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QUID PRO QUO?

Development, security, and migration policies
between the EU and Libya

verfasst von / submitted by

Mara Elena Zöllner

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Abstract

Irregular migration from the African continent to the European Union (EU) has become a highly politicised issue. With the boat accident in the Mediterranean in 2013, in which at least 211 migrants died only a few kilometres (km) off the Italian coast of Lampedusa, irregular maritime migration was for the first recognized by the broader European public and actively addressed politically. Migrants crossing the Mediterranean reached an all-time high in 2015 and is now known in the EU as the migrant/refugee-crisis. To address root causes of irregular migration, a central element to the European external migration strategy are migration partnerships with countries of origin and transit. Core to this research is an in-depth analysis of the EU-Libya migration cooperation shaping the irregular maritime migration on the Central Mediterranean Sea Passage (CMSP). This thesis studies the nature, different objectives, and outcome of the EU-Libya partnerships to understand why the EU and Libya are cooperating. The global transdisciplinary framework allows for a flexible, topic-led research in support of examining EU migration policies; the EU-Libya partnership; its social, cultural, political, and historical circumstances; and the academic discourse on South-North migration. Although there is still a pre-existing historical asymmetry between the EU and Libya, this work's findings will demonstrate the migration cooperation can be described as a mutual give and take, i.e., a quid pro quo. Migrants, as the party suffering the most in this cooperation's operative outcome, become leverage in the political negotiations between the involved parties.

Keywords: irregular maritime migration/ EU external migration policies/EU-Africa migration partnership/ EU-Libya partnership/refugee-crisis/Central Mediterranean Sea Passage

Kurzzusammenfassung

Irreguläre Migration vom afrikanischen Kontinent in die europäische Union (EU) ist zu einem hochgradig politisierten Thema geworden. Mit dem Bootsunglück auf dem Mittelmeer im Jahr 2013, bei dem nur wenige Kilometer (km) vor der italienischen Küste von Lampedusa mindestens 211 Migrant*innen starben, wurde das Thema von der Öffentlichkeit wahrgenommen und aktiv politisch adressiert. Die Zahl der ankommenden Migrant*innen, erreichte 2015 ihren Höhepunkt, heute in der EU auch als Migrations-/Flüchtlingskrise bekannt. Um die Ursachen von irregulärer Migration zu bekämpfen, wurden Migrationspartnerschaften mit Herkunfts- und Transitländern zu einem zentralen Element der europäischen externen Migrationsstrategie. Schwerpunkt dieser Forschung ist eine umfassende Analyse der EU-Libyen-Migrationskooperation, die sich mit der irregulären Seemigration auf der zentralen Mittelmeerroute befasst. Diese Masterarbeit untersucht die Struktur, die verschiedenen Ziele und Ergebnisse der EU-Libyen-Partnerschaften, um nachzuvollziehen, weshalb die EU und Libyen kooperieren. Der globale, transdisziplinäre Ansatz, der eine flexible, themengeleitete Forschung ermöglicht, unterstützt die Analyse der EU-Migrationspolitik, der EU-Libyen-Partnerschaft, ihrer sozialen, kulturellen, politischen und historischen Umstände sowie des akademischen Diskurses über Süd-Nord-Migration. Obwohl zwischen der EU und Libyen nach wie vor eine historisch bedingte Asymmetrie besteht, werden die Erkenntnisse dieser Arbeit zeigen, dass die Migrationskooperation als ein gegenseitiges Geben und Nehmen, also als ein quid pro quo, beschrieben werden kann. Die Migrant*innen, die am meisten unter dem Resultat dieser Zusammenarbeit leiden, werden zum Druckmittel in den politischen Verhandlungen zwischen den beteiligten Parteien.

Stichworte: irreguläre Migration/ europäische externe Migrationspolitik/EU-Afrika-Migrationspartnerschaft/ EU-Libyen-Migrationspartnerschaft/Flüchtlingskrise/ zentrale Mittelmeerroute

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List of Abbreviations

ASU.....	Arab Socialist Union
AU.....	African Union
BREXIT.....	British exit out of the European Union
DCIM.....	Directorate for Combating Illegal Migration
EAM.....	European Agenda on Migration
ECHR.....	European Convention of Human Rights
EMP.....	Euro-Mediterranean Partnership
ENP.....	European Neighbourhood Policy
EU.....	European Union
EUTF.....	EU (emergency) Trust Fund for Africa
EUROMED.....	Euro-Mediterranean Transport Partnership
GAM.....	Global Approach to Migration
GAMM.....	Global Approach to Migration and Mobility
GNA.....	Government of National Accord
GNC.....	General National Congress
HoR.....	House of Representatives
ICC.....	International Criminal Court
ICCPR.....	International Covenant on Civil and Political Rights
IDP's.....	Internally Displaced Persons
IOM.....	International Organisation for Migration
JO.....	Joint Operation
LNA.....	Libyan National Army
LPA.....	Libyan Political Agreement
MOAS.....	Migrant Offshore Aid Station
MoI.....	Memorandum of Intent
MoU.....	Memorandum of Understanding
MPF.....	New Partnership Framework with Third Countries under the European Agenda on Migration
MRCC.....	Maritime Rescue Coordination Centre
MTM- Dialogue.....	Mediterranean Transit Migration Dialogue
NATO.....	North Atlantic Treaty Organization

NGOsNongovernmental Organisations
UDHRUniversal Declaration of Human Rights
UfM.....Union for the Mediterranean
UK.....United Kingdom
UN.....United Nations
UNHCR.....United Nations Refugee Agency
USUnited States
PoC.....People of Colour
PC.....Presidential Council
RCC.....Revolutionary Command Council
SAR.....Search and Rescue
WBWorld Bank

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Introduction

Reflecting on the topic of irregular migration in the past ten years (2010-2020/1) from a European perspective brings different highly emotionally charged images and associations to mind. A very memorable image broadcasted around the world in all the media, was the one of Alan Kurdi in September 2015 (Smith, 2015). The image is of the drowned toddler, face down at the shores of the European Union (EU), washed up like a piece of driftwood (Smith, 2015). This image connected to what became known as the refugee/migration-crisis in the EU, a reflection of the tragic and fatal side of global migration. The reaction to this crisis within European countries varies in the range between welcoming the individuals searching for a safe haven and those perceiving irregular migration as a security risk or as a threat to national identity. Alan's image shows the results of current European external migration policies, which are interlinking European international development mechanisms with migration control and border security tools. The analysis of the *development-security-migration nexus* on the example of the EU-Libya migration cooperation and maritime irregular migration will be the overall focus of this research. However, before moving on to the more detailed content analysis, it is important to briefly explain the key migration terms for a better understanding.

