

- possession of a valid passport/identification document, issued by competent authorities;
- possession of a visa[109];
- the entry must take place in an identified port of entry.

If one of the above points is not respected or if other conditions are not met, Libyan authorities can proceed with deportation, as stipulated by Law 6/1987, "Concerning the Regulation of Aliens Entry, Residence and Exit in Libya".

More specifically, article 17 states the following:
"An alien shall be deported in the following cases:
- *If he enters the country without a proper visa.*

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[109] Article 3 of Law 6/1987 provides for special treatment of Arab nationals, allowing them to enter with a simple identity document (ID) (not necessarily a passport) and to receive their visa upon entry through a quicker procedure. Visa are issued for a period of 3 months and can be extended for another 3 months. Furthermore, Law 13/1975 envisages special conditions for Arab nationals with expertise for development: "all measures should be taken to facilitate the immigration of Arabs who have these expertise and skills, which are needed for the development of Libya".

- *If he refuses to leave the country despite expiry of his authorized residence period and the competent authorities refuse renewal thereof.*
- *If the residence visa granted to him is revoked for any reasons as specified in article Sixteen of this Law[110].*
- *If a judicial decision is issued for his deportation.*

Deportation (…) shall be subject to a substantiated decision of the General Director of Immigration and Citizenship".

As per article 18, Law 6/1987, the General People's Committee for Public Security can opt for detention pending deportation.

In the legal framework put in place by Law 6/1987, the General Directorate of Immigration and Citizenship is the responsible authority to decide on deportation and to evaluate whether to inflict measures for limitation of personal freedom in the period preceding deportation, such as detention pending deportation[111]. Such a system bypasses the need of an approval by a judicial authority and fully relies on administrative procedures, and hence does not allow for an appeals procedure. This point will be subject to further analysis in the r*ecommendation* paragraph.

5.2.1. Return agreements

With respect to the Maghreb States Community, agreements to facilitate forced return from Libya are already in place both on a regional and bilateral basis.

In the case of Sub-Saharan countries, however, forced returns are co-ordinated through bilateral agreement on a case by case basis. Each time Tripoli wants to return a migrant detained in a reception centre, it has to

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[110] Law 6/1987, article 16: "The residence visa granted to an alien may be revoked at any time in the following cases:
A.   If his presence poses threat to the state security and safety both within the country or abroad, or threat to its economy, public health or public rules of conduct or if he be-comes dependant on the state.
B.   If he is convicted of a felony or misdemeanor involving moral turpitude or dishonesty or the public security.
C.   If he violates the visa terms and obligations.
D.   If the purpose for which he is granted the visa seizes to exist.
Revocation of visa whatever the period thereof shall be subject to a decision of the General Director of Immigration and Citizenship".
[111] See Law 6/1987, article 18.

agree on the terms and conditions of such a movement with the respective country of origin.

The Libyan government, together with other major stakeholders, is working on institutionalising the return mechanism and improving on the definition of readmission conditions: on the one hand on a bilateral basis with main countries of origin, on the other within the framework of regional institutions like the Community of Sahel-Saharan States (Cen-Sad)[112]. Tripoli is, for example, already working with the Nigerien government in this direction: bilateral consultations have taken place and a framework agreement is expected soon[113].

The last aspect to be considered is the forced return to Libya, mainly by European countries: Libya, like the other countries of the Maghreb, has never signed an agreement to take back migrants from Europe. Nevertheless lately, several forced returns from Italy to Libya have been authorised bilaterally and on a case by case basis. Under these circumstances Libya is accepting, irrespective of their nationality, all those migrants who left its territory and who have been caught in their attempt to land in Italy (in early May 2009 alone, Italy returned a total of 5 boats carrying more than 470 migrants who were detained at sea/international waters by the Italian coastguard). Another boat carrying 82 African migrants was intercepted on 1 July, 2009, off the coasts of Lampedusa, and sent back on board a Libyan patrol boat by Italian coast guards.

5.2.2. International Co-operation

Although the Libyan Government considers deportation as a main tool to implement returns of irregular migrants, the Libyan General People Committee (GPC) for Public Order and Security has been co-operating since 2006 with the International Organization for Migration (IOM) in programmes to assist voluntary returns (AVR) for migrants outside of accommodation centres[114]. As already mentioned in Chapter 6.4.5 above, a total of 3,021 migrants stranded in Libya returned to their countries of origin from April 2006 until 30 November, 2008, within the frame of IOM's assisted voluntary return and reintegration programme. The AVRR centre

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[112] Telephone interview on 15 May, 2009.

[113] As referred by the First Counselor at the Niger Embassy in Tripoli, Mr. Manu Todou on a telephone conversation on 3 April, 2009.

[114] Since 2006, IOM is implementing Assisted Voluntary Return and Reintegration programmes for a total assisted caseload of 3,500 people. See Voluntary Return paragraph.

established in Tripoli in March 2008, with capacity of up to 40 people, provides shelter and information about the risks of irregular migration and the opportunity for legal migration.

In the past, voluntary returns from Libya occurred in the framework of four different projects, funded by the European Commission (EC), Italy and the UK, and implemented by IOM Tripoli, among other organisations (most recently through the above-mentioned quadripartite partners).

Currently ongoing is the project "A comprehensive approach to the effective management of mixed migration flows in Libya," (2009 – 2011), implemented by UNHCR, IOPCR, ICMPD and CIR, which includes AVR from migrants in accommodation centres, whereby all four organisations are involved in identifying eligible cases, co-ordination with accommodation/reception authorities, and facilitation of returns.

5.2.3. Institutional Framework for Return and Readmission

Procedure for forced return

When irregular migrants are apprehended, they are moved to one of 18 accommodation centres for irregular migrants all around the Libyan territory, ten of which are located on the coast[115]. The centre to which the migrants will be moved depends on their gender, the location of apprehension, and nationality.

Once a person has been moved to a accommodation centre, the deportation procedure starts: as per the above-mentioned Law 6/1987, such procedure is authorized by the General Director of Immigration and Citizenship, who is informed by the centre's director about nationality and his/her general health conditions, in order to identify and execute the required action.

The first step in the process eventually leading to deportation is the determination of a migrant's nationality that, in cases of lack of documents, has to be delivered by a competent authority of the receiving country: this step is one of the main obstacles Libyan authorities are facing in the forced return process. For this reason, centres usually have contact points in embassies of the main countries of origin: sometimes the centres' directors put in place real co-ordination mechanisms together with Embassies and

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[115] Interview on 3 May, 2009.

the General People's Committee for External Relations (i.e. Ministry of Foreign Affairs). This procedure allows a quicker identification and consequently the issuing of an *ad hoc* travel documents.

Once nationality confirmation/identification has been established, the Directorate General for Passports Investigation, under the Passport and Foreign Relations Department, which is the central office managing the accommodation centres, organises collective flights or buses to the countries of origin. The timing of such action depends on caseload, resources, and available means of transportation. Depending on the latter, migrants are moved to the airport in the destination country (in case of transportation via plane) or at the Southern borders (in case of transportation via land) to the first BCP within the receiving country.

Finally, the Directorate General for Passports Investigation informs receiving countries' embassies about the scheduled flight/transportation, and the list of passengers, together with copies of their travel documents. No specific screening of the migrants' fitness to travel is performed.

Furthermore, illegal migrants who are caught and deported will get back to the destination country (Libya)[116], and those who have not been, will remain in the destination country (Libya), even if potentially willing to return. This makes the deportation highly inefficient in terms of logistical costs, inhumane, and not cost effective in terms of security expenses.

Table 20. Forced return in numbers

Nationalities	2004	2005	2006	2007
Algeria	287	158	274	400
Angola	0	1	1	1
Bangladesh	172	60	251	398
Benin	29	15	10	16
Burkina Faso	465	24	20	332
Cameroon	443	34	38	38
Central Africa	1	0	0	
Chad	0	935	3,028	3,542
China	46	13	26	6
Congo	121	5	3	2
Egypt	0	5,300	7,942	7,678

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[116] Some Libyan authorities have at different occasions used the metaphor of the revolving doors to describe the mechanism that brings deportees to re-enter Libya as soon as possible.

Nationalities	2004	2005	2006	2007
Eritrea	195	629	1,874	350
Ethiopia	0	440	1,685	384
Gambia	0	35	10	8
Ghana	0	10,566	874	2,209
Guinea	0	166	553	36
India	7	30	138	12
Iraq	19	4	13	15
Ivory Coast	0	63	27	15
Jordan	57	10	61	20
Liberia	0	37	3	6
Malawi	0	2	551	1
Mali	0	2,158	0	1,049
Mauritania	0	92	29	38
Mauritius	0	2	0	0
Morocco	730	1,501	4,637	1,168
Niger	17,584	7,324	5,264	6,469
Nigeria	0	7,398	2,210	3,202
Pakistan	559	103	92	56
Palestine	0	2	2	1
Philippines	23	1	36	1
Senegal	154	117	38	30
Sierra Leone	0	7	8	4
Somalia	508	53	348	152
Sudan	6,177	3,481	2,003	2,671
Swaziland	0	2	5	0
Syria	0	84	95	120
Taiwan	11	0	0	0
Thailand	15	1	35	1
Togo	219	35	8	3
Tunisia	0	416	1,415	483
Turkey	5	15	13	0
Vietnam	0	13	11	0
Yemen	4	1	7	0
Total	**27,831**	**41,333**	**33,638**	**30,917**

Computer and Statistics Department, under the Directorate General for Passports Investigation

The data reported here shows some inconsistencies, particularly in terms of sudden increase or decrease in certain nationalities; this is likely to be

due to the institutional limitations of data collection. Therefore the underlying phenomenon must be interpreted with caution, as an indicative trend with possible discrepancies.

6.3.2. Challenges concerning determination of nationalities

The determination of nationality is the starting point for the deportation process and often turns out to be one of the major obstacles. Migrants can be unable to prove their nationality for many reasons: their passport may have been stolen by smugglers or traffickers or simply been lost during one of the difficult journeys they undertook. In other cases, migrants pretend to belong to specific nationalities as they have been told this will bring about a better treatment by Libyan authorities, sometimes even a certain degree of protection. Thus, migrants may decide to destroy their passports.

To ascertain the actual nationality of detainees, the centres' directors ask for consulate/embassy assistance as mentioned above. In this context three main challenges have to be faced:
1. the country has no consulate/embassy in Libya;
2. the consulate/embassy is not willing to co-operate;
3. migrants cannot be deported because of the situation in their country of origin.

These challenges could be summarised as follows:

Challenge 1: the country has no consulate/embassy in Libya
This case has quite an impact in terms of caseload but nevertheless can heavily affect the migrants who are involved: As Libyan law does not foresee a maximum period of detention pending deportation, the lack of possibilities to issue travel documents and to determine the identity of nationals of countries that do not have an embassy in Libya is likely to protract the period of detention and to exacerbate the uncertainty in which these persons are kept. Possible solutions are usually put in place by centres' directors on a personal commitment basis and without a juridical framework. One example for such solutions is the case of Gambia, in which co-ordination is done through a local community leader.

Possible solution
An enhanced network between centres, embassies and community leaders would highly facilitate the identification of identities and issuance of travel documents: Other consulates/embassies present on the Libyan territory may

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determine the identities of migrants and issue, through a specific agreement with countries of origin, the required documents. If such a solution cannot be put in place, specific consular missions can be periodically organized from neighbouring countries where a consular representation is available, in order to identify their nationals and issue their travel documents.

Challenge 2: the consulate/embassy is not willing to co-operate

While centres' directors are showing satisfaction for the support given by Arab and Asian countries' embassies in identifying their nationals, the relation with Sub-Saharan countries seems to be quite difficult. Such problems may rise from the lack of resources these countries are facing and from their unwillingness to engage in direct confrontation with their nationals without a real solution to offer and, in some cases, corruption of embassy staff. Although there is no time limit for detention pending deportation, the average period of detention adds up to one year in case of non-responsive embassies (Interview on 3 May, 2009).

Possible solution

Once again, a better co-ordination mechanism between centres and consulates/embassies within the framework of institutionalised co-operation would benefit migrants and improve their conditions. In fact, constant support by national embassies would considerably support and boost the morale of detainees. The latter should not be underestimated as it heavily affects the migrants' overall life conditions.

Challenge 3: the migrants cannot be deported because of the situation in their country of origin

For certain countries deportation is not practiced: the most common example in Libya is Somalia and Eritrea.

Faced with such situations, Libyan authorities have already expressed their need for assistance and their incapacity to provide any response but hosting migrants in centres with higher standards (such as Misrata) where migrants can more easily endure the long stay. However, conditions are inadequate for long-term stays.

Possible solution

The development of a comprehensive asylum system would help to find a durable solution for these refugees in Libya. The competent institution, UNHCR, offers support to the Libyan government through its activities *sur place*.

6.4. Detention Pending Deportation

The General People's Committee for Public Security can opt for detention pending deportation – a possibility that is frequently applied. The duration of this detention period depends on 1) unwillingness/inability of respective embassies to co-operate with their nationals and/or Libyan authorities and relevant organisations, 2) absence of respective embassies in Tripoli, and 3) the situation in some countries of origin (i.e. conflict, persecution, etc) which prevents Libyan authorities from deporting detainees.

This period of detention is, therefore, theoretically indefinite. In cases of irregular migrants infected with HIV/Aids, the deportation procedure is usually speeded up. Another case of accelerated procedures is the case of under-age Egyptians, aged 12 – 15 years, many of whom are apprehended after begging in the streets and deported immediately.[117]

6.5. Voluntary Return

AVR is based on the voluntariness of the return and envisages some basic milestones that have to be necessarily respected such as:
- preserving the family unit: this means not assisting a single member of the family unless s/he can prove that the rest of the unit has already returned or passed away. This is done through the support of national embassies;
- not returning people to unsafe places: the evaluation on the security level of the country of origin is based on the UN scale;
- assisting only people who are willing to return for good;
- assisting people in a condition of need, establishing a priority list for most vulnerable cases.

The voluntary aspect of the decision makes the migrant perceive the return as a chance instead of a failure and such feeling is supported by the conditions of travel, on a commercial plane without any dedicated security control.

Also the assistance at the airport upon arrival and the reintegration package give the returnee a completely new perspective in comparison to deportation.

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[117] Interview on 3 May, 2009.

Table 21. Statistics on the returns that IOM has assisted from July 2006 to April 2009, including nationalities and months

Country To	Total 2006	Total 2007	Total 2008	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total 2009	Cumulative 2006-2009
Bangladesh	3	207															210
Benin		13	15					5		3						8	36
Burkina Faso		55	38					33	1	1						35	128
Cameroon		2	5			1	1		1		2					5	12
Chad			2														2
Congo			1														1
DRCongo		16	5														21
Eritrea			1														1
Ethiopia		1	21								1					1	23
Gabon		1															1
Ghana		374	167	25	35	22	17	19	1	29	12					160	701
Guinea B.							3									3	3
Guinea C.		8	2				4									4	14
India	10	5															15
Iraq	3	28	13														44
Ivory Coast	3	26	8						1							1	38
Liberia			10	6			3									9	19
Mali	64	189	81	60	53	69					6					188	522
Mauritania		4	7														11
Niger	1	292	327	6	6			53	21		11					97	717
Nigeria		29	137	9	3		9	12	10	4		4				51	217
Pakistan		2															2
Senegal		28	117	12	3		14	12	10		10	15				76	221
Sudan		170	475														645
Togo		34	28			2										2	64
Total	84	1484	1460	118	107	94	44	135	44	37	42	19				640	3668

6.6. Conclusions and Recommendations

- One of the identified priorities is the need for training at all levels. With a specific focus on return, Libyan authorities should be trained in the AVR process as an alternative solution to deportation (in a limited number of cases). The creation of a reliable referral system is the *conditio sine qua non* to be in any AVR programme: in fact it guarantees the liability of the referred caseload and can provide supporting documentation that may be needed. On the basis that AVR is more humane and more cost effective, another important field of training is capacity building on the AVR mechanism. More specifically, there is a need for technical training to Libyan accommodation/reception personnel on airline procedures, and on procedures for all phases of the process: referral system, screening, booking, and embarkation.
- Specific training should be provided to law enforcement officials in direct contact with migrants on the identification of vulnerable cases, possible victims of trafficking, investigation techniques to fight the smugglers' and traffickers' network.
- Training should be provided also to accommodation centre staff, specifically to directors, by exposing them to best practices in other

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countries that are facing similar migratory dynamics. Training should envisage not only basic standards and principles of human rights and protection of vulnerable migrants, but should also focus on administration, procurement of supplies, logistics, records of inmates and staff, and management skills in general. Together with a consistent co-ordination mechanism with other involved actors, this may improve not only inmates' living conditions but also the overall management of migration issues.

- The involvement of civil society is another basic priority. Civil society can both support and motivate a progressive modernization in the migratory paradigm.

- The idea of humanitarian support in Libya is still very much linked to the concept of charity, instead of evolving into a more professional approach based on mandate and competencies. Targeted training is required in order to strengthen such capacities. The main actors within civil society should be identified and trained. This initiative should be put in place according to a long term strategy that aims at networking with non-governmental organisations (NGOs), with other main stakeholders in migration management, such as law enforcement officials, judges and prosecutors, the Red Crescent Society, and governmental institutions.

7. Migration and Integration

7.1. Introduction

Migration is not a complex issue solely in terms of the number of migrants, but above all in terms of the multifaceted economic, social and cultural dynamics of migrants. The need to develop integration policies that reflect the complexity of migration has become more and more pressing in recent years. The concern of this chapter is not so much that of managing migration flows, but rather of how best to ensure the socio-economic and political incorporation of migrants into the receiving society. While an immigration/migration policy can contribute to the success of integration and that at the same time a successful integration of migrants and their descendants is a critical aspect of managing migration. In addition to its importance for human rights and international obligations towards refugees and other persons in need of protection, integration policies have implications for both the well-being of migrants themselves and for many aspects of the social, economic and cultural life of the receiving societies.

The concept of integration implies a process of incorporating migrants into the economy, society and political life of their receiving countries. The economic and social dimensions of integration are probably the least difficult to define, implying, at a minimum, insertion into the labour market and education as well as welfare systems. Cultural integration is less easy to pin down, but is usually taken to involve knowledge of the receiving country's language, some understanding of its society and respect for its basic norms. Finally, political integration implies the right to vote and to stand for election, usually acquired through naturalisation, which is in many countries understood as the final stage of a successful integration process.

This underlines the central role of municipal authorities in the process of integration, but also requires good co-operation between other levels of authority and the different actors involved, such as NGOs and other civil society associations.

7.2. Policy Context

For policy purposes, integration can be defined as proposed by the European Union: "a dynamic, long-term and continuous process of mutual accommodation by all immigrants and residents of a state." The integration process thus involves adaptation and participation of Libyans and migrants, who have rights and responsibilities in relation to their new country of residence.

There is no comprehensive migration policy in place in Libya. There is also no integration strategy as such. However, the growing political and social recognition of the importance of integration issues is acknowledged. Considering an estimated 1.5 to 2 million migrants[118], many of whom are in Libya without legal status, the development of an integration policy, programmes and other actions are an urgent need.

In this context, attention needs to be given to all of the various categories of migrants who should benefit from integration measures, such as migrant workers, members of their families, refugees, and asylum seekers. Simultaneously, the integration approach should be multifaceted in order to provide for the active involvement and participation of migrants in economic, social, cultural and civil life. Integration measures and initiatives should be designed in such a way that they enable migrants and refugees to integrate in the labour market and help provide access to education, vocational training and the acquisition of language skills, and to give access to accommodation, health and social services. It should be noted here that substantial efforts are needed to formulate and implement strategies targeting specific groups of irregular migrants.

Although the responsibility for integration policy lies solely in the individual state, there are many benefits which can arise from exchanging information, learning and co-operating with other countries, international and civil society organisations, to tackle what are often common challenges.

International migration to/through/from Libya occurs in three major forms:
- as regular, relatively free migration of individuals who change the country of residence on their own will and in accordance with existing laws;
- as forced or impelled migration, when people flee either as individuals in fear of persecution or massively in fear of collective violation of

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[118] Based on various official sources during the mission.

human rights or humanitarian law and other circumstances caused by various conflicts and natural or human induced catastrophes;
- as irregular/illegal migration, concerning illegal border crossing or unauthorised residence in a foreign state for the purpose of economic progress/prosperity.

However, due to the complexity of the issue, migration policy is divided into different (albeit interconnected) policy areas, which comprise the following:
- legal migration
- asylum system
- integration
- irregular migration

All of these have, to varying degrees, an important external dimension, requiring regional and international co-operation as well as partnership with countries of origin, transit and destination.

In particular, it has to be assured that integration policy is part of the overall migration policy in such a way:
- that mainstreaming of integration becomes the basic principle, i.e. integration issues are to be considered in all fields of public-policy formation and implementation, including due attention to the mainstreaming of gender equality and to the specific needs of migrant youth and children in integration policies;
- that targeted integration strategies are developed either for certain groups of migrants, including those without legal status, or for particular policy or geographical areas;
- that support for co-operation, co-ordination and communication between stakeholders is ensured in the national dialogue structure, both in the political decision-making process and policy implementation, if necessary on a legal basis;
- that a competent national authority functions as a national focal point and that information is shared and co-ordinated with all tiers of government and other stakeholders, in particular at a regional and local level.

Considering 'mixed flows' of irregular migrants, asylum seekers as well as victims of trafficking, focus should also be placed on the integration of refugees and victims of trafficking as well as on the targeted integration of migrants.

7.3. Libya's Concept of Integration

In June 1988, the General People's Congress adopted the *Great Green Charter for Human Rights in the Jamahiriya Era*. The charter guarantees, in particular, the independence of the judiciary (article 9), freedom of thought (article 19) and equality between men and women (article 21). It states that the Jamahiriya society is one of solidarity and the guardian of all those without protection (article 14). The members of Jamahiriya society affirm the right of everyone to share the benefits, advantages, values and principles which are the fruit of harmony, cohesion, unity, affinity and affection among family, the tribe, the nation and humankind. To this end, they are working to establish the natural national entity of their nation and support all those that are fighting to achieve the same goal. They reject all segregation between people, whether based on colour, race, creed or culture (article 17).

The notion of a natural national entity is reflected in the perceived Libyan "model of natural integration." As clarified by interviewees from Al Fateh University "the term integration encompasses a certain commitment". Therefore, they prefer to use the term self-integration (*indimaj*), which includes the free choice and voluntary participation of an individual as being different from the concept connoting forced integration (*dam*). The same interview partners described the Libyan concept of *indimaj* as follows: "The observer can see that in Libya migrants are integrated without obstacles. This free integration is not only an honour for us; it is part of our mentality. The migrants can exercise their religion and traditions and speak their language. We are sure that this is the model of natural integration."[119]

7.4. Access to Education, Health and Social Security

In Libya, a national commission composed of institutions and government departments dealing with all aspects of information exchange on ongoing activities has been created. However, asked whether there were any government programmes for integration, representatives from *Al Fateh* University noted that there is no integration policy *per se,* since Libyan society itself, due to its hospitability, managed to integrate migrants to a

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[119] Interview on 2 May, 2009.

large extent. They also stated that the Libyan system was very supportive to vulnerable groups; this being a pull factor for many migrants.[120]

This is contrasted by negative responses received from other interviewed counterparts, particularly the more security-oriented accommodation/reception staff, which raised concerns about a 'failed integration' and 'exposure to a flood of migrants' which are considered as threats to public order and health. There are worries about rising criminality and types of crime which are perceived as new, such as drug abuse and prostitution. One of the interviewees stated that sub-Saharan Africans are introducing HIV/AIDS and diluting traditional values of Libyan identity, which is the reason why "Libya cannot hold up its open policy in the same way as before and is aiming at the regulation of migration as more migrants are coming." The countries of origin are often blamed for the influx of irregular migrants, as they allegedly do not control their borders properly."[121]

Other sources also report a rise of anti-foreigner sentiment, which culminated in serious unrest in late September 2000, resulting in several casualties – numbers varying depending on sources. Subsequently, the General People's Congress ordered the authorities to stem the private sector's hiring of foreigners, and the police conducted large-scale arrests.[122]

Whether or not these problems are in fact caused by the presence of migrants, the debate on integration is likely to feed anxieties about the potential impact of migration. Therefore, the linkages between migrant integration and broader socio-economic problems need to be taken seriously.

In Libya, foreign workers reportedly constituted 1.6 million (both legally and illegally employed) until 2004.

According to representatives of Al Fateh University, many laws on labour migration were introduced since 2007, and big companies abide by the law and recruit workers in a systemised way. Small companies, on the other hand, seek the specific skills they need in the neighbouring countries, e.g. through the Egyptian Ministry of Labour.

As reported by the 2008 Human Rights Watch Report, Libyan authorities allow foreign workers to reside in the country only for the duration of their work contracts, and they may not send more than 50% of their earnings to

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[120] Ibid.
[121] Ibid., and interviews on 3 May, 2009.
[122] Human Rights Watch (2006), op.cit., p. 18.

their home countries. In addition, they are affected by changes in work rules and contracts, and have little options other than to accept such changes or leave the country. Many migrant workers are reportedly deported for not being able to present newly-required work permits for unskilled jobs they already hold. In addition to that, the government has no practical means to track migrant workers or remittance flows, relying instead on the threat of deportation and random round-ups to exercise authority.[123]

As regards equal treatment (and integration) in terms of employment and working conditions, Libyan labour law is naturally not applicable to illegal workers, and they are therefore unprotected by any set of legal framework. Only foreign workers who have work contracts, a fraction of the total, are covered under the laws on acceptable conditions of work, as other migrants are considered to be in the country illegally (hence excluded from any systematic public social system).

No specific integration programmes (such as language classes or vocational training) are needed according to the interviewees: "if workers do not speak Arabic, it is enough if one worker in a big group understands; he can translate for the others. No further training is needed as most migrants already come with a certain level of skills. They are well accepted in Libya."[124]

Education is considered an important tool of socialisation, which is in line with the general protection of children's rights and welfare in Libya. Primary education is compulsory until the age of 15. The government subsidizes primary, secondary, and university education. However, in 2007 the law was amended to impose high fees on non-citizens enrolled in primary and secondary schools.[125] It is possible that undocumented migrants' children are excluded from schooling.

In addition to public schools, there is a strong private education sector in Libya, which has been rapidly growing in the past 15 years, and offers the same conditions for Libyans and non-Libyans alike. Tuition fees range from LYD 500 to 20,000 (ca. EUR 285 to 11,428) a year and are – in the case of international students - often paid by employers of the children's parents.

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[123] As conveyed through the 2008 Human Rights Watch Report.
[124] Interview on 2 May, 2009.
[125] U.S. Department of State (February 2009) Country reports on Human Rights Practices.

There are also a number of community schools, among them a Ukrainian school (parents work mainly in the medical sector), German schools, French schools, British schools – in which Libyans are also enrolled due to advanced language training.

A Pakistani school also exists, which is particularly popular among non-Pakistanis for high-quality English teaching for lower tuition fees than, for example, the British schools. At the time of reporting, it was estimated that 10% of all pupils are enrolled in private schools, and the number is growing.[126]

According to an interview partner, there are cases of migrant children who could not enter state schools and therefore enrolled in the private international school "Donia El-Idbaa for Education" pro bono - roughly between four and ten cases a year, depending on the momentary capacity of the school.[127]

She affirms that regulations and policies in Libya are designed in a way that migrant children have the same rights and possibilities as Libyans. In her view, non-Libyans sometimes even have an advantage due to additional language skills. Although hardly any African students are enrolled in "Donia El-Idbaa for Education," there are African private schools, which are subsidised by the Libyan state, and many foreign students are enrolled in the Al Nasser State University as well as the Al Fateh University.[128]

According to an interviewee,[129] legal migrants have the same access to the social security system as Libyans. Furthermore, she emphasised, Libya is known for its humanitarian approach. Especially in her field, it is the only country that covers all segments of society in the social security system, based on Gaddafi's statement that they "take care of those nobody else wants to take care of." Based on this principle, they take care of deprived people, regardless of their nationality and origin.