Within the common public discourse about migration there is a tendency to mix up key migration terms like *migration* and *(forced) displacement*, as well as the terms *migrant*, *asylum seeker*, and *refugee*. Migration, like migrant, is an umbrella term, which describes the general movement of persons from their "place of usual residence either across international border or within the state" (IOM, 2015). The term *regular migration* is used to refer to migration that follows the laws of the country of origin, the transit-, and the destination country. Regular migration is provided and organised in so called *regular migration pathways*. These are schemas allowing eligible persons to migrate regularly in contrast to irregular migration (IOM, 2015). *Irregular migration* is mostly practiced by persons not able to migrate through regular migration pathways. Consequently, their way of movement takes place outside the law, regulations, or international agreements (IOM, 2015). Displacement on the other hand, stands for the "movement of persons forced or obligated to flee or leave their home" due to violence and (armed) conflicts, violations of human rights, political persecution, or natural and human-made disasters, etc (IOM, 2015). Persons displaced from their home become either *Internally Displaced Persons (IDP's)* or asylum seekers. IDP's refers to displaced persons staying within the state borders. Asylum seekers are those in need for

international protection asking for *asylum* in another country (IOM, 2015). Asylum is the protection a state can give out to displaced persons of another nationality (Cambridge Dictionary, n.d.). To seek asylum does not automatically guarantee granted asylum. National laws in accordance with international law defined the requirements a person must fulfil to get asylum and then to receive the refugee status. However, a person can be a refugee before he or she receives asylum if he or she already fulfils the international criteria of a refugee defined in the 1951 Refugee Conventions (United Nations General Assembly, 1951). During this thesis, maritime irregular migrants on the Mediterranean will be the main focus and term used. It describes the persons way of entry and the term migrant includes potential refugees and asylum seekers.

The first time the crossing of the Mediterranean Sea by irregular migrants was perceived as a crisis in all European member states' public eye was when a boat carrying an estimated 500 migrants caught fire just 1 km off the coast of Lampedusa on the October 3, 2013. The boat mainly carried Somalians and Eritreans. Two days later, 155 individuals were rescued by the Italian naval forces, and 211 dead bodies were recovered. The remaining passengers at that time were reported missing (Watch The Med, 2013). In response to this event, Italy started its first Search and Rescue (SAR) mission on the Mediterranean Sea (Heller & Pezzani, 2016). The crisis, also including migration routes on the ground, reached its peak between 2014 and 2017. According to the United Nations (UN) Refugee Agency (UNHCR), in 2015, at least 1,032,408 people arrived in the EU. In the same year, 3,771 people died or were reported missing while trying to cross the Mediterranean Sea to arrive in Italy, Cyprus, Malta, Greece, and Spain. One year after, in 2016, 5,096 people were either reported dead or missing. Due to the unknown number of unrecorded cases, it is unclear how many people started the dangerous journey to the EU. The actual dimension of fatalities is not absolute. Although the number of migrants and asylum seekers arriving in the EU's Mediterranean coast decreased from 2017 on, in total an estimated 2.2 million sea arrivals were counted between 2014 and the end of 2020, and around 20,000 people died or went missing (cf. UNHCR, 2020b). In the first two months of 2021 around 8,000 people arrived and 231 are reported dead or missing (UNHCR, 2020b). The humanitarian crisis on the Mediterranean Sea and its consequences had a lasting impact on the EU's perception of migration from the African continent and the European migration policies.

The crisis of maritime migration triggered different responses within the EU. On the one hand, German chancellor Angela Merkel, having declared „*Wir schaffen das!*“ (“We can do it!”) at a press conference in August 2015, addressed the increased influx of irregular migrants to the EU

and Germany (Bundesregierung Deutschland, 2015). It became an iconic phrase representing the *Willkommenskultur* (welcoming culture) which welcomed the refugees with a round of applause at German train stations, initiating an unprecedented wave of volunteer helpers to cope with the newcomers. On the other hand, this welcoming culture was opposed by nationalistic demonstrations against refugees organized by the right-wing groups and political parties in all European member states. Instead of Willkommenskultur, high fences made of barbed wire were built at the European external land borders to stop irregular border-crossings (Kingsley, 2015a). The inconsistent handling of the situation led to highly overcrowded reception camps unable to provide and care for all those seeking asylum or a new life in the EU. In September 2020, the reception camp Moria in Greece was set on fire out of frustration about the inhumane conditions, leaving behind 13,000 migrants without shelter (BBC News, 2020). The burning refugee camp hints toward the fact that there is still no sustainable solution found in dealing with the arriving individuals.

The humanitarian tragedy at the external borders of the EU set the tone of a highly emotional, moralised, and controversial debate. Emotionally, in the sense of some feeling that the rich European countries and their societies are morally obligated to accept all migrants no matter their reasons for migrating. Others are afraid of alienation and being swamped by foreigners, convinced the irregular arriving migrants could harm their nation and pose a security threat. Positioning oneself on the topic of refugees and migrants arriving in the EU created division within society. Showing solidarity with the arriving individuals and empathy towards their fates demonstrated to some the belief that all humans are equal and have the right of free movement. At the same time others perceived the irregular arriving migrants as a threat to the Christian, European values, often portraying them as a burden to the European economy and social system. In the German-speaking countries - the ironical term of *Gutmensch* (do-gooder) gained popularity in the context of this debate, mocking the political correctness, and supposed moral high ground of those who show solidarity. All in all, the debate about the migration/refugee crisis became a discourse of belonging, which reinforces racial biases and xenophobia; simultaneously, it highlighted the challenges with multiculturalism; finally, it challenged the coherence between the European governments, the European humanitarian discourse, and their political action. Anyone forming an opinion on irregular migrants in the EU was faced with the fundamental questions of one's integrity.