As the relevant institutions are directly funded by the state, the people concerned have a right to this support system with high standards as re-

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[126] Interview on 9 May, 2009.
[127] Ibid.
[128] Ibid.
[129] There are 16 Solidarity Funds covering 22 Libyan provinces. In addition there are also private charity organisations.

gards health, clothing, food, etc. The Social Solidarity Fund operates four different forms of care centres, namely:

1. Care Centres for Orphans
2. Care Centres for Minors
3. Care Centres for Elderly Persons
4. Care Centres for Disabled Persons

The Care Centre for Orphans in Misrata which was visited in the framework of the project hosted 113 children, mostly African, who reside there until the age of 12 and are then transferred to other care centres for minors. The Care Centre for Elderly People in Misrata, one of the three in Libya, housed 25 elderly persons at the time of the interview; both Libyans and legal foreign migrants were present, among them one Palestinian and one Chadian. As family care at home is considered preferential, elderly persons are accommodated in these centres only in cases where no relatives can be located. Apart from the assistance offered through care centres, unemployed and disabled persons may also receive pensions.[130]

Despite the integration of regular migrants into the social security system, an interview partner states that the same rights cannot be granted to irregular migrants, as this would only further promote irregular migratory movements. Reflecting the official government rhetoric, she further states that the difference in the treatment of legal and illegal migrants is intended to deter migrants from entering the country illegally. However, although they cannot be treated the same way as legal migrants, certain humanitarian standards must be met.[131]

That "integration is not really an issue in Libya" and that "the influx of new migrants is a problem" which will never be solved without financial and technical support to Libya are common, albeit contradictory, opinions. For example, one interview partner[132] believes that there is a high demand of labour and that migrants are very welcome in Libyan society. Nevertheless, he is of the opinion that the migrants detained in Garabuli are not interested in integrating themselves in Libyan society, which he concludes from the failure of implementation of a decree allowing enterprises to hire workers in accommodation centres. According to his experience some

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[130] Interview on 7 May, 2009.
[131] Ibid.
[132] Interview on 3 May, 2009.

migrants who received a work permit from the Labour Ministry according to the provisions of this decree fled after a few days.

The humanitarian approach in Libya is particularly advocated for Palestinians and Iraqis, given their particular situation at home. In the beginning of 2009, a decision was issued by the Cabinet giving Palestinians the same rights as Libyans concerning social services, labour rights and the right to permanent residency. They can even be employed in official positions and have been incorporated in all aspects of life in Libya. Hence, the president of the Social Solidarity Fund confirms that there is a hierarchy among the foreign population, in the following order: 1) Palestinians, 2) Iraqis, 3) Arabs and 4) other migrants.[133]

7.5. Conclusions and Recommendations

7.5.1. Policy context

A comprehensive migration policy in Libya should comprise the following areas, for which concrete instruments, programmes and measures should be advanced and/or developed:
- legal migration
- asylum
- integration
- fight against irregular migration
- information management and national institutional set-up
- regional and international co-operation

The receiving society should provide the conditions and create the opportunities for the migrants' full participation in various areas of the societal life. Integration policy and its aims have to respect integrity and dignity of each individual, human rights and fundamental freedoms, cultural diversity of society, coexistence and solidarity, social stability and the rule of law. A gender perspective should also be incorporated into all relevant action, and specific attention should be given to the situation of migrant youth and children.

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[133] Preference towards migrants in Libya is twofold; on the one hand, within the context of labour migration and the demand for foreign workers, the Libyan market is, to a large extent, in favour of the utilisation of Asian workers, however Libyan society's preference/acceptance of migrants is based on the order outlined above, i.e. Palestinians, Iraqis, Arabs, and other migrants.

Integration should not be seen as an isolated issue. Therefore mainstreaming integration policies and measures in all relevant policies as well as levels of government, administration and services has to be an important consideration in public policy-formation and implementation. Important topics are:

Legal security for foreign nationals

Security of residence is an important element of integration policy and ranges from a visa to various work and residence permits and naturalisation. In the dimension of legal labour migration, legal security must be offered to all migrant workers in order to avoid exploitation, discrimination and insecurity.

Access to institutions, to public and private goods and services

Access to institutions, to public and private goods and services should be non-discriminatory for all. Migrants must be treated equally and fairly and be protected from discrimination. Any exception to this accessibility must be legitimate and transparent. Transparent rules, clearly articulated expectations and predictable benefits for law-abiding migrants are prerequisites to better migration and integration policies. Conversely, uncertainty and unequal treatment breed disrespect for the rules and can marginalise migrants and their families, socially and economically.

Equally, non-discriminatory access to institutions, goods and services implies that active steps ought to be taken to ensure that government institutions and services are open to migrants wherever possible. Another important area is the reinforcement and development of consultation mechanisms at local and regional level, in order to maintain a dialogue between migrants and local people, institutions and other stakeholders involved in the integration process.

Strengthening the capacity of service providers

With the foresaid perspectives in mind, the capacity of service providers to interact with migrants should be built up with specific measures.

To do this, Libya may consider experiences in other countries, as well as the following proposals, which specifically encourage:
- strengthening the capacity of service providers via intercultural interpretation and translation, mentoring, intermediary services by migrant communities and NGOs;

- 'one-stop-shop' information points;
- developing comprehensive information tools, e.g. manuals, websites, registries of staff's diversity skills;
- building sustainable organisational structures for integration and diversity management and developing modes of co-operation between governmental stakeholders, enabling officials to exchange information and pool resources;
- introducing schemes to gather and analyse information about the needs of different categories of migrants at local and regional level through platforms for consultation, exchange of information between stakeholders and surveys of migrant communities;
- engaging companies in debates on integration, and linking their evaluations into governmental programmes;
- integrating intercultural competence into recruitment and training policies;
- monitoring and evaluating the success of public institutions in serving migrants in order to support exchange of best practices and promote development of transferable training activities for public officials.

Integration into the labour market

Employment is of crucial importance for the integration process. The contribution of migrants to the receiving society becomes visible by their employment or self-employment and influences their participation in other areas of societal life.

Integration of migrants can be promoted, *inter alia*, by the recognition of qualifications and skills acquired in another country, by training opportunities that provide skills demanded at the workplace and policies and programmes that facilitate access to jobs and the transition to work. It is also important that there are sufficient incentives and opportunities for migrants, in particular for those with the prospect of remaining, to seek and obtain employment, if unemployed, and for migrant women. In the latter cases, measures targeted at employers might be envisaged as well as for the support of migrant entrepreneurship.

Libya is advised to eliminate inequalities and discrimination often encountered in the workplace, including a guarantee to adequate legal protection to uphold the principle of equal treatment. The field of application should

embrace both the public and the private sectors, including bodies governed by public law.

Measures to support migrants should be included in national employment as well as social inclusion strategies. Labour market integration measures, particularly for unemployed migrants and those without legal status should be elaborated and implemented in line with the estimated labour demand.

Socio-cultural dimension of integration

Education is an important way to prepare people for participation in society. This is valid for migrants and native population alike, and is beneficial to both individuals and society at large. Efforts in education and training systems are critical in integration policy.

Although the right to education is generally given, Libya would be advised to facilitate the access of migrants to all levels of education, including various training systems and vocational and work programmes which meet the needs of groups at risk of social and labour market exclusion, irrespective of their current legal status.

Implementation of active anti-discrimination policies, anti-racism policies, and awareness-raising activities to promote the positive aspects of a diverse society are important in this regard. Furthermore, improving the living environment in terms of public spaces, decent housing, health care, neighbourhood safety, and the availability of opportunities for education, voluntary work and job training is also necessary.

Noting that integration is, above all, an individual choice - as highlighted by one of the interviewees – the right to cultural identity and freedom to practice one's language, culture or religion has to be guaranteed and safeguarded in the framework of national laws.

7.5.2. Non-legislative initiatives

Recommended non-legislative initiatives include the strengthening of the capacity of service providers (which requires investment in human resources and development of information tools, e.g. manuals both for service providers as well as for migrants), special projects, and programmes or campaigns in various spheres, such as access to labour market, healthcare, housing and fight against discrimination. These can include information services and advice, jobcentres, help for children, sports associations for

the young, criminal preventive initiatives or distribution of leaflets, guides, brochures, websites explaining integration, giving information on rights and facilities which can be of use to migrants. This should be done in co-operation between government authorities, NGOs or other organisations (IOPCR may be considered in particular to foster and implement such initiatives).

7.5.3. Institutional infrastructure

The development and implementation of integration policy ought to be the responsibility of all relevant authorities, as well as all levels of government (national, regional and local) as an element of integrated migration management system. A precondition for this is co-ordination and co-operation at the national level. The establishment of a central migration authority tasked primarily to provide good and effective inter-agency co-operation is vital for an integrated migration management system.

The mainstreaming of integration policies and measures does not only concern all levels of government and public services. Integration issues should be considered in all fields of public-policy formation and implementation, in particular employment, education, social services and health care, housing and others.

The growing political and social recognition of integration issues as part of a migration management system means that Libya could consider either the transformation of the above-mentioned national commission into a "Migration and Integration Authority" or the establishment of such an authority, having a political mandate to prepare comprehensive migration and asylum and integration policy and a programme of policy implementation and actions in the relevant fields.

The principle functions of this Authority should be:
- Co-ordination of operative actions of the implementing bodies;
- Continuous monitoring of migration policy implementation with the task to report to the executive and legislative authorities;
- Monitoring and analysis of the implementation of the migration policy objectives;
- Preparation of expert basis for change or amendment of the legislation;
- Decision making on appeals;
- Co-ordination of the initiatives with other ministries and agencies, other countries and international organisations;

- Promotion of dialogue with local authorities and civil society;
- Provision of training and education to relevant staff;
- Research of migration issues, in co-operation with other research-based institutions.

Protocols for the humane treatment of migrants, and provision of services to them, should be developed. International organisations could assist in providing training to professional categories such as law enforcement officers, prosecutors, and judges charged with managing migration as well as trafficking human beings.

7.5.4. Evaluation and information exchange mechanisms

Integration is a continuous process rather than an outcome. This means that it is difficult to measure or evaluate integration. Nevertheless, it is important to know which phase of the integration process one is at: are the efforts made effective; is there any progress; what can be learnt from common experiences; what are the next steps? Therefore, it is important not only to set clear policy objectives, but also to have evaluation and information exchange mechanisms. The former makes it possible to monitor trends and developments in view of policy goals, while the latter allows one to share information, experiences and knowledge, and benefit from comparative learning in order to improve the migration policy in the future.

8. Labour Migration

8.1. Introduction

Libya is the least populated North African country; it had just over 4 million inhabitants at the time of full independence in 1951, with the population presently in the vicinity of 6.4 million. It is estimated that nearly half of these are naturalised foreigners. Over the last few decades, Libya has relied heavily on foreign labour for its economic development, and entire sectors, such as agriculture and building industry, have been heavily dependent on migrant workers.

The demand for foreign labour in Libya is divided into four main categories, namely 1) highly-skilled/rare expertise (e.g. scientists, engineers of scarce expertise, etc), 2) professional expertise, 3) service expertise, and 4) manual labour expertise/skills (i.e. agriculture, construction, public sanitation and cleaning, etc).[134]

Libya is mainly reliant on oil revenues, which also define developments in the country; periods of high revenue lead to initiation of investment projects, while periods of low returns lead directly to contractions in the economy and cutbacks in projects and investment.

While the presence of regular migrants in Libya is controlled, to some extent, the main concern in recent years has been related to irregular migration. Estimates from various observers suggest that the average total pool of migrant workers, regular and irregular, is close to 2 million; a figure which is in excess of the Libyan labour force and makes up close to one-third of the total Libyan population.

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[134] One feature in the recruitment of migrant workers which distinguishes Libya from other Arab countries of destination is the non-presence of private employment promoters and agencies. Usually, the workers are directly recruited by firms or come to Libya under some intergovernmental agreement.

8.2. Labour Migration in Libya in the Past

In the initial phase following *Al-Fateh* Revolution in September, 1969, there was a need to recruit high-skilled workers from abroad given the inability of Libyans to provide such expertise. Most of these workers were employed in the oil and energy sector, academic institutions, hospitals and in many public services. The period 1973-1984 was when the highest population growth occurred due to the high demand for foreign workers linked to high investments and initiation of development projects[135].

In this sense, the pattern of international labour migration to Libya followed the dictates of the national labour market and the migrant streams were composed of workers from various nationalities, although ethnic Arabs (particularly from North Africa, Sudan, and the Middle East) had precedence; the 1973 census shows that they accounted for 90% of the total foreign residents. Unfortunately, due to a lack of economic data and documented information on labour migration, it is not possible to establish historically the extent of employment of foreign workers in different sectors. Although official figures highlight construction, medical services and general services as major areas of employment, it is noteworthy that for the oil and energy sector, on which the wealth of the country is founded, no information seems available on the recruitment of foreign workers – particularly those engaged in semi and low-skilled activities linked to oil and gas extraction.

In the early 1970s, a process of nationalisation was initiated, which brought all foreign businesses, as well as all heavy industry, agricultural land, banks, insurance firms and services companies under direct government control. In 1977, supplementary laws placed most other economic activity under the control of the state[136].

While the overall availability of statistics is poor, census data and ad hoc exercises, such as the Manpower Survey (MS) of 2001, have generated information on relevant labour issues. The census data shows the numbers of foreigners legally resident in Libya. The data show that in the interim period between the 1973 and the 1984 censuses, the population of foreigners increased from around 200,000 to slightly over 400,000, suggesting a doubling of the foreign population. Subsequently, in the next inter-census

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[135] Sofrani, Omran and Jwan, Husein (2008) op.cit., p. 12.
[136] Economist Intelligence Unit (EIU) (August 2008) Country Report Libya, p. 17.

period (1984-1995), there was a slight decline in the number of foreigners residing in Libya.

The interesting aspect of the change is that the proportion of Arab population to the total migrant population significantly declined from 90.2% in 1973 to 47.2% in 1984. The major increase was in the number of Asians who grew from 2.6% of foreign residents in 1973 to 34% in 1984. There was also an absolute increase in the number of Europeans and Americans, whose population and proportional representation quadrupled from 5.7% to 13%[137]. However, in 1995 the number of Asians and Europeans and Americans declined quite significantly both in absolute and proportionate terms. There was a renewed increase in the representation of the Arabs who, according to the 1995 census, accounted for 81% of the foreign population. There was also an increase in those coming from the neighbouring African countries[138]. The data are for the number of legally resident foreign population and not migrant workers as such. A point could be made that apart from the non-Libyan Arab population, who may have brought along some dependents, the significant majority of the other nationalities were basically workers.

Partly as a result of the rise in oil prices in the mid 1970s, the period 1973 - 1984 witnessed an increase in the migration of Europeans and Americans and workers from Asia; that period was marked by the amplification of attractive government packages and the implementation of large-scale development projects.

The major project was the construction of the Great Man-Made River, the contract for which was given to a South Korean company, and other such construction projects, which invited the migration of low and semi-skilled workers from the Asian continent. It would seem that Asian workers were given precedence over their Arab counterparts when it came to employment in specific sectors; if the Asians were favoured in construction activities, the Arabs were preferred for employment in agriculture and in the services sector. Moreover, the need for further developing the energy and petroleum sector, and other activities requiring advanced technologies, led to contracting firms from European and American highly developed market economies, which tended to bring in workers from their countries. Correspondingly, the diminution in the number of Arabs resident in Libya in

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[137] UNDP (1999) Libya, Human Development Report, p. 52.
[138] Ibid.

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this inter-census period could be attributed to the emergence of political tensions with Egypt and Tunisia.

The trend changed in the 1984-1995 inter-census period. The major reasons for this change could be ascribed to the political and economic policy followed by the regime, which saw an easing of the political tensions with the neighbouring states. Libya became the "land of all Arabs" and Arabs were encouraged to migrate to the country and seek employment. The increase in the number of Africans coming to the country is suggested by some researchers to be due to government efforts to promote the Libyan image within the continent, and as a compensatory resolve by providing economic and political support to bordering states and to countries of sub-Saharan Africa[139]. Agreements, essentially prompted by Libya's own policy reorientation towards Pan-African co-operation and unity, were concluded with the sub-Saharan African countries to allow for a free movement of their citizens to Libya[140].

However, at the same time the recourse to nationalisation, which was only reversed in 1988, and the political isolation of the country may have deterred, and even perhaps obstructed, the migration of workers from the western developed market economies and from Asian countries. Indeed, the 1995 census data show a 79% decline in the absolute number of workers hailing from Europe and –the US, and 78% in the number of those coming from Asia.

A better qualitative assessment of the labour migration situation can be extracted from the MS of 2001. In its scope and method, the survey is close to the standard Labour Force Surveys usually undertaken by countries at short regular intervals, but the 2001 MS seems to have been a first such exercise of its kind in Libya.

From a cursory analysis of the MS data, it seems that between 1995 and 2001 there was a considerable waning of regular labour migration to Libya. When compared to the figure of 409,000 legally resident foreigners in 1995 and after making appropriate assumptions between those employed and their dependents, the MS data puts the number of foreign workers in regular employment at 123,000, hence suggests a sizeable decline.

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[139] Sofrani, Omran and Jwan, Husein (2008), op.cit., p. 14.
[140] ICMPD (2008) The East Africa Migration Route Initiative. Gaps and Needs Analysis Country Reports: Ethiopia, Kenya, Libya, p. 88.

From the MS data, the major sectors of employment of foreign workers in 2001 were 'production' –including manufacturing and building and construction (52%), 'scientific' – presumably high-skilled professions (20%), and 'services' – including sales and merchandise (21%). It is also interesting to note that in the building and construction activities, non-Libyan workers constituted nearly 60% of the total employment in the sector. In terms of regions of provenance, the Egyptians were by far the most represented, followed by Iraq, India, the Philippines, Palestine and Bangladesh. In 2006 a census was also undertaken but the final results of this are not yet available.

8.3. Labour Migration in Libya Today

The assessment of Libyan development to date suggests the absence of a coherent migration policy. Instead, it is inferred that migration, to a great extent, has followed the dictates of economic signals stemming from the labour market. However, in recent years, specifically since the lifting of the sanctions and the United Nations embargo in 2003, there has been a broader campaign and renewed efforts to reintegrate the Libyan economy into the global market, hence the nationally-outlined development path may provoke the articulation of a clearer labour migration policy in the future.

In recent years, the Libyan government has embarked on a process of gradual liberalisation and limited privatisation in order to attract more foreign direct investment, particularly in the energy sector. Efforts are undertaken to further develop the infrastructure and diversify the production base. Following almost two decades of international sanctions and a lack of investment and maintenance, the quality and availability of infrastructure in Libya remains inadequate, since during this time, much of the country's infrastructure, from roads, ports and airports to power generation and sewerage systems, deteriorated. However, the government is now pursuing a number of infrastructure investment plans, and aims to increase investment in public works significantly over the coming years. In general, utility-related programmes will be prioritised for funding. In 2009, the government launched a five-year development programme worth close to US$ 130 billion, which foresees the construction of 300,000 housing units, 27 university complexes, and over 34,000 kilometres of roads (to be constructed or overhauled), which according to official sources will require

over one million foreign workers, mostly in the areas of infrastructure development and energy.

With the expansion from processing mainly agricultural products to the production of petrochemicals, iron, steel and aluminium, the manufacturing sector would also require additional labour. The gradual opening of the country might lead to an increase in tourism, which would require the expansion of the service sector.

The establishment of the General People's Committee for Labour Force and Vocational Training in March/April, 2009, lists, in addition to those mentioned above, the following professions where migrant workers are needed: educationists (applied and specialised sciences); qualified technical trainers; high-skilled consultants with specialised qualifications; surgeons and doctors; qualified nurses; medical technicians; geologists; cooks/bakers; sewage workers and garbage collectors.

This wide range of labour requirements seems to suggest a strong dependence on migrant workers, both for highly skilled activities as well as for less skilled and basic manual work. At the same time, Libya has a high unemployment rate among its nationals. Although no official figures are available, unemployment is estimated to be around 30%, and particularly pronounced among the youth[141]. There have been attempts to reduce this dependence on foreign labour – a process of 'Libyanisation' was initiated over a decade ago- but the existing needs suggest that these efforts have not been very successful. Finally, this discrepancy between high national unemployment, on the one hand, and heavy dependence on labour migrants, on the other, could constitute a significant potential cause of social problems and instability.

8.4. Irregular Labour Migration in Libya

It is difficult to establish the origins of irregular migrants, given the lack of a breakdown of the scarce data. However, based on estimates by interviewed Libyan authorities, a third of them are Arabs from the neighbouring Arab states, mainly Egypt. The majority of the expatriate workers are from sub-Saharan Africa, mainly economic migrants, who come to Libya to look for work; some use this as a springboard for migrating onwards to Europe.

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[141] Economist Intelligence Unit (EIU), op.cit.

These migrants tend to take low-paid menial jobs, and have been a constant feature of the Libyan workforce for many years now.

The strong and visible presence of these irregular migrants has created tension in Libyan society at large. For example, their presence has exacerbated the domestic unemployment problem and has led to friction with the local population, most notably in late 2000, when at least 50 African migrant workers were killed in riots throughout the country[142] and many more injured during attacks carried out by young Libyans, who targeted migrant workers from Ghana, Cameroon, Sudan, Niger, Burkina Faso, and Chad, after the government ordered a crackdown on foreign employment. The situation has not improved in recent years. One of several ways by which the authorities deal with this problem is through periodic mass expulsions, especially of Africans from Sub-Saharan countries.

Irregular migration has also put a strain on Libya's relations with its European neighbours across the Mediterranean. This has recently become a growing concern for the Italian authorities and the southern Mediterranean countries of the European Union (EU), which have been putting pressure on Libya not only to make greater efforts to secure its maritime border, but also to impose stricter controls on Sub-Saharan Africans entering the country.

To some extent, responsive measures have been adopted by Libya in that regard, particularly with Italy and Libya entering into an agreement on controlling irregular migration. The most recent example of this was the deportation of irregular migrants caught on high seas to Libya by Italian authorities. It is likely that in the foreseeable future, Libya, in its efforts to improve relations, and after having extracted concessions and assistance from the EU, will move to tighten the controls over the transit of African migrants across its borders.

8.4.1. Alternative national approaches in addressing irregular labour migration

To a large extent, the strain of irregular labour migration on Libya in recent years has prompted the relevant authorities to take certain steps aimed at reversing the pattern of illegal presence among the labour force.

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[142] The International Confederation of Trade Unions (ICFTU) talks of at least 500 Nigerians killed.

These steps have not merely been designed and implemented to regulate migration in the country, but rather as complementary efforts to harmonise the existing irregular labour force with Libya's national development plans.

These national efforts could be summarised in three key categories, as follows:

1) Legislative measures:

In early 2009, the GPC for Public Security issued a decree whereby employers from both the public and private sectors were permitted to approach accommodation centres to identify and employ skilled migrants among the detainees. At will, migrants would in turn be permitted to leave the accommodation centres, accompanied by their respective employer, and proceed to obtain 1) the necessary medical check-up, 2) a legal employment contract by the employer, and 3) a residence permit based on the employment contract. Effectively, this procedure was aimed at regularising detained migrants through legal employment. However, the ultimate result has not been as favourable as expected. According to all accommodation centre directors interviewed throughout the expert assessment missions, the majority of released detainees exploited the decree to leave the centres and work for a few more months to finance the rest of their journey to Europe.

2) Operational measures:

Libyan authorities have also taken steps aimed at generating employment opportunities for detained migrants entering (illegally) through the southern desert border. The farms of Maknusa in the south (70 km. East of the city of Sebha) are typical of this: here migrants are given the opportunity to work and earn a living without having to continue their journey northward to the urban coast of Libya, let alone to Europe. Several interviewed counterparts have also elaborated that these farms could act as a "Libyan model to partially addressing the phenomenon of illegal migration, not only in Libya but also in countries of origin" (i.e. by encouraging the generation of employment that aims to attract potential migrants and prevent them from leaving their countries in the first place). On that basis, Libyan institutions, IOPCR among them, have repeatedly encouraged European stakeholders to assess these farms (and the projects therein), and to redirect some of their migration-related financial support to sustain and develop them.

3) Public tolerance towards irregularity (of selective vocational trades):

Finally, there is a visible presence of irregular migrant workers who seek low-skilled daily-paid jobs (gardening, cleaning, welding, etc) on the streets of urban areas, such as Tripoli. While this continues to pose challenges for authorities on the long run, there is currently a certain degree of tolerance by public security and related authorities to accommodate such workers, who sit on the sides of major roads (with their tools) waiting for the potential employers of the day.

8.5. Libya's Legal Framework for Labour Migration

8.5.1. Decision 98/2007

As mentioned in chapter 4 (Mapping of Migration Flows), the provisions of the entry visa regulations introduced by article 10 of the General People's Committee Decision 98/2007 stipulate that nationals whose countries have concluded the relevant bilateral agreements with Libya may regularise their status. At the procedural level, these nationals may enter the country and seek employment. This is carried out in terms of allowing arriving job-seekers to enter through Libya's international airports, where they can fill out the related forms certifying that they will stay in Libya for a total period of three months, explicitly for the purpose of seeking employment. Should this period expire without their success in obtaining legal employment, they are obliged to leave the country through the point from which they had entered. Failure to fulfil this obligation may lead to apprehension, detention, and forced return.

Should they succeed in the process, their employer is obliged to 1) register them with the General People's Committee for Labour Force and Vocational Training, and 2) obtain their residence permit from the Directorate General for Passports Investigation – MoI.

This decision also introduced a regularisation process for foreigners illegally staying in Libya. Article 2 stated that Libyan employers had to regularize the situation of their workers if they were citizens of a state with which Libya had a bilateral or regional labour agreement. This decision led to a massive return of Egyptians to Egypt (35,000 in March 2007), due to the fact that by virtue of this decision, Egyptians were required to pay LYD 25 in income tax, LYD 14 for insurance, LYD 15 for an Arab identity card and LYD 60 for an accredited work permit every month. Moreover, some of the Libyan employers were "reluctant to apply for work permits for their Egyptian employees since, under the new procedures, they would then become liable for tax and other social security payments"[143].

As regards the entry visa for work purposes, Decree 238 of 1989 has foreseen the granting of a work visa under the presentation of a previous work contract and a health certificate. The Regulation 125/2005 corrected this law and added that the granting of a residence visa for work is subject to a

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[143] Mohammad Meneisi, assistant at the Foreign Ministry for consular affairs, Egypt. Quoted in Al Ahram, http://weekly.ahram.org.eg/2007/835/eg2.htm

work authorization in conformity with the laws of the sector which organises the recruitment of foreigners or at the existence of a work contract[144].

However, the system is not completely open: according to Decision 98[145], the person must have a medical clearance certificate and skill certification.

The migration of Arabs and Africans was based upon regional agreements and, more recently, the government has opted to bring in additional workers by negotiating bilateral treaties with other countries as well, including Memoranda of Understanding (MoU) with the Philippines, Bangladesh and Sri Lanka.

8.5.2. Government Decree of 1 January, 2009

A more recent and, to date, more assertive regularisation process was introduced by a Government Decree on 1 January, 2009, whereby irregular migrants who obtain legal employment (contract) are invited to approach the Passports and Citizenship Administration in the respective province and legalise their status. The outcome of this process and its impact on the status of irregular migrants is yet to be witnessed, as it was carried out during the writing of this report and its respective assessment missions.

Meanwhile, the regularisation process could positively affect Libyan migration management, as for the first time it is open to all irregular migrants in Libya, regardless of their nationalities. The regularization process allows migrants to acquire rights and protection. It can be considered the first step towards the realisation of measures of migration management in order to harmonize labour shortage and domestic unemployment. Consequently, the public was informed and made aware of the reasons behind the process, which was identified in terms of the need to know the size and distribution of the foreign worker population.