This division of opinion is also present in the political discourse on migration. However, it is not easy to say if the public debate translates into the political or the other way around. The EU and all its member states had to position themselves and find a way of coping with the situation.

The struggle to find a common course of dealing with African migration to the EU is not a recent phenomenon, as Schöfberger's historical analysis of the EU migration policies shows (Schöfberger, 2019). Besides, the division between welcoming and restricting migration regulations is not new. De Haas argues the EU's approach to migration management has always oscillated between the optimistic and pessimistic perception of migration translating into liberal and restrictive measures to manage migration (Haas, 2010, p. 10). Due to the absence of a uniform migration system, the focus of the EU migration management strategies shifted toward stopping the influx of irregular migration before they reached the external European borders. Accordingly, the cooperation on migration management with countries of origin and transit became a priority of the EU's foreign affairs.

Positioning Libya in the debate over migration

The EU internal pressure to reduce the irregular migration highlighted the importance of Libya's role in controlling irregular migrations from the African continent to the EU. Libya is the gateway to Europe for migrants from the Middle East and sub-Saharan regions of the African continent. Therefore, migration is a continual factor in the relationship between Libya and the EU (see Toaldo, 2015b, p. 2). Due to its geographical location as one of the six bordering countries located between the African States and the EU, from the beginning of the twenty first century on Libya was and still is either the final destination or an intermediate stop on the way to Europe for regular or/and irregular migrants (Altai Consulting 2013, 7). Compared to other countries of the region, Libya's economic opportunities and its high wages made the North African state attractive to mixed migration. The Mediterranean coastal state draws seasonal workers staying a few years, working in the Libyan oil industry to build up savings and then return to their countries of origin. At the same time, Libya hosts asylum seekers predominantly from Sudan, Syria, Eritrea, Palestine, Somalia, Ethiopia, Palestine and Iraq, mainly assumed to continue their journey to the EU (UNHCR, 2021). For those planning to cross the Mediterranean Sea to reach the European border, Libya's oil industry allows earning money to pay smugglers for the maritime transferer. At the beginning of the migration/refugee-crisis, when the numbers of maritime irregular migration increased in 2013 until early 2016, migration route crossing Libya was predominantly used by Syrians feeling the ongoing conflict in their country making them eligible to request asylum. Later, it became mostly used by other nationals which are less clearly eligible to asylum (Toaldo, 2015a, p. 2). In 2016, between 700.000 to 1.000.000 migrants were estimated to be in Libya (IOM - International Organization for Migration, 2016) and in December 2020, around 575.000 migrants

live in the country (Soda, 2020). Until today, Libya remains the most active point of departure to Europe across the Central Mediterranean Sea (Alalem, 2019, p. 5). Thus, it is a particularly interesting cooperation partner for the EU to control the influx of irregular migrants.



Figure 1: Routes through Africa to Europe; reprinted with modifications from (Alalem, 2019, p. 6).

The Central Mediterranean Sea Passage (CMSP) departing from Libya is one of three heavily frequented maritime routes used by irregular migrants to reach the EU. The Western Mediterranean route crosses the Sea from Morocco to reach Spain, the central one starts in Libya to reach Lampedusa in Italy or Malta, and the Eastern route starts in Turkey, some also board in Egypt, to reach Greece (Sachse 2014) as the map in Fig.1 shows. In 2016, the numbers of arriving irregular migrants and asylum seekers using the CMSP in Italy peaked with 181,436. Although the numbers of arriving migrants decreased the following year due to the first treaty between Italy and Libya (including migration management measures), the CMSP became the deadliest. Of all accounted deaths on the Mediterranean in 2014-2018, 85 % occurred on the Sea passage from Libya to Italy. As Fig.2 shows, the counted deaths on the Mediterranean migrant passages decreases, but the CMSP still holds the tragic records of fatalities. Considering the gravity of the humanitarian crisis on the CMSP till today, 2021, the CMSP had a significant impact in shaping the European policy response to the migration/refugee-crises. Central to this response was and still is the cooperation with Libya. Leading in these negotiations was and still is Italy, as the primary country of first arrivals and as a former colonial power of Libya.

Deaths by route

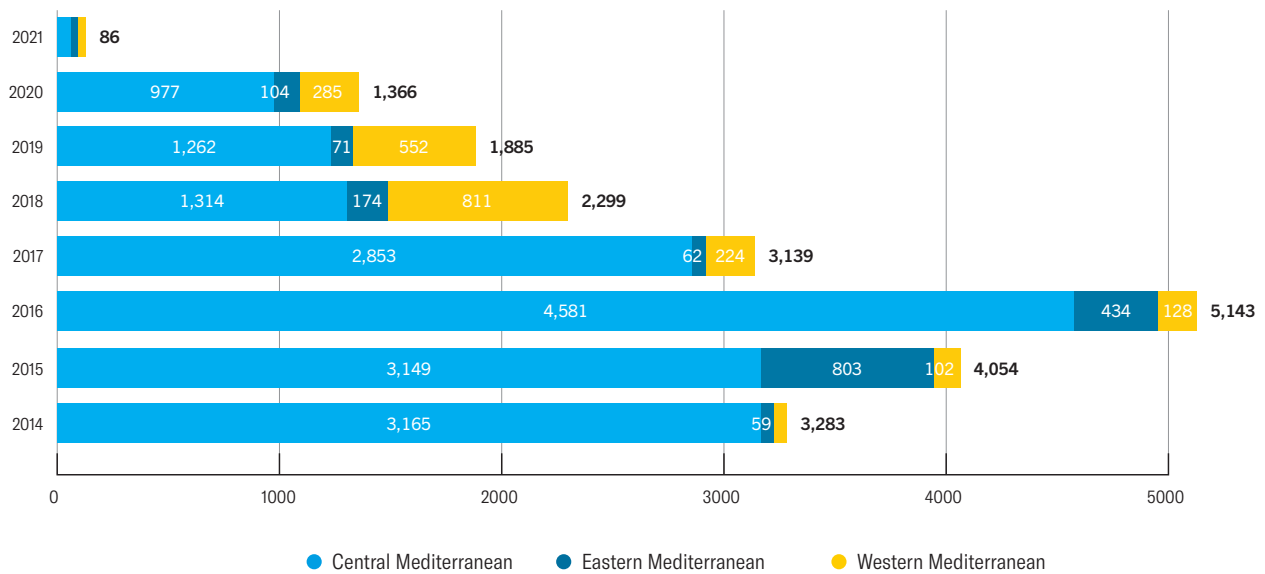


Figure 2: Deaths by Route; reprinted with modifications from (IOM, 2020b).

Libya is not the only geographical interface between the EU and the African continent, so the question remains: why does Libya occupy a unique position in comparison to its neighbouring countries? Geographically it belongs to the Maghreb countries, but its vast fossil fuel resources put Libya in a unique economic position highly increasing its geopolitical influence in comparison to its neighbours. Since the discovery of oil in the early sixties (Collins, 1974: 13), Libya acts as a stage to conflicting political, commercial, migration and mobility-related interests of the Sub-Saharan region, North Africa, the EU, and other Western agencies. The Libyan oil industry was similarly interesting for foreign investments as a relevant employer for migrant workers for the Middle East, North African and the Sub-Saharan regions (Paoletti, 2011, p. 217). The remittances sent back by migrant workers in Libya to their countries of origin contributes significantly to the economy of the sending countries. Aware of this special status, the former dictator Muammar Muhammad Abdassalam Abu Minyar al-Qaddhafi (I.e., Qaddhafi or Colonel Qaddhafi), used the country's economic advantage to influence regional politics. It also offered Libya a better bargaining position with the EU, its member states, and other Western countries like the United States (US). In many respects, Colonel Qaddhafi's leadership and diplomacy style has ensured that Libya has always received a special kind of treatment from countries in the Global North. The fact that Libya for the longest time was not a member and now is the only observing member or is engaged in parts of, for example, the Euro-Mediterranean Partnership (EMP) (European Commission, 2020) or the Union for the Mediterranean (UfM) underlines its isolated position. Libya's isolated position is also due to the conflicts of the Qaddhafi regime with its neighbour countries and the Western

countries, which will become more apparent in the course of this research. Even after his downfall, Colonel Qaddafi's diplomacy shaped Libya's relation to the rest of the world, making Libya a special representative of its region and the African continent (cf. Vandewalle, 2012, p. 76).

Intricate and complex circumstances marked the relationship between Libya (particularly under Colonel Qaddafi's rule) and the EU. Colonel Qaddafi's anti-western rhetoric (Vandewalle, 2012, p. 79), links to extreme Islamic forces, his regime's involvement in several Islamist terrorist attacks in Europe, and the following sanctions against Libya made any cooperation seemingly impossible. As one of the main receiving countries of the migrants using the CMSP, Italy was and still is the driving force in negotiations with Libya on migration matters. Italy's historical, colonial connection to Libya, and its involvement in the oil industry links the two countries. The relation and treaties between Italy and the Libyan government under the Qaddafi regime built the foundation for the European migration partnership with the North African country. The dictator Qaddafi was violently overthrown in 2011, in the wake of the Arab Spring. Libya slid into a civil war, marked by the conflicts between different groups vying for power, creating many human rights violations (Schmidt, 2018, p. 239) and making migrants in the country more vulnerable than ever. Nevertheless, Italy's migration-related agreements with Libya remained and even were renewed with the UN- backed Government of National Accord (GNA) (Palm, 2017), one of two governments currently fighting for supremacy in Libya (Toaldo & Fitzgerald, 2016, p. 2).

Challenges to conceptualizing Africa-EU migration cooperation

In general, the EU migration cooperation with African countries has been criticised to serve European interests. This strategy is accused of externalising European borders by interfering in African countries' migration policies. Boswell argues the migration cooperation externalises border control tools to strengthen the partner country's capacity to combat irregular entry. The partnership also sets in place a preventive mechanism which "influence[s] people's decision to move, or their chosen destination" (Boswell, 2003, p. 620). Lemberg-Pedersen argues that European migration partnerships with African countries are a tool to gain "remote control" over the cooperating country's border control (Lemberg-Pedersen, 2017, p. 36). Rodier, in his study requested by the European Parliament on the external dimension of Europe's asylum and immigration policies, points out that the EU is pressuring its partner to implement migration control measures which would not have existed before (Rodier, 2006, p. 4).

Applying these lines of arguments to the EU-Libya cooperation would mean the EU is pressuring Libya into carrying the burden of handling European border control. It draws a clear picture of the EU as powerful and Libya as powerless and meant to follow the EU's interests. Even though the scholars criticise the so-called *burden-shifting strategies*, it still is reproducing and reinforcing the *North-South division*. The North-South division describes socio-economic and geopolitical differences between countries (Rogers, Castree, & Kitchin, 2013). It distinguishes between “technologically advanced, capital-intensive, highly urbanised, [...] wealthy” (Park & Allaby, 2017a) developed countries and low-income developing countries characterised by an agriculture-based economy and the production of raw material, like extracting and exporting minerals and fossil fuels (Park & Allaby, 2017b). Consequently, the EU represents an interest union of countries from the Global North. Libya then becomes the representation of the Global South (to make it more accurate, representing Africa). In contrast to the analytical approach along the North-South dichotomy lines, Paoletti argues the power dynamic shaping the migration partnerships between the EU and Libya is more complex. According to her, controlling the migration to the EU puts Libya in a powerful position, giving them bargaining power and a leverage tool at the negotiation table (Paoletti, 2010, p. 6).