Nevertheless, the regularisation process also poses several limits. Libyan authorities affirmed that the process has been widely advertised. African embassies have been informed and staff have been sent to farms – farming being a sector that traditionally employs many irregular migrants - in order to inform employers and raise awareness. Nevertheless, many interviewed migrants claimed a scarce diffusion of the rules and costs of the regularisation process. Combined with the threat of the announced massive repatriation targeting still-irregular migrants at the end of the regularisation

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[144] Perrin, D. (2008), op.cit.
[145] Article 10 of Decision 98 by the General People's Committee (2007).

process (20 June, 2009), this led to the emergence of a booming black market for work permits. The price for a work contract may reach LYD 800 - 1,000 (EUR 457 – 570).

Moreover, the regularisation process highlighted the preference of Arab nationals to regularise their status through employment. According to Libyan authorities, Egyptians obtained a prolongation until 30 July, 2009, while immigrants interviewed in Libya stressed that the prolongation will also include Tunisians. This is due to the fact that these nationalities are among the most numerous in Libya, but it also reflects an inherent sense of comfort of Arab nationals to approach authorities, whereas Sub-Saharan Africans tend to shy away.

An interview partner said: "Africans are not interested (in the regularisation), as they all want to go to Europe, 80% have entered without papers". This view is shared by another interviewee, who said "the Arabs want to stay while the objective of Africans is to go to Europe." Data referred to the province of Sabratha confirms the preference for Arabs; out of 1,500 regularised migrants in this area, 90% were Egyptian, Tunisian and to a much lesser extent Sudanese.

Finally, the regularisation process is accompanied by several sanctions. Libyan authorities stressed that all migrants who do not regularise their status at the closure of the process will be repatriated. This ultimatum is not compatible with the inherent logistical and bureaucratic constraints in Libya. Accommodation centres are already overcrowded, and repatriation operations are proceeding very slowly, due both to the poor collaboration of some African embassies (such as Nigeria), as well as, sometimes, their absence (such as Cameroon). Moreover many migrants from Eritrea, Somalia and Ethiopia do not agree to meet their respective embassies and therefore do not receive any protection from deportation, while resettlement procedures into European countries proceed slowly and involve only a limited number of immigrants. For these reasons, and due to the fact that Libyan legislation does not foresee a reception time limit, accommodation centres are unable to host more migrants.

8.5.3. International dimension

Although Libya has not ratified the latter two ILO conventions on migration for employment[146], it has ratified seven of the eight fundamental con-

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[146] ILO Convention No. 143 on Migrant Workers (Supplementary Provisions), 1975, and 1990 International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families

ventions; the exception being the convention on freedom of association. Libya has also ratified the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (UN-ICMR).

On 1 July, 2003, the UN-ICMR officially entered into force as an instrument of international law to ensure protection and respect for the human rights of all migrants. It was recognised by the committee responsible for the implementation of the Convention that Libya, in 2004, was the first major country of destination for migrant workers to ratify the convention.

According to the provisions of this Convention, states must respect the basic human rights of all migrant workers. They must also prevent irregular migration for employment and take action to eliminate trafficking in human beings. Furthermore, states must declare and pursue a policy to secure equality of treatment in respect of matters such as employment and occupation, social security, and trade union and cultural rights.

8.5.4. Domestic dimension

In broad terms, Law 6/1987 "concerning the regulation of aliens' entry, residence and exit in Libya" governs the dynamics of foreign labour entry into the country. This is taken as a base on which other complementary procedures and legislation are applied.

Rights of migrant workers in Libya are stipulated by the Labour Law, which was promulgated in 1971 by the decision of the Revolutionary Command Council. Under this scheme, the authority to oversee the provisions of the law was vested in the Ministry of Labour and Social Affairs. In its initial formulation, the law applied only to those who worked under a "contract of employment", including those in the public service, but excluding domestic workers and those employed in agriculture. To date no major amendments have been made to this law.

Employment in Libya is regulated by Law 15/1981. Foreign employees cannot expect a work contract in Libya unless they have a work permit and a residence permit issued by the competent Libyan authorities. Articles 13, 14 and 15 cover the work of foreigners, under which only registered employment – after obtaining a work permit – is permitted. In other words, by virtue of this edict it seems clear that employment of foreign workers in regular status is covered and the employment of those in irregular status is deemed illegal.

The contract is in the form of a written undertaking that must include: the duration of the engagement, the rights and obligations of the employee, the number of hours worked daily and weekly, holidays, length of leave periods, the salary as well as overtime payments, accommodation, and health insurance coverage. There are, however, no benchmarks for minimum provisions and it is up to the employer to obtain residence and work permits and to finalise all contractual arrangements.

The Labour Law also makes provisions not just for an individual agreement but also for a collective contract concluded between one or more trade unions and one or more of the employers' organisations. However, given that only Libyan citizens have the right to membership of a trade union, collective agreements on behalf of migrant workers ostensibly cannot be concluded. Nevertheless, article 118 does give right of representation to "non-Libyans" pursuant to the terms and conditions to be specified through a decision of the equivalent minister of labour.

The Labour Law -the objectives of which are stated to be "[…] the establishment of social justice in order to realise sufficiency of production and equity of distribution"- seems fairly encompassing. It outlines contractual concerns, protection in employment, working conditions including an occupational safety and health (OSH) framework and grievance procedures. Moreover, the law also provides the right to equality of treatment with nationals of Libya, including access to social security provisions and educational, vocational and social services (article 43). However, given the lack of information, it is difficult to assess its efficacy in practice.

In addition to the Labour Law, there are other laws which regulate the entry and work of expatriates. Importantly, these include:
- Law 1, which reviews international agreements, conventions, issuance of asylum rights and treatment of refugees and their approval;
- Law 6/1987, and Law 98 , which are concerned with the Regulation of Aliens Entry , Residence and Exit in Libya and mechanisms of organising work and residency in Libya;
- Law 13/1975, which concerns the promotion of required Arab expertise for development (and the organisation of their status);
- Law 18/1980, which concerns the regulation of Nationality Law; and
- Law 46/2009, concerning the organisation and work of domestic workers.

8.6. Institutional Structure for Governance of International Labour Migration

There have been considerable changes in the executive and administrative arrangements, not the least of which was the abolishing of the Ministry of Labour in March 2009 followed by its downsizing from ministerial status and replacement with the Labour and Vocational Training Authority in April 2009. At the time of the mission, it was not yet clear what functions of the former body have been retained by the latter.

Consequently, there is a need for more coherence in the governance of labour migration in the country. Responsibilities are shared between different departments on the basis of an ad hoc approach. Work and residency permits are issued by the Directorate General for Passports Investigation, labour inspections are carried out by the General People's Committee, Labour and Vocational Training Administration (i.e. ministry of labour) the scope and jurisdiction of which is undefined, while the grievances procedures are handled through various appellate courts. Coordination between these functions and weak institutional capacities hamper the development and implementation of coherent labour migration policies.

8.7. Conclusions and Recommendations

Effectively, and in order to put an institutional structure in place for better governance of labour migration in Libya, the following concerns need to be addressed: What are the interests of the Libyan government in allowing labour migration into the country? How could sustainable development in Libya be promoted through labour migration? What are the rights of migrant workers in Libya that need to be protected and what rights promoted? What mechanisms could best represent the interests of workers in Libya? And what are the impediments and bottlenecks in Libya's migration management?

It is also necessary to bring the various institutional functions together under a co-ordinating body to achieve policy coherence regarding labour migration in Libya at the central level.

Finally, there are gaps among the existing information base on migration in general, and labour migration in particular, which must include the collection and sharing of statistical data, as well as the information flow be-

tween the different administrative units involved in migration management.

The following is a set of recommendations intended to facilitate a coherent labour migration policy in Libya:

1) The execution of in-depth analysis of the current system in place regarding labour migration;
2) The revision and update of current labour migration policies in line with anticipated labour demands, most notable in relation to Libya's five-year development plan;
3) The reassessment and improvement of existing migration management procedures, particularly in terms of capacity building for relevant governmental actors, especially in relation to labour migration management;
4) The fostering and promotion of migrant labour rights, through the introduction of national legislation that guarantees the rights and responsibilities of foreign workers in line with international standards;
5) The adherence to, and ratification of, international labour standards and other relevant international instruments and multilateral agreements concerning migrant workers (where this has not yet been the case);
6) The establishment of structures and mechanisms to ensure the coordination and consultation among different line departments of the Government of Libya involved in the process of labour migration;
7) The verification and guarantee that effective enforcement mechanisms for the protection of migrant workers' human rights are in place; the provision of human rights training to all migration-related entities and individuals; the execution of awareness raising campaigns on migrant workers' human rights.

9. Border Management

9.1. Introduction

Libya has a maritime border of 1,770 km and a land border of 4,348 km with Algeria (982 km), Tunisia (459 km), Egypt (1,115 km) and the Sub-Saharan countries Chad (1,055 km), Niger (354 km) and Sudan (383 km).[147] The border is not completely demarcated and landmines still exist in some areas at the border with Egypt and in the south.

Due to Libya's geographic expansion and topographic specificities, its borders are particularly difficult to control: the coast allows boats to be launched from almost every point of it, and the land borders are mostly desert borders which render surveillance a challenge. Due to the harsh conditions in the Sahara desert, some of the border crossing points (BCPs) function only as checkpoints and have moved part of the BCP procedures to the nearest town further inland. While border surveillance takes place with cars and to some extent even airplanes, controls (namely through Libya's Desert Patrols apparatus) are also focusing on oases and desert towns, where irregular migrants gather to refuel and stock up on water and other supplies.

The majority of irregular migrants cross the desert border into Libya outside of a BCP, or, as in the case of Arab nationals, enter with correct papers but become overstayers when already in the country. Some of the smugglers, particularly those taking the Western route[148], are substantially organised and arrive in big and armed convoys.

An additional challenge for border management in Libya is the perception of some high ranking border officials that the desert border cannot be controlled at all, as well as the position that borders are artificial in this part of

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[147] CIA World Factbook 2007.
[148] Interview in 2009.

the world and should be abolished, particularly with all Arab countries, but preferably also with others.

9.2. Border Crossing Points (BCPs) in Libya[149]

Libya has the following official BCPs: Tripoli, Benghazi, Sebha, Misrata, Al-Khums, Tobruk, Ras Ijdeir, Dehiba, Ghadamis, Ghat, Al-Thoum, Sara, Al-Awaynat, Al-Jagbub, Amsa'ad, Darmali, Sirte, Kufra (customs point), Al-Qatroun (customs point). The BCP with Sudan (Al-Awaynat) has been closed since 2007, due to the volatile situation in Darfur.

Libya has nine port BCPs (the first five listed according to importance): Tripoli, Benghazi, Misrata, Al Khums, Tobruk, Zuara, Darmali, Derna, and Sirte.

The four international airports of the country are in: Tripoli, Benghazi, Sebha, and Sirte; there is also a private tourist airport in Ghat.

BCPs in Libya are not categorised and, with the exception of the remote desert checkpoints, all follow the same rules and have the same organisations present:
- Police (General People's Committee for Public Security, MoI)
- Directorate General for Passports Investigation (General People's Committee for Public Security, MoI)
- International Security Department (General People's Committee for Public Security, MoI)
- Tourism Security
- Authority on BCPs and Infrastructure
- Civil Defence
- Customs Administration
- Veterinary Service
- Plant Health Service
- Health Control

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[149] Based on the General People's Committee Resolution number 125/1373(2005), Libya's main entry points are as follows: Land Border: Ras Ijdeir (Tunisia), Amsaad (Egypt), Gadames (Algeria, Tunisia), Esseyene (Ghat- Algeria), al-Thoum (Niger), Eastern Al-Awaynat (Sudan), Wazen and Sara (Niger). Air Entry points: International Airport Tripoli, International Airport Benina, International Airport Sebha, International Airport Maatikia, International Airport Sirte, International Airport Ghat. Sea Entry points: Tripoli, Benghazi, Misrata, Tobruk, Derna, Zuara, Al Khums. Petroleum seaports: Ras Lanuf, Brega, Zuetina, El Heriga, Es Sidra (use is limited to oil and gas profession).

Every BCP and checkpoint has a police station, which deals with ordinary crimes. The BCP premises are formally owned by the Public Property Administration of its respective province, which decides on aspects related to BCP infrastructure (including, for example, authorisation for the opening of BCP-related services, such as kiosks, in coordination with the head of the BCP).

As a general rule (with some exceptions), the director of a BCP is from the general security service; if an acting director is needed, the longest serving officer is usually selected from the present agencies.

In most cases, the deputy director is a representative of the Customs Administration, usually a plain-clothes investigator from the Directorate General for the Prevention of Drugs, Smuggling and Trafficking in Human Beings. Small control posts do not normally have an appointed director; the responsibility is shared.

9.3. Legal Framework

The legal framework for border management evolved over time and is therefore scattered over numerous documents. The main laws and decisions regulating border management are the following:

9.3.1. Police / border policing

- Law No. 6/1987, amended by law No. 2/2004, regulates the entry, exit and stay of foreigners in Libya. A fine of minimum LYD 2,000 (Euro 1,142) and imprisonment are applicable against people who fraudulently obtain or stay without a valid visa. A fine of LYD 1,000 (Euro 571) and imprisonment of minimum one year is applicable against migrant smuggling and document fraud.
- A new draft Law No. 6 on fighting illegal migration was being discussed at parliamentary (People's Congresses) level at the time of writing; it is pending adoption.
- Law No. 10, the Security and Police Law, regulates the responsibility and main procedures of the security agencies in the Ministry of Interior, and includes an organigram of the security services.
- Decision 314, 2008, defines border procedures.

9.3.2. Customs Administration

- The customs law from 1967, defines the structures of the customs service, the tasks of the agency and its personnel, as well as the main procedures.

- Law of Customs officers, 1968.
- Laws concerning the smuggling of drugs and goods contain references to the customs service
- The Law on the free trade zone.
- Bilateral customs agreements with neighbouring, North African and 22 Arab states.

9.3.3. Ministry of Transport

- The above-mentioned Law 6 regarding exit and entry describes the role to the Ministry of Transport and describes the structure or this ministry.
- The law on ports defines the role of the port authority and the type and level of fees.

9.3.4. Ministry of Agriculture

- Decision on the establishment of a centre for food products and medicine: describes the structure of the centre, sampling procedures and criteria for decisions, required documentation. This centre is also responsible for plant protection.