Research Questions, Hypothesis, Relevance and Structure

Against the backdrop of the different dynamics shaping the migration partnerships between the EU and Libya, this thesis seeks to explore the general complexity and multi-layered nature of South-North migration policymaking. Core to this research is the EU-Libya migration cooperation analysis, which is part of the European response to irregular maritime migration on the CMSP. The central actors in this cooperation are the EU, Italy, the various Libyan governments or rulers over the past ten years and the migrants. However, NGOs, donors, business opportunists, operative organs such as Frontex and the Libyan Coast Guard, smugglers, and human traffickers are also influencing parties in this partnership. By examining the irregular maritime migration from Libya to Italy this analysis seeks to contextualise South-North migration on the example of this specific case within its concrete “social contexts across time and space” (Darian-Smith & McCarty, 2017, p. 7).

This work hypothesises Libya becoming the gatekeeper of the EU. The EU initiated migration cooperation with Libya is mainly about serving the EU interest in keeping refugees out of the EU. To implement this goal the EU continued militarising its external borders and externalising the responsibility of dealing with asylum seekers to transit countries like Libya. These mechanisms are

justified with the European-claimed objective of saving human lives at sea (European Parliament & European Council, 2017), protecting vulnerable migrants, and fighting smugglers and human traffickers. In the border-global context, it is assumed the North-South division and the existing economic, political, and legal inequality between the Global North and South set the conditions for creating this asymmetrical partnership.

Following these presumptions, the central research question is: Why are the EU and Libya cooperating? To answer this question, this thesis studies the nature, the different objectives and outcome of the EU-Libya partnerships concerning migration management on the CMSP.

To what extent is this question relevant? The number of irregulars-arriving migrants in the EU has decreased, and the migration/refugee-crisis is mainly used to refer to the events occurring from the end of 2013 till 2017. Why is it then still relevant to talk about this cooperation? First and foremost, for migrants on the CMSP the outcome of the cooperation still poses a life-or-death question. Out of an academic and political perspective analysing the migration cooperation is relevant because it showcases a European approach to dealing with migration. Migration of all kinds is capable and is constantly changing cultures, socialites, and lifestyles. It influences our daily lives, what we eat, what we consider normal and how we perceive ourselves and others. Migration is a mediator for transformation and change processes in all our social relations. Therefore, examining how the EU engages and deals with irregular migrants can tell us, in the broadest sense, how the EU deals with change. Furthermore, considering climate change, ongoing armed conflicts, and continuing global inequality, the phenomenon of irregular migration will remain a current matter. Therefore, the EU-Africa migration partnerships as a strategy to face irregular migration must be critically analysed.

This research is built on scholarly studies defining (global) human mobility as a normal aspect of human existence. Like Castles, this work places the analysis of international migration within the “general understanding of contemporary society” characterised by its constant “situation of rapid and generalised changes” (Castles, 2010, p. 1566). It is an attempt to refrain from analysing migration only within one discipline of social science. Methodically, this research connects migration studies with global studies’ theories in using a transdisciplinary approach allowing topic-led research. Connecting migration and global studies make it possible to “thinking beyond conventional modern disciplinary boundaries and their limitations”. Moreover, this research aims to overcome the North-South dichotomy’s power structure, following Paoletti’s argumentation, in examining both parties’ motives (the EU and Libya).

Building on this transdisciplinary understanding of global human mobility, this research is structured in four chapters, followed by a conclusion. The first chapter contextualises irregular migration from Libya to the EU within the broader framework of global migration. It aims to draw a general overview of the power structures shaping migration conditions from the African continent to the EU. It also demonstrates how this thesis understands global migration and derives a theoretical, analytical framework from it. The sub-questions answered in this chapter are: How is the concept of the modern national state and border control connected to migration management? Which historically grown power structures are shaping and influencing the EU-Africa migration cooperations? What are the common migration theories examining international migration? Which theoretical framework allowed a holistic understanding of international migration?

The second chapter then analyses the EU's external migration policies. Its objective is to show how the EU is framing migration and how the tendency to narrate migration within the policies changed over time. This chapter shows how managing migration became part of the EU's foreign affairs and why the EU untimely made migration partnerships with transit- and countries of origin key element of its external migration strategy. This chapter seeks to find answers to the following sub-questions: How did the EU's regulation and control of human movement change from the formation of the European Union till the beginning of 2020? Which are the fundamental tendencies and narratives of the European international migration discourse? When, why, and how did migration become portrayed as a security issue?

The third chapter explores four essential aspects of the Africa-EU migration cooperation: 1. the historical, economic, social, and political positioning of Libya toward other African and Western countries. Moreover, the analysis of how Colonel Qaddafi used migration as a bargaining tool; 2. It contextualises the triangular relationship between Libya, Italy, and the EU, which is essential to understand the EU-Libya migration partnership; 3. The migration cooperation during the Libyan civil war; 4. The implementation of migration and border control tools resulting from the migration partnership. This chapter examines the sub-questions of Libya's understanding and history regarding international migration and migration control. It seeks to find out who the relationship between Libya and the EU developed over time and which role Italy is taking within this relationship. How do the dependencies in this migration partnership function? Through which forms of action does the migration cooperation between the partners materialise?

Finally, the fourth chapter depicts the humanitarian consequences of the cooperation's suffered by the migrants. It shows the hardship of migrants on their journey. In doing so, it questions the proclaimed objective of the EU to save human lives at sea and to protect the human rights of the migrants in question. In a concluding step, this thesis's findings are summarised and used to determine why the current migration policies cannot live up to their objections to save lives and protect migrants. This chapter seeks to determine the outcome and humanitarian consequence of the migration cooperation between the EU and Libya. It analyses the European role as a self-proclaimed normative and ethical actor promoting human rights as part of their foreign policy conflicts with the actions taken to control irregular migration.

Chapter 1:

The Utopia of a Borderless World

CONTROLLING GLOBAL MIGRATION – A THEORETICAL FRAMEWORK

Introduction

Human mobility is as old as humankind and deeply embedded in the human DNA. Castles, Miller and de Haas argue that we live in “the age of migration” (Castles, Haas, & Miller, 2014). Especially in the twenty-first century, mobility has become a core aspect of globalisation (Castles, 2014, p. 192). If one wanted to give the century a slogan or objective, then Mbembe’s „the utopia of a borderless world“ (Mbembe, 2018) would probably be fitting. Facilitating global mobility is a significant international business, including the travel agency, banks etc. but also smuggling and trafficking as part of its illicit economic side. Globalisation and the global market are fostering and creating the cultural and technical conditions of global human mobility. Travelling, studying, working or even loving (long-distance relationships) without regard to national borders transforms mobility into the centre of “meaning-and-value production” (Bauman, 1998, p. 3). It created a global generation “working and living in cities around the globe, [...] belong to no single geography, but feel at home in many” (Selasi, 2013, p. 528). Thanks to innovations and changes in (long-distance) transport, technology, and culture, thinking and existing beyond national borders, building a global identity has become normalised, yet in different ways. Still, estimated 96,5 % of the world population, the vast majority, still resides in the country in which they were born. Beside a rising tendency, only 3,5% are international migrants (McAuliffe, Khadria, & Bauloz, 2019, p. 2). From the low ratio of international migrants can be drawn that international migration is still only the experience of a few.

Contradicting the low ratio of international migrants worldwide is the fact that the transport costs have dropped over the decades. It would be logical to assume that mobility must have become available to more people. On the contrary, many people still are limited by financial resources or do not have the political rights to move freely. Mobility has become more selective and class-specific than ever due to new border control and migration management systems. The freedom to move is “a scarce and unequally distributed commodity” (Bauman, 1998, p. 2), drawing a new distinction “between rich and poor, the nomads and the settled, the ‘normal’ and the abnormal or those in breach of law” (Bauman, 1998, p. 3). Ultimately, unlimited human mobility is a privilege, and the borderless world appears to remain a utopia.

In general - not only regarding African mobility toward the EU - the root and necessity to control human mobility can be found in the concept of the modern nation-state and the capitalist system. Migration regulation is about the states' right to regulate national border crossings (cf. Wonders, 2006, p. 64). The nation-states "right to exclude foreigner or nonnationals [is] considered a fundamental incident of (...) sovereignty" (Achieme, 2019, p. 1515). Additionally, capitalism transformed the individual into a human resource, meaning a source for „extraction of military services, taxes and labour, the facilitation of law enforcement" (Torpey, 2000, p. 7). Changing the perspective from the local to the national dimension, the „surveillance of human movement" (Truong & Gasper, 2011, p. 4), is essential to estimate and shape the state's productivity. Therefore, firstly regulating human mobility means having sovereignty and secondly the states regulation on mobility influences the journey of each migrant as it dictates the terms of entry.

Regarding the maritime migration, meaning migrants crossing the Mediterranean Sea from Libya to the EU, the different terms of entry become very clear. The difference is marked in the journeys of the migrants. On the one hand, some migrants able to obtain the legal right to cross European borders consequently can take a plane to reach the EU. On the other hand, there are the once unable to fulfil the parameter for a lawful entree to the EU and consequently must risk their life on an unseaworthy boat on the CMSP to reach the EU. Notably, in this example, the privilege of unlimited motility can be made more apparent. After the era of the European guestworker policies ended in the 1970s (Karakayali & Rigo, 2010, p. 129), migration from more impoverished regions of the world to the EU was only possible if one can meet the criteria needed to apply for a visa, or are entitled to seek asylum and thereby able to receive the refugee status (Scheel, 2017, p. 40). Mobility from the African continent and most of the Asian continent – or to put it differently, the mobility for nearly all individuals stemming from formerly colonised countries – has become very strictly regulated (Genova, 2017, p. 1766).

The European interest to regulate African human mobility started with the colonisation of the African continent. The shifting patterns of human settlements on the African continent due to a nomadic and semi-nomadic group did not match the needs for the labour force of colonial plantations or mining projects (Bakewell, 2008, p. 1344). It also collides with the artificial division of land between the colonial powers structured by the notion of the European concept of modern nation-states. Thus, controlling mobility in the context of colonial occupation meant to ensure a colony's profitability for its ‚motherland'. The most extreme and brutal example for „[the] movement of people in order to direct it toward the aims of the invader" (Bakewell, 2008, p. 1343)

is the transatlantic slave trade. The European interest in controlling human mobility in Africa never completely vanished out of different reasons. Primarily because of either the need of labour force in the EU or the increase of irregular arriving migrants from African countries at the Southern borders of the EU. Considering the current European migration cooperation strategy with African countries, this inherited history of European control over African citizens' mobility highlights colonial practice continuance. This is best shown through the "reinforcement, reproduction and intensification of vulnerability for stigmatised (...) groups" (Mbembe, 2018, p. 2). De Genova further argues that selecting who is allowed to enter the EU is inevitable but also racial (Genova, 2018). In other words, the European migration regime reproduces the power structure of *coloniality*. Tamale describes coloniality as an ideological system that goes beyond "the mere acquisition and political control of another country (...) [.] It is the 'invisible power structure that sustains colonial relations of exploitation and domination long after the end of direct colonialism'" (Tamale, 2020). Coloniality thereby is also the power structure on which the North-South division is built on. This division is built on the distinction between developed and developing countries. What is considered developed, developing, or even underdeveloped is measured on the singular narrative built on the western concept of civilisation originated at Europe standards (Mignolo, 2011, p. 2). Thus, developed and developing are "the opposite faces of the same coin" (Grosfoguel, 2000, p. 360 quoting André Gunder Frank) and must be understood as a comparative notion (Rodney, 1981, p. 14)¹. The stereotypes and preconceptions created by the narrative of developed and developing countries further translate into the preconceptions of migration from developing to developed countries.

Against the backdrop of these historical implications of migration control, this chapter will examine the following sub-questions: How is the concept of the modern national state and border control connected to migration management? Which historically grown power structures are shaping and influencing the EU-Africa migration cooperations? Which theoretical framework allows for a holistic understanding of international migration?