9.3.5. International cooperation

- Law on the free-trade zone, and bilateral agreements with all neighbouring countries.
- Customs agreements exist with all Maghreb states and 22 countries.

9.4. Institutional Framework

9.4.1. The General People's Committee on Public Security

The General People's Committee on Public Security is the Libyan equivalent of a Ministry of Interior, with a central role in policing. It consists of 24 departments and 13 organs, six of which have a directly assigned budget and legal personality:

- Directorate General on Illegal Migration and Secret Infiltration (see description further below).
- Directorate General for Passports Investigation (see description further below).

- The Coast Guard, formerly part of the Ministry of Defence, is responsible for controlling the maritime border of Libya and authorises and supervises the departure of fishing boats. With regard to irregular migration, the Coast Guard is a military force with a responsibility for search and rescue. There is growing Libyan naval involvement in the detection of illegal migrants at sea. This has been carried out with active assistance and practical help from Italy since May 2009.
- The Department for Internal Security is the competent authority for dealing with public order crimes and state security.
- The Tourism Security controls touristic institutions and national heritage sites, and investigates crimes related to these, including, for example, the illegal export of antiques.
- Civil Defence is supposed to have a representative in every public institution, who takes charge in the case of disasters, such as fires, earthquakes, etc.

The General People's Committee on Public Security also has 22 regional directorates, one in every province of Libya.

The Directorate General on Illegal Migration and Secret Infiltration is responsible for fighting irregular migration in towns and at the coast. It is a new department, founded in 2006. At the time of writing this report, it was still being supported by other agencies, but once firmly established, it is expected to work with more independence. On the land borders, it cooperates with the Coast Guard, the Military Forces and the regular Police. In coastal areas that are identified as particularly vulnerable, the department has its own patrols, which are only active on land, not on water. According to the information provided by members of the Directorate General on Illegal Migration and Secret Infiltration, additional staff can be mobilised from other agencies according to need, for example from the police.

Directorate General for Passports Investigation, with its Unit for Combating Illegal Migration, is responsible for issuing travel documents and visas. This includes regular passports (which are usually valid for five years and can be prolonged once for another five years), collective passports (for example for visiting sport teams and study groups), temporary travel documents, and travel documents for Palestinians. A special passport for pilgrimage can be issued to Libyan citizens. Visas are granted for work,

residence, tourism and transit.[150] The Directorate General for Passports Investigation is also responsible for document security issues and all matters related to nationality. It controls the entry and exit of people through BCPs and has (shared) responsibility for the public security at the BCPs. It can also conduct inland controls.

The tasks of the General Department include collection of information as well as the investigation, interrogation and apprehension of irregular migrants. It is further responsible for the management and/or supervision of accommodation centres for illegal migrants and – in cooperation with other agencies – the deportation of these persons.

Part of the regular police forces is **the Desert Patrols**, which has the mandate of protecting the Sahara cities from illegal migrants, by apprehending them and handing them over to the Passport Control Police.

9.4.2. Customs Administration

The Customs Administration belongs to the General People's Committee for Finance and consists of six Directorate Generals:
- Directorate General for Administrative Affairs
- Directorate General for Technical Affairs
- Directorate General for the Prevention of Drugs, Smuggling and Trafficking in Human Beings
- Directorate General for Inspection and Review
- Directorate General for Training and Planning
- Directorate General for Product Tax

On the regional level, the Customs Administration is divided into six directorates, each of which covers a different border section:
- Tripoli
- Fazan
- Batnan
- Benghazi
- Al Khaleej
- Al-Niqat Al-Khams

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[150] The requirements for foreigners to obtain a tourist visa tend to change frequently. At the time of writing, a certified translation of the passport into Arabic was required. However, it was observed that some confusion existed among Libyan authorities at some entry points as to whether or not this rule should also be applied to diplomatic passports (including United Nations United Nations Laissez-Passer).

The Directorate General for the Prevention of Drugs, Smuggling and Trafficking in Human Beings has the overall responsibility for controlling movements outside of BCPs: patrolling of the border line and inland, and the searching of lorries and convoys. It consists of three Departments and five Divisions:

- Department for the Monitoring of the Land Border
- Department for the Monitoring of the Coast and Beaches
- Department for Border Crossing Point Services
- Divisions: Jarba, Al-Qatroun, Al-Awaynat, Nalut, Kufra

It employs ca. 950 people for surveillance purposes and ca. 150 at the BCPs. The Directorate General has offices along the coast and employs ca. 400 officers who graduated from the naval academy. It also owns four boats which, according to the information received, would in principle be functional, but the blue border patrolling on the sea is still exclusively undertaken by the Coast Guard, which also fulfils customs functions at sea. This effectively means that – in spite of the fact that a Customs Coast Guard formally exists - when migrants are apprehended at sea, the Customs Administration is not involved at all; its requests for more competence in this respect have so far not been answered.

Job rotation of Customs Officers takes place on average every 1 – 1.5 years, particularly at the beginning of the career, to enhance topical and regional diversification of the staff.

9.4.3. Other Agencies

The Border Guard is a military institution, responsible for patrolling the border area outside of BCPs. This is done for the most part by car, and sometimes by airplane.

A land border force totals 3,200 troops (8 battalions). This force is distributed around key land border posts (typically 8-10 men) and reserve forces in key military barracks. It is presently equipped with 4 wheel drive vehicles. They are seeking to purchase limited beyond visual range sensors. An elite military force, which is developing a nation-wide desert reconnaissance capability, totals 5,000 soldiers and 500 vehicles of various types.

While border surveillance was originally a purely military task, today its responsibility is limited to the actual border line while the second line (ca.

80 km inland) and the third line (inland) are covered by police and the customs service.

The People's Security is an organization that works on a voluntary basis and – following the philosophy that security is an issue of general concern as well as the obligation of all Libyan citizens to report illegal actions - complements the work of the security forces by informing them on activities of suspected irregular migrants. The People's Security consists mostly of Libyans, with some foreigners operating in their support.

The High Committee on Illegal Migration, reporting directly to the Leader, has been created in 2009 to strengthen Libyan co-ordination of anti-migration and counter-people smuggling activity. The High Committee includes military, military intelligence and police officials. In 2009, the High Committee began an investigation into the possibly corrupt involvement of some Libyan police in people smuggling. It also assumed command of maritime operations and operations in towns and cities carried out to reduce illegal migration in Libya by the Libyan Police.

9.5. Cooperation

9.5.1. Inter-Agency Cooperation

Cooperation among Libyan border management agencies was assessed as being positive by all interviewed counterparts. It seems to be close, but to a large extent informal. At the BCP the cooperation is coordinated by the BCP Director, on regional level by Command and Control Centres, where representatives of different institutions meet to discuss issues of common concern.

Joint operations of different agencies are theoretically possible, but, according to the Customs Service, they rarely take place in practice. In most cases, patrols are organised by each agency individually and intelligence gathered, for example, through undercover investigations, is shared; apprehended migrants – for example after being searched by customs officers - are handed over to the security forces. All findings and statistics are reported to the central level.

9.5.2. International Cooperation

Libya is a key, and founding, member of The Community of Sahel-Saharan States (CEN-SAD), a coalition of coastal and desert African countries which

comprises 29 member states. It was established in Libya on 4 February, 1998, with a rotating chair. It covers cooperation in various thematic areas, including issues related to security, covering the topic of trafficking in human beings.

Libya has bilateral customs agreements with all North African and 22 Arab countries, and with most neighbouring states bilateral agreements on a free trade zone.

The Customs Administration's international contacts go through the Directorate General for International Cooperation of the General popular Committee for External Communication and International Co-operation (i.e. Ministry of Foreign Affairs). At most BCPs, no direct contact with the BCP of the neighbouring country exists, nor do joint patrols along the border line. With Tunisia joint patrols are under discussion, but still pending the availability of resources.

With Tunisia, intelligence is shared on a regular basis. To a lesser extent, this is also applied with regard to Morocco and Algeria, and occasionally with Egypt.

International support to Libyan border agencies from the European Union and individual countries mostly takes the form of capacity building and the provision of equipment. So far, this support has mostly focused on border policing, and much less on the Customs Administration, which reported to be very interested in enhanced international contacts and cooperation.

9.6. BCPs visited

9.6.1. BCP Ras Jdeir – border with Tunisia

Ras Jdeir is not only the most important land BCP of Libya, but one of the biggest in all of North Africa. In 2008, 6.7 million people were counted leaving or entering the country through this BCP with peaks of up to 24,000 people per day. The high amount of traffic was explained in terms of the close political and economic ties between Libya and Tunisia, in the proximity of Tripoli (180 km to the East) and of Tunisian holiday resorts (250 km to the West), and also in the fact that a large number of Libyans travel to Tunisia for medical treatment. The market of Ben Girdan, on the Tunisian side of the border, is an important trading area for the region, and some traders cross the border several times per day.

To cope with this number of people, which is expected to increase even further in the future, infrastructure investments are necessary, also to reduce the waiting time for persons, which currently lies between one to three hours, but at the time of writing no concrete plans for an upgrade of the BCP existed. The average waiting time for trucks, for which a separate lane exists, could not be provided.

Ras Jdeir is the only BCP in Libya where a 1-stop customs control is implemented, based on a bilateral agreement with Tunisia, which allows the customs officer of the other state to inspect trucks and move freely on the whole territory of the BCP. Upon entry, the control takes place on the Libyan side of the BCP, upon exit on the Tunisian side. Every three months, the Libyan and the Tunisian directors of the BCP and the two heads of the neighbouring provinces meet, to evaluate their cooperation and discuss problems; recommendations are passed on to the central level, where a Libyan/Tunisian Ministerial Committee also meets every three months to discuss energy, trade and other issues of joint interest. This level of cooperation only exists with Tunisia. The model of joint customs control has been under discussion for the BCPs with Egypt, but has so far not been implemented due to the complexity of the relations with this country.

Joint control of passports does not take place, nor is it foreseen for the near future, but cooperation between both sides of the border exists. Information from the Libyan database where persons entering and exiting the country are recorded at the BCP is shared on a case by case basis with Tunisia and, on an exceptional basis, also with Egypt.

9.6.2. BCP Amsaad - border with Egypt

Amsaad is the biggest BCP with Egypt. It is the main entry point in western Libya for imports and for transit towards Tunisia. At the moment, ca. 160 - 170 trucks enter per day, but the traffic is expected to increase once the new BCP premises are opened, which is expected to take place towards the end of 2009.

The BCP is open 24 hours per day, and all agencies present operate in three eight-hour shifts: a morning, day and night shift. There are three lanes: one for Libyan citizens, one for Arabs and foreigners, and one for trucks. The average waiting time was reported as being between half an hour and one hour for persons, and approximately half a day for trucks – provided that the documentation is found complete and correct.

The BCP is currently in the final stages of being significantly modernised, the new buildings have already been completed. While at the old BCP – like at the airport in Tripoli – all signs are in Arabic, for the new BCP, signs in English are also planned. The areas for entry and exit will be completely separated by a fence, the only exception being the newly built mosque. Other novelties are that accommodation for staff is provided and there is also space for tourist agencies.

500 m inland, a new customs centre was built, scheduled to open on 1 September, 2009, with a fixed scanner and generous space for controls of trucks.

Procedures: The procedures described below are representative for all BCPs in Libya:

Control of persons:
- The first step in the procedure is disinfecting, whereby people walk over a sponge and cars drive through a shallow bath with disinfectant, as well as a health check by a thermal camera and, if found necessary, by a doctor. An ambulance is ready around the clock to bring sick people to the nearest hospital. Disinfection and health checks were introduced in 2004 to prevent the spread of bird flu; nowadays the focus is on H1N1: a declaration of health has to be filled out by the traveller, which is stamped by the health service and later, for the second time, during the passport control. In June 2009, approximately 43,000 persons were checked at this BCP, but not a single case of H1N1 was found.
- At the passport control, at entry and exit, everybody is entered into a database (for Libyans a separate database exists), which keeps the information indefinitely. The computer system is linked to the central level and to the database of search warrants. The validity and authenticity of a passport is checked by the officer in charge, based on his practical experience. Neither specialized training nor equipment, such as magnifying glass or UV lamp, are available. In case of doubt, the supervisor is involved, who has the possibility to contact the authorities who issued the document. Forged and falsified documents are however not considered a huge problem at this particular BCP, since Egyptians can stay for three months without a visa and therefore usually enter the country legally.
- All baggage is scanned. If it is found suspicious, it is searched on the spot; no second line check exists.

- If a physical search is made, it is done in a separate room, and women are only searched by female officers.

Control of goods: Every incoming truck has to go through the following steps:
- Health check of the driver
- Passport control
- Declaration of goods
- Scanning by a mobile x-ray machine
- Phytosanitary or veterinary control (upon declaration)

Only if the truck is too high to pass through the x-ray machine, or if the scan shows something suspicious, personal inspection by customs officers takes place. The outside of the truck is however routinely checked before the scanning, to avoid that potentially hiding people are sent into the x-ray machine.

Data and pictures of the scans are saved indefinitely, but according to the information received there is no possibility to transfer them electronically to the central level. Data that is collected from incoming trucks: name, nationality and passport number of the driver, and type of goods.

There is no specific software used for customs procedures, but a black list of companies exists, as well as a list of goods considered risky.

Contact with the BCP on the Egyptian side is channelled through the central level, but does not take place on a routine basis. Minor issues can be dealt with in direct contact.

Transiting trucks are grouped together and escorted by the Customs Administration – one car in front of the convoy, one in the back - to the BCP to which the trucks are heading. Such convoys are organized upon need, but depart almost on a daily basis. Information is sent in advance to the destination BCP about the trucks and their cargo, where it will be verified whether or not cargo has been unloaded/uploaded along the way. If an overnight stop is made in Libya, the trucks and their drivers remain at customs stations.

9.6.3. BCP Al-Qatroun

The province of Murzuq, in which of Al Qatroun is located, is one of the key areas for legal and illegal migration, coming through the borders with Niger and Chad. The BCPs with Niger and Chad are only open for the nation-

als of their respective countries who are in possession of a valid visa or, in exceptional cases, other nationalities with special permission. Everybody else has to arrive at the international airport of Sebha.