¹The origin and division between developed, developing or underdeveloped poses a complex topic that would exceed this work's scope. However, it must be noticed that the term „development“ has a integrate history deeply rooted in the colonial past and the western assumption on modernity and civilization (Mignolo, 2011).

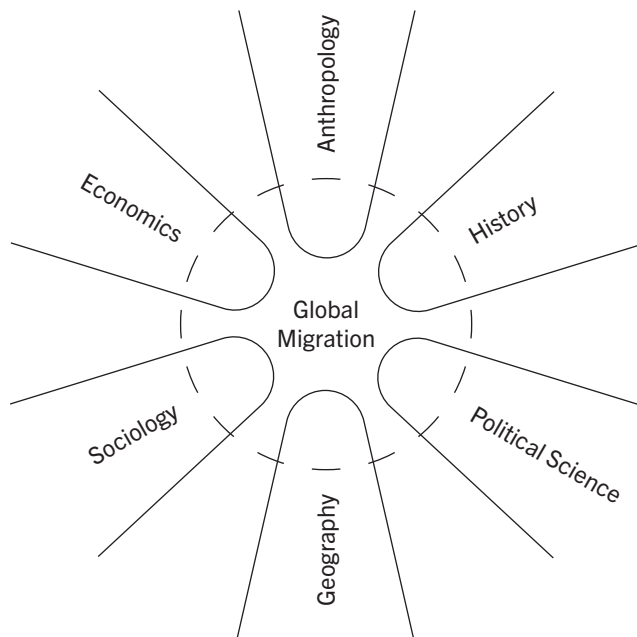


Figure 3: Disciplines engaging Global Migration;
 Reprinted with modifications from „Disciplines engaging Globalisation“ in (Darian-Smith & McCarty, 2017, p. 24).

The objective in this chapter is to contextualise the EU-Africa migration cooperation, focusing on the maritime migration on the CMSP, within the broader framework of global migration. It argues that „migration embraces all dimensions of social existence“, as illustrated in Fig.3 (Castles, 2010, p. 1569). The aim is to examine the power dynamics of international migration in which the European migration strategy for African (therefore also the EU-Libya migration cooperation) occurs. This chapter’s underlying assumption is that the North-South division and coloniality are central in understanding the mechanisms of

European migration policies. In doing so, this chapter seeks to create a global transdisciplinary theoretical framework drawn from global study scholars (Darian-Smith & McCarty, 2017). It will help to show the „overlapping and intersecting social contexts across times and spaces“ (Darian-Smith & McCarty, 2017, p. 5) in which general international migration proceeds.

This chapter is structured into four parts. The first step will examine the political right of the nation-state to exclude nonnationals through border control. Thereby, the border paradox is highlighted. The second step will contextualise European migration policies for Africa and its EU-Africa migration cooperation’s within the power structure of coloniality. It will also argue how the shared border between Libya and Italy is racial and can be seen as the border between the Global South and the Global North. The sedentary bias shows why migration from the Global South countries is seen as a problem by the Global North countries. This perception is also reflected in the theories used to analyse international migration. In a brief overview, the third step will outline the classic theories explaining why international migration occurs. Special attention is paid to the economic, neo-classical migration theory on which many migration policies are based. This part argues how fragmented perspectives on migration can lead to models that over-simplify „the complex and diverse patterns of behaviours“ (cf. Castles, 2010, p. 1569) constitute global migration. The fourth step will explain the transition of international migration to the notion of global migration. Additionally, the global transdisciplinary framework is introduced. In a final,

concluding step, it will be argued that the negotiations between countries (in our case, Libya and the EU) regarding migration control inherently also implies the negotiation about how to control the border between the Global North and South. At the same time, it will demonstrate how the global transdisciplinary theoretical framework and the transformation of international to global migration benefit the construction of a holistic understanding of the conditions in which the EU-Libya migration cooperation occurs.

The National-state and the border paradox

“[M]igration is at the heart of the political debate in industrialised countries” (European Commission, 2002, p. 4) because the control of human mobility is essential to national sovereignty and the *modern nation-state*. By sovereignty of a nation-state, the “totality of international rights and duties recognised by international law‘ as residing in [the] independent territorial unit [the nation-state]” (Achiame, 2019, p. 1523) is meant. Although regulated by international law, these rights and duties include the right to control border crossings and exclude nonnationals (Achiame, 2019, p. 1523). The right to exclude foreigners originates in the assumption that the nation-state is mainly about “collective self-determination” (Achiame, 2019, p. 1515). This collective self-determination is constructed and characterised by the control over national borders, the distinction between national and nonnational, citizen and foreign; or to put it differently, by „the laws of citizenship they [(the collective)] have stipulated” and (Achiame, 2019, p. 1525). This right of self-determination is fundament for „the nation’s right to exclude,“ through which the nation controls human mobility (Achiame, 2019, p. 1526 quoting Amighetti & Nuti).

Out of the national right to exclusion developed the modern system of documentation. This system in its core is “a codification of laws establishing which types of persons may move within or across their borders, and determining how, when and where they may do so” (Torpey, 2000, p. 7). The documentation technique gave the state the power to differentiate between ‚national citizens‘ and ‚alien‘ or ‚undocumented‘ persons. The national authority now held „the power to provide an identity“ (Truong & Gasper, 2011, p. 5) and had a monopoly on controlling human mobility. It obtained the restrictive power to decide who is legally entitled to certain rights essential to their livelihood. The global development of the „regime of identification“ (Torpey, 2000, p. 7) permitted the states to the “exclusion, surveillance, containment of ‘undesirable elements’” (Torpey, 2000, p. 7), due to state-security or the insurance of the security of national citizens (Truong & Gasper, 2011, p. 5). The state can identify undesirable individuals as not contributing

to the nation's productivity in the broadest sense or even those bearing the risk of endangering it. From an economic perspective, it has the potential to drastically influence the productivity of a nation-state. The inflow and recruitment of high-skilled personnel are "considered valuable, while lower-skilled migrant workers were seen as out-of-place" (Castles, 2010, p. 1567). Migration of highly skilled migrants is "celebrated as professional mobility" whereas migrants not belonging to this group are "condemned as unwanted" (Castles, 2010, p. 1567). Fluid, seemingly unlimited mobility, therefore, does not replace the notion of migration as "a process based on inequality and discrimination (...), controlled and limited by states" (Castles, 2010, p. 1567). The differentiation between desirable and undesirable, thereby is not always based on economic calculation; it can also be decided on the lines of „race, nationality, gender, religion, and social status“ (Milivojevic, 2019, p. 2). The governance of migration is a tool to regulate, to stimulate development and to ensure national security regarding economic and social stability.