Due to its isolated location in the middle of the desert, Al-Thoum, the BCP with Niger, is more of a control post than a regular BCP; the corresponding border post on the territory of Niger is more than 90 km away. Only the main agencies – passport and customs administrations as well as security services – are present at Al-Thoum: passports are checked and stamped, but information about arriving cargo is passed on via satellite phone or radio to the Customs Administration in the town of Al-Qatroun, 280 km further inland, to where the truck is escorted to undergo regular customs procedures and pay customs fees. Veterinary and phytosanitary inspectors travel down from Sebha upon request. Trucks exiting Libya are also checked in Al-Qatroun, and then accompanied to the control post at the border.

According to a representative of the Police, most cross-border traffic in this region is illegal, and takes place outside of the BCPs: while there are, on average, between 100 and 200 legal entries at Al Thoum per month, apprehensions of illegal migrants are reported as being as high as 3,000 – 4,000 for the same period of time. In winter the numbers rise, as legal and illegal migrants come to look for seasonal work. Occasionally nationals from other countries, predominantly Nigeria and Ghana (but in principle from all of sub-Saharan Africa), have to be turned back at Al-Thoum, unaware that they are not authorised to cross the border there. While it was reported that at several occasions joint border patrols between Libya and Niger have taken place in the framework of the Across Sahara project led by Italy (EC AENEAS 2004 Programme), such controls are normally not implemented.

Those who arrive with forged or falsified passports or visas (contrary to the border with Egypt, there seem to be many cases in Al-Qatroun and some of these falsifications are reported as very advanced) are interviewed by the Directorate General for Passports Investigation regarding their route, means of transport, etc. Originally they were immediately deported, but since Niger refuses to accept anybody except its own nationals, most are sent to accommodation centres in the region and later directly deported from there or, in the majority of cases, sent back via the airport of Sebha. Migrants apprehended by the Desert Patrols in the area of one of the Sahara cities are kept in one of their accommodation centres until they are handed over to the Directorate General for Passports Investigation and

their Sebha accommodation centre, pending deportation. UNHCR is not present in the region, and since Libyan authorities consider migration along this route purely economic, these migrants are not provided with an opportunity to claim asylum.

To counter rumours that at some occasions deported migrants were left directly at the border line in the middle of the desert, local authorities underline that if a deportation to Niger or Chad takes place, the authorities on the other side of the border are informed, and the migrants are not only transported to the first control point in the neighbouring country, but also provided with food, water, medical aid and blankets if needed.

9.7. Recommendations

Border officials seem to be torn between the Libyan propagation of open borders on the one hand and the more recent demand for increased efforts to fight irregular migration on the other. The formulation of an official migration policy would provide guidance in this respect and ensure that future upgrading of the border management system follow the same aims.

While Libyan border agencies cooperate and communicate with each other in practice, a lot of this cooperation and information exchange still takes place informally. A formalisation of this is a key priority, in order to ensure more transparency and continuity, particularly in cases of personnel rotation. The elaboration of a national border management strategy and action plan would help to coordinate the activities of all border agencies.

The cooperation of Libya with its neighbouring countries in the field of border management varies considerably: it is very high with Tunisia, yet less close with other North African countries (with Egypt at the end of the scale), and very limited with sub-Saharan countries. The cooperation and information exchange with Tunisia should be taken as model for the cooperation with the Arab neighbours, and enhanced communication should be sought with the sub-Saharan countries to identify areas of common interest and possibilities of cooperation.

Joint patrols and operations should be organised among the Libyan border authorities. Where these are not feasible, the coordination of controls should be envisaged. The same is valid for the international level.

The 1-stop-control implemented by the Libyan and Tunisian customs administrations at the BCP of Ras Jdeir should be followed by the Directorate

General for Passports Investigation and their counterpart on the Tunisian side. This concept should also be introduced at other BCPs in the country.

Regulations for border management in Libya can be found in a variety of laws, decisions and decrees, some of which supersede others or render them partially invalid, which makes it very difficult for practitioners to keep an overview and stay up to date. A collection of all relevant regulations in a few comprehensive laws is recommended – this would also help to clarify the division of competences between the Customs Administration and Coast Guard.

To enhance transparency and reduce waiting times at land and airport BCPs, a simplification and streamlining of the control procedures is recommended. Intensive checks of, for example, luggage should not take place at the spot, but space should be provided to make second line controls possible.

Professional training was identified as a need by interviewed counterparts, particularly in the fields of management, languages and specialised training, where the introduction of updated and practical training material and modern, participatory teaching methodologies can be recommended. The most frequently mentioned topic of interest was document security. While training on this issue has been provided by international counterparts at several occasions in the past, this should be complemented by the development and implementation of a curriculum and materials for theoretical and practical training. Up to date knowledge on document security features should be cascaded down to all border officers through a training-of-trainers system, and kept relevant through regular refresher courses.

In addition to training, basic document security equipment (magnifier glasses, UV lamps, etc.) absolutely need to be provided to officers involved in document control, together with access to an up to date manual with pictures and descriptions of documents and their security features in hardcopy or electronic form. Obtaining specialised document security equipment for detailed checks is highly recommended. Libyan counterparts also mentioned that computers and communication equipment are needed.

Regular training of border officials on the latest visa regulations is a necessity to facilitate legal entry into the country.

The cooperation and exchange of information and good practices with other states should be continued, and should also include the Customs Administration as well as the inspection services.

10. Smuggling and Trafficking

Assessment of Libya's Criminal Justice System's Response to the Smuggling of Migrants and Trafficking in Human Beings

10.1. Introduction

The smuggling of migrants through and from Africa to Europe is a major and increasing problem. Libya has been an important migration destination for nationals from neighbouring Arab countries, especially Egypt and Tunisia, as well as Sub-Saharan Africa. The latter come from an increasingly diverse array of countries and regions such as Senegal, Gambia, Mali, Ghana, Nigeria, Cameroun, Sudan, Liberia and the Horn of Africa. According to varying estimates, between 65,000 and 120,000 Sub-Saharan Africans enter the Maghreb yearly, of which 70 to 80% are believed to migrate through Libya. In recent years the problem has increased as Libya's ties to the African continent are growing. But Libya has also become a destination country, especially in light of its infrastructural and developmental projects, acting as a pole of attraction for foreign labour. The exploitation of many of these migrants often results in cases of human trafficking.

Senior governmental counterparts[151] acknowledged the need to address migrant smuggling and trafficking in human beings, and underlined Libya's commitment by virtue of its ratification to the United Nations Convention against Transnational Organized Crime (UNTOC) and its additional protocols. The main challenge Libya faces is to pro-actively contain and mitigate the risk of increasingly becoming a destination for irregular migration and smuggling of migrants as well as human trafficking; a trend that is likely to increase.

Human trafficking and smuggling have been actively addressed by the criminal justice system, including pro-active efforts to carry out intelligence-

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[151] Meetings were held with senior governmental counterparts at the General People's Committee for Public Security (GPC for Public Security), the General People's Committee for Finance- Customs Administration (GPC for Finance Customs Administration), the Seaport Authorities of Tripoli and the Border Administration.

led investigations and to begin the process of establishing reliable information about the role of organised crime networks of smugglers and their modus operandi. Yet the evidence-based knowledge on migrant smuggling, irregular migration to Libya and human trafficking remains scattered and poor and requires further efforts to build an up to date database.

In 2008, UNODC launched the regional project "*Strengthening the Criminal Justice Response to the Smuggling of Migrants in North Africa.*" The project aims are to assist the five North African countries (Algeria, Egypt, Libya, Morocco and Tunisia) in building capacities and strengthening co-operation mechanisms among law enforcement and prosecution authorities to effectively prevent, investigate and prosecute the smuggling of migrants, and to develop effective co-operation mechanisms with other countries to that end, whilst protecting the rights of smuggled migrants.

More specifically the project aims to achieve the following:
- Enhanced knowledge about smuggling of migrants through and from Africa to Europe;
- Country assessment reports on existing law enforcement capacities;
- Effective national co-operation mechanisms and coherent plans of action;
- Law enforcers and prosecutors in the target countries trained and respective training material produced and structures established;
- Specialised counter-migrant smuggling law enforcement capacities established; and
- Improved regional and international co-operation in investigating and prosecuting transnational networks of smugglers through the development of formal regional networks and joint investigations.

UNODC is running the project in partnership with Europol and Interpol. The project is largely financed by the European Commission.

10.2. The Situation in Libya Regarding the Smuggling of Migrants and Trafficking in Human Beings

10.2.1. Routes and Composition of Migrant Flows

The trans-Saharan journey is generally made in several stages, and might take between one month and several years (the average journey takes between 3 to 6 months). On their way, migrants often settle temporarily in

towns located on migration hubs to work and save enough money for their onward journeys, usually in large trucks or pick-ups.

Despite the existence of multiple alternative routes, the majority of migrants enter Libya through land[152], from Agadez in Niger, which is located on a historical crossroads of trade routes. The city of Agadez has been repeatedly confirmed as an important connecting point for migrants from West Africa, where they start to contact agents that will arrange their onward passage to Ghat in south-western Libya or further on to Tripoli. From Agadez, migration routes lead to Sebha and Kufra in the south and south east of Libya respectively. The Libyan authorities confirmed Kufra's role as both an entry point and an important migration hub from the Horn of Africa, where migrants make contact with sub-agents, mostly locals, with links to the Benghazi region. It seems that many Somalis, Ethiopians and Eritreans enter Sudan on the basis of fake employment contracts and travel on to Libya illegally.

Other entry points include Al-Qatroun (at the border with Niger) for migrants from Sub-Saharan Western Africa and Ghat (at the border with Algeria) for Tunisians and most recently for migrants from the Indian subcontinent (Pakistan and Bangladesh).

From the south of Libya migrants move to Tripoli and other coastal cities. From there they travel by boat to either Malta or the Italian islands of Lampedusa, Pantelleria, and Sicily. Misrata and Zwara are also strategic points for migrants heading to the South of Europe.

The Libyan authorities assume that many of the boats currently being used are brought from Tunisia and constructed in sites near the Libyan borders.

10.2.2. Modus Operandi

The migrant smugglers tend mainly to be nationals of the same country of origin as the migrants themselves. These groups are fairly small and are reported not to be organised in a hierarchical way; this is consistent with global reporting on organised crime involved in migrant smuggling.

As has been reported, migrant smugglers and human traffickers operating in the country of origin and in Libya exploit the desert borders, especially with Algeria, Niger, Chad and Sudan. The vast desert areas spreading all

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[152] A minority enter through airports, namely through Sebha or Tripoli.

along the borders, as well as the climate conditions, facilitate such operations. These groups of foreign facilitators rely on local contacts to provide safe houses for migrants, especially in Ajdabya and Zuara, pending their transport to Europe. These criminal networks shelter the migrants until the moment the necessary arrangements are concluded. There are also Libyan nationals involved in this crime who act as agents for the facilitators, and there exist also cultural and tribal links between persons from regions on each side of the land borders, who often share the same language, which further facilitates the execution of the crime.

Intelligence concerning the number and scope of the organised criminal networks is not available. Additional information and statistical data would be needed in order to enable a comprehensive assessment of the situation. According to the Frontex 2007 Report on Libya, the Libyan authorities indicated that during 2006 the law enforcement authorities arrested a total of 357 facilitators (including 284 nationals) and confiscated 51 vehicles, 17 boats and 36 telephones, together with GPS equipment. During the initial five months of 2007, Libyan authorities reported that 53 agents had been arrested. Furthermore, 360 dead bodies were said to have been recovered during 2006. During 2006, the Libyan authorities had apprehended 32,164 illegal migrants and had repatriated 53,842 during the same period. Furthermore, some 60,000 illegal migrants were in accommodation centres at that time[153].

10.3. The Criminal Justice System Response to Migrant Smuggling and Trafficking in Human Beings

Libya ratified UNTOC on 18 June, 2004, and its supplementary Protocols on 24 August, 2004; namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) and the Protocol against Smuggling of Migrants by Land, Air and Sea (Migrant Smuggling Protocol).

The main legislation governing the smuggling of migrants is Law 6/1987, amended by Law 2/2004 on the entry, stay and departure of foreigners. The country's penal code does not contain any specific provisions on the smuggling of migrants. In fact, after its amendment, article 19 of Law

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[153] Frontex Mission to Libya, 28 May – 5 June 2007, page 10.

6/1987 stipulates: "without prejudice to a more severe penalty included in any other legislation, [a punishment of] imprisonment for a period not less than one year and a financial penalty not less the LYD 1,000 to anyone seeking, for himself or others, material or immaterial gains, by committing any of the following acts: a) smuggling of migrants (…)". The Ministry of Justice is currently preparing legislation on migrant smuggling.

In practice, and in line with the Migrant Smuggling Protocol, irregular migrants who have illegally entered the country with the assistance of migrant smugglers are not held liable to criminal prosecution for the fact of having been smuggled into the country, but they are held liable for any other criminal offences related to illegal entry into the country.

Human trafficking is neither defined nor criminalised. Investigations related to human trafficking, which have been carried out so far were based on other legal provisions such as the legal provisions for punishing anyone enslaving a human being, or participation in an organised criminal group.

The principal authorities dealing with smuggling of migrants and human trafficking issues are the GPC for Public Security, the GPC for Justice, the GPC for Defence and the GPC for Finance and Planning - Customs Authority. Combating the smuggling of migrants and human trafficking is a joint effort between various departments within these GPCs (ministries). Operational co-ordination and responsibility is primarily vested in the GPC for Public Security (Department of Combating Infiltration and Illegal Migration, Directorate General for Passports Investigation, and Department of International Relations and Co-operation). In fact the main operations are carried out by the police, supported by the army and the navy (through the Coastguard Department). On the other hand, investigations are carried out by the Department of Combating Infiltration and Illegal Migration that manages six accommodation centres and the specialised Public Prosecution on Illegal Migration.

In the framework of the ongoing UNODC project entitled "Strengthening the Criminal Justice Response to the Smuggling of Migrants in North Africa", the Secretary of the GPC for Justice (Minister of Justice) established a national committee comprising focal points from the GPC for Justice, the Judiciary, the Public Prosecution for Illegal Migration, the High Judicial Institute and the GPC for Public Security. The national committee is responsible for elaborating a gaps and needs assessment regarding the legal framework and institutional capacity. The establishment of the national

committee is an important step towards the establishment of a permanent national task force.

10.4. National Programmes and Policies

The national policy towards the phenomenon of migrant smuggling and human trafficking underlines the importance of combining the criminal justice response with long-term development programmes to improve the socio-economic conditions of the countries of origin. This also includes Libya's ongoing mediation to achieve a peaceful settlement of armed conflicts in the African continent.

Libya's policy focuses on:
- Co-operation between the African Commission and the European Commission to establish a fund through contributions from African and European States to implement the Tripoli Declaration on Migration and Development. Addressing the logistical needs of the North African countries in the area of border control through funds to be provided by the European States and managed under the supervision of the African Union and the European Union.
- The establishment of a communication system between countries of origin and transit countries to exchange information on the prosecution of organized criminal networks.
- The organisation of an international conference involving countries affected by the phenomenon of migrant smuggling, in order to adopt a joint plan of action.

As for the criminal justice measures adopted:
- The adoption of a legislative policy of aggravating the punishment of the criminal conduct of migrant smuggling.
- The establishment of an administration in charge of combating illegal migration, namely the General Administration of Combating Infiltration and Illegal Migration.
- The enhancement of border controls.
- Strengthening co-operation with international organisations.

The interviewed authorities acknowledged that criminal networks are increasingly involved in migrant smuggling and human trafficking in Libya, which requires further co-operation between the relevant authorities as well as co-operation with regional and international counterparts.

10.5. Conclusions and Recommendations

The following recommendations refer to activities that could be carried out to ensure an enhanced criminal justice response to the smuggling of migrants and trafficking in human beings:

- Adopt national legislation that defines and criminalises migrant smuggling and human trafficking in line with the UNTOC and its additional protocols.
- A national inter-agency task force on migrant smuggling and human trafficking could be established in Libya. This task force should consist of representatives of all relevant law enforcement bodies, and could be co-chaired by the GPCs of Public Security and Justice. The mandate of the task force should comprise the following: 1) to facilitate information exchange concerning migrant smuggling and human trafficking and counter-measures taken among the agencies as well as the review of existing information; 2) to carry out a risk analysis; 3) to develop a strategic plan to guide and prioritise action in a co-ordinated way; 4) to monitor developments and the appropriateness of counter-measures taken; and 5) to ensure the implementation of the capacity building activities.
- A mechanism should be built to systematically collect information on migrant smuggling and human trafficking within the different law enforcement agencies, as well as to ensure the timely reporting to one centralised body responsible for storage and analysis.
- Risk analysis should be carried out to better determine the current and future level of the threat posed by migrant smuggling and human trafficking. Such analysis should provide the basis for the development of a strategy that clearly allocates responsibilities and provides priorities in order to guide counter-migrant smuggling and human trafficking measures in a coherent and co-ordinated way.
- The necessary equipment for the investigation of migrant smuggling cases should be available.
- Training on the issues of migrant smuggling and human trafficking should be provided to build the capacity of practitioners, ensuring nationwide coverage of law enforcement actors familiar with the issues of migrant smuggling and human trafficking. This includes intelligence-led investigative techniques, information gathering, and case management. Case files for court should be provided to selected law enforcement actors, in particular the Judicial Police and law

enforcement actors that assist the Judicial Police in carrying out the investigations.

- Basic and specialist training on migrant smuggling and trafficking in human beings should be integrated into the national training curricula for front line staff, ensuring humane treatment of migrants and protection of their rights, such as the correct procedures in dealing with applications for political asylum (which should be an essential part of such training). The training should also provide information on legal provisions that can be used in order to crack down on migrant smugglers and human traffickers, in the absence of applying proper counter-migrant smuggling and human trafficking legislation.
- Training on border control to build the capacity of the practitioners could be provided. This could take the form of a multi-year project, including the procurement of modern equipment.
- When carrying out activities to strengthen Libya's criminal justice response to migrant smuggling, synergies with other technical assistance projects should be sought and created where possible.

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12. Annexes

12.1. Annex 1: List of Selected Relevant Legislation

Laws

- Law 1/1969 on the work of the People's Congresses
- Law 2/1991 On Enhancing Freedom
- Law 6/1987 concerning the regulation of aliens' entry, residence and exit in Libya
- Law 13/1975 concerning the promotion of required Arab expertise for development (and the organisation of their status)
- Law 15/1981 on employment in Libya
- Law 18/1980 concerning the regulation of Nationality Law
- Law 20/1991 on the endorsement of freedom
- Law 46/2009 concerning the organisation and work of domestic workers
- The Labour Law of 1971
- The 1969 Libyan Green Charter
- The Great Green Charter for Human Rights of the Jamahiriya Era of 1988

Decisions

- Decision 6/2009 of the General People's Committee (on Labour Force and Vocational Training)
- Decision 67/2004 of the Secretary of Public Security accompanying these guidelines calls for the formation of a committee to monitor arrests, detentions and deportations of unauthorised migrants
- Decision 98/2007 on entry of foreigners

12.2. Annex 2: Definitions

Asylum

The grant, by a state, of protection on its territory to (a) person(s) from another state fleeing persecution or serious danger (THP Foundation and UNESCO 2008).

Country of origin

A country where a person or a group of persons originate(s), i.e. country of his/her nationality or in the case of stateless persons the country of usual residence (THP Foundation and UNESCO 2008).

Country of transit

A country through which a person or a group of persons travels, possibly involving temporary settlement, on the way to a given country of destination (THP Foundation and UNESCO 2008).

Country of destination

A country that is the destination for a person or group of persons (THP Foundation and UNESCO 2008).

Detention

Restriction on freedom of movement through confinement. It is important to distinguish between criminal detention, having as a purpose punishment for a crime, and administrative detention, guaranteeing that another administrative procedure can be implemented. In many states, migrants with irregular status are subject to administrative detention as they are in contravention immigration laws and regulations. In addition, individuals may also be detained for irregular entry despite the fact that they are applying for asylum or prior to expulsion from the national territory (THP Foundation and UNESCO 2008).

Durable Solutions

Any means by which the situation of refugees can be satisfactorily and permanently resolved. As they relate specifically to refugees, durable solutions are defined by UNHCR as follows:

- Voluntary Repatriation: Return to the country of origin based on the refugees' free and informed decision. Voluntary repatriation may be organised, (i.e., when it takes place under the auspices of the concerned

governments and UNHCR), or spontaneous (i.e. the refugees return by their own means with UNHCR and governments having little or no direct involvement in the process of return).

- Local Integration: A durable solution to the problem of refugees that involves their permanent settlement in a country of asylum, and eventually being granted nationality of that country.
- Resettlement: The transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. The refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalised citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. It is also a practical example of international burden- and responsibility-sharing. (UNHCR, Master Glossary of Terms 2006)

Expulsion/Deportation/Removal

Removal of a resident from the territory of a state by government authorities (THP Foundation and UNESCO 2008).

Facilitated Illegal Migration (EC term) and Migrant Smuggling

"Facilitated illegal migration" (EC term) and "migrant smuggling" (UN term) are used synonymously. In line with article 3 of the Migrant Smuggling Protocol, "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. In addition, article 6 requires states to criminalize the conduct of enabling a person to remain in a country where the person is not a legal resident or citizen without complying with requirements for legally remaining by illegal means in order to obtain a financial or other material benefit.

Family Reunion/ Reunification

The process of bringing together family members, particularly children, spouses and elderly dependents. (THP Foundation and UNESCO 2008).

Integration

A dynamic, long-term and continuous process of mutual accommodation by all immigrants and residents of a state. (European Commission; Common basic principles for immigrant integration policy in the European Union)

International Migrant

A person who changes his/her country of usual residence (THP Foundation and UNESCO 2008).

Labour Migration

Migration for the main purpose of employment or work (THP Foundation and UNESCO 2008).

Migrant

A person undergoing a (semi-)permanent change of residence which involves a change of his/her social, economic and/or cultural environment (THP Foundation and UNESCO 2008).

Migrant with irregular status

Person entering, travelling through or residing in a country without the necessary documents or permits (THP Foundation and UNESCO 2008).

Migrant Smuggling

Migrant smuggling is the procurement, in order to obtain, directly or indirectly, a financial or other material benefit of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. The UN Protocol against the Smuggling of migrants also requires the criminalization of "enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State". (According to the 2000 UN Protocol against the Smuggling of Migrants by Land, Sea or Air, Supplementing the United Nations Convention Against Transnational Organized Crime)

Migrant Worker

Person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national (THP Foundation and UNESCO 2008).

Non-Discrimination

Fundamental principle of international law referring to the absence of - or practice or policy of refraining from – unreasonable distinctions, exclusions or preference (THP Foundation and UNESCO 2008).

Non-Refoulement

A core principle of international refugee and human rights law that prohibits states to return individuals in any manner whatsoever to countries or territories in which their lives or freedom may be threatened (THP Foundation and UNESCO 2008).

Organized Crime

In line with the UN Convention against Transnational Organized Crime, "Organized crime" is defined as a "structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes (…) in order to obtain, directly or indirectly, a financial or other material benefit."

Protection

All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of human rights, refugee and international humanitarian law (THP Foundation and UNESCO 2008).

Refugee

Person outside his country of origin who cannot return to this country because he/she has a well-founded fear of persecution or is unable or unwilling to return there owing to serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order (THP Foundation and UNESCO 2008).

Return

Refers broadly to the act of going back from a country of presence to the country of origin after a final decision stating the illegality of the stay was taken. There are numerous sub-categories of returns which can describe the way it takes place: Voluntary return is based on an informed decision freely taken by the individual; Assisted voluntary return includes organisational and financial assistance for the return and where possible, reintegration measures offered to the individual; Forced return is a return that is not undertaken by the individual voluntarily (ICMPD MTM questionnaire).

Trafficking in Human Beings

Trafficking in Human Beings is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse

of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (According to the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime)

Trafficking in Persons

In line with the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

12.3. Annex 3: Glossary of Terms

For ease of reference, following are two sets (in order of relevance) of selected terms in the Arabic language and names of Libyan governmental institutions that were used in the context of the thematic areas addressed in the survey, both in the various chapters (by the experts), as well as during mission interviews (by the interviewees):

12.3.1. Terms

Arabic	English
Jamahiriya	State of the masses (or republic of the populace); this is Libya's type of governance, which is based on Gaddafi's "third universal theory" as outlined in the *Green Book*
Al-Fateh	The name given to the revolution in Libya, in September, 1969 (Al Fateh literally means "the opener or commencer"). The term is also used to refer to the month of September itself

Arabic	English
Sha'biya	People's province (in Libya, there is a total of 22 *sha'biyat,* which are the ultimate geographic, political, and demographic units)
Hijra	Migration
Muhajer	Migrant
Muhajereen	Migrants
Al-Mahjer	Diaspora (generally used in reference to land where Arab migrants are present)
Damj	Integration
Indimaj	Self-integration
Idmaj	Integrating (i.e. act of integrating someone into society)
Tarheel	Deportation
Tarheel Taw'i	Voluntary deportation
Awda Taw'iyah	Voluntary return
Sijn	Prison
Markaz	Centre
Markaz Tarheel	Deportation Centre
Markaz Istiqbal	Reception Centre
Markaz I'tiqal	Accommodation Centre
Markaz Ihtijaz	Arrest Centre
Markaz Ewa'	Accommodation Centre (in the context of the survey topics, this is used to refer to "reception centre" as well). This term is in line with official Libyan terminology in reference to the centres.
Nouqtat 'Obour Hodoudiya	Border crossing point
Nouqtat Jamarek	Customs point
Matar	Airport
Meena'	Port
Jamarek	Customs
Jawazat	Passports
Safara	Embassy
Jalya	Expatriate community
Mashreq (region)	The Levant region
Maghreb (region)	The North African region

12.3.2. Names of/references to relevant Libyan national governmental institutions

Al-Lajna Al-Sha'biyah Al-A'mah	The General People's Committee (the cabinet)
Al-Lajna Al-Sha'biyah Al-A'mah, Al-Ittisal Al-Khariji wa Al-Ta'awon Al-Dawli	The General People's Committee for External Communication and International Cooperation (MoFA)
Al-Lajna Al-Sha'biyah Al-A'mah, Al-Amn Al-'Am	The General People's Committee for Public Security (MoI)
Al-Lajna Al-Sha'biyah Al-A'mah, Al-Quwa Al-'Amela wa Al-Tadreeb Al-Mihani	General People's Committee for Labour Force and Vocational Training (equivalence of ministry of labour)
Da'erat Idarat Al Hijra	Migration Management Department
Idarat Mabaheth Al-Jawazat	Directorate General for Passports Investigation
Idarat Al-Jawazat	Passports (and Citizenship) Administration
Maslahat Al-Jamarek	Customs Administration
Hay'at Al-Marafeq	Crossing Points Administration
Dawriyyat Al-Sahra'	Desert Patrols
Al-Shourta	The Police
Ghafr Al-Sawahel	Coast Guard
Al-Niyabah Al-'Amah	Prosecutor's Office
Mahkamat Al-'Adl Al-'Olya	Supreme Court
Sandouq Al-Tadamon Al-Ijtima'i	Social Solidarity Fund (equivalence of ministry of social affairs)
Al-Idara Al-'Amah, Al-Masharee' Al-Zira'iyah Al-Intajiyah	Directorate General for Agricultural Productive Projects

A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya

The Libya Survey report is the result of the project "A Comprehensive Survey of Migration Flows and Institutional Capabilities in Libya", which was implemented from November 2008 to October 2009. The survey provides an assessment of the legal and institutional framework for migration management in Libya, as well as recommendations on how to address the challenges Libya is facing in this context.

The report provides a mapping of migration flows to, through and from Libya, including their composition, as well as the conditions and intentions of migrants transiting or residing in Libya. Building upon the information provided by relevant Libyan institutions and the expertise of six international organizations and three NGOs, the survey furthermore addresses the following issues: asylum and refugees; return and readmission; migration and integration; labour migration; migration and development; border management, and people smuggling and traffi cking in human beings.