The governance of migration is implemented and structured in migration policies, which control national borders' permeability. Therefore, the discourse on migration policies is essentially a debate on border control. Borders themselves are complex social institutions (cf. Wonders, 2006, p. 64). They become visible in the moment of crossing them, as "the business of borders is, in fact, to be crossed (...)" (Mbembe, 2018, p. 4). They only exist within the concept of permeability (Mbembe, 2018, p. 4), and become visible through the performance of control. They represent „state power and its ability to enforce social, economic, political, and cultural inclusion and exclusion within its territory by deciding what and who is in – what and who belongs – and what and who is out“ (Milivojevic, 2019, p. 2).

Border control is the realisation of migration governance manifested as *liquid borders* (Bigo, 2014, p. 213) rather than solid ones. The traditional or common perception of a border is solid, like a wall. It is perceived as mostly human-built separation or physical mark, like a wall or a fence, defended by property rights or the military. In the contemporary context of globalisation, however, national borders are hardly solid. Against the backdrop of globalisation and a global market, completely closed borders are practically non-existent. Migration policies, therefore, aim to regulate immigrants through liquid borders. Liquid borders can be imagined as „rivers full of locks‘: as ‚filters‘ for managing human mobility“ (Bigo, 2014, p. 213). The goal of liquid borders is to keep the national borders open but secure. Control of liquid borders compared to solid borders is not an act of stopping „but about flowing mobility“ (cf. Bigo, 2014, p. 213). Flowing mobility is the cornerstone of what is known as globalisation. For some, depending on the identity and

citizenship assigned to the individual by the regime of identification, liquid borders allow mobility while simultaneously strict border regulations are maintained for others. This phenomenon is called *border paradox* (Milivojevic, 2019, p. 5). Human mobility manifests as both freedom and interruption or threat to national order (Mbembe, 2018: 3 referring to Hagar Kotef, 2015). Therefore, national borders do not disappear in a globalised world; globalisation only created a new logic of control (Bigo, 2007, p. 9). Therefore, core to globalisation is not global mobility or international migration, as stated previously. Globalisation is not about creating a borderless world; it is predominantly about governing mobility (Kotef, 2015, p. 10) of capital, goods, services and persons.

In the context of governing mobility of maritime migration from the African continent, the liquid European borders work as a blockade or a mechanism of exclusion. In general, regardless of their private assets, holders of a passport issued by countries of the global North, have a greater capacity to legal, international mobility than individuals with a passport from the Global South (Achieme, 2019, p. 1530). Their mobility is preauthorised by a “robust web of multilateral and bilateral visa agreements” (Achieme, 2019, p. 1530). Migrants from the African continent face the opposite effect of this liquid border control mechanism. They have to deal with strict visa requirements limiting their chance to migrate to the EU lawfully. These measures to control the mobility of migrants from African countries to the EU were not always dominated by the notion of exclusion. Particularly in the post-colonial era of the Maghreb region (North African countries), starting with the independence of former French colonies, facilitated a constant flow of labour migration to France (Bakewell & Haas, 2007, p. 97). Recruitment programs of Germany, France, Belgium and the Netherlands further encouraged guest-worker migration from the Maghreb region to move to Europe (Bakewell & Haas, 2007, p. 97). This trend toward facilitating African migration stopped with the European economic recession in 1973 due to the oil crisis (Bakewell & Haas, 2007, p. 97). Afterwards, strict visa regulation limited the legal gates of entry (Karakayali & Rigo, 2010, p. 129). From this point, the numbers of „illegal migrant“ have taken the place of the „guest worker““ crossing the Mediterranean (Karakayali & Rigo, 2010, p. 130). After former colonised African individuals were no longer needed to fill the unskilled labour shortages of European countries, irregular migrants from the African continent were portrayed as a potential threat to „prosperity and public order“ to European countries (Castles, 2010, p. 1567). A guest-worker coming to work in the EU is relabelled into what is now known as an economic migrant. Instead of being seen as a contributor to economic growth, they are considered ““parasitic” consumers of social welfare” (Karakayali & Rigo, 2010, p. 130). The hostility towards economic or irregular

migrants is expressed in apocalyptic metaphors like a wave of irregular migrants and refugees supposedly invading the EU (Haas, 2008).

Racial Borders and the Sedentary Bias

Racial Border

The contemporary notion of controlling African mobility to ensure European economic success has the same motifs as mobility regulations in the colonies. Controlling the labour movement during colonialism in the nineteenth and twentieth century through the African slave trade was essential to develop wealth and power for the colonialists (Schiller & Faist, 2009, p. 2). The control over African people's mobility meant controlling human resource distribution (Schiller & Faist, 2009, p. 3). Therefore, European migration control over African mobility cannot be fully understood without acknowledging its historical context of colonialism and the stigmata and racial biases that go along with it. After all, it should not be forgotten that most illegal migrants crossing the Mediterranean Sea risking or losing their lives are People of Colour (PoC)² and Black³ people or more, generally speaking, non-*white*⁴ people. In the discourse of migration policymaking, the fact of most irregular migrants crossing the Mediterranean being PoCs, mostly staying unacknowledged or porously left aside. Racial injustice and racism are never included within European migration policies, as it will come more apparent in the next chapter.

Race, however, plays an essential role in migration control toward Africa. Here, *race* is understood in two ways, firstly as “the historically contingent social systems of meaning that attach to elements of morphology and ancestry”(López, 2006, p. 10) and secondly, race as a structure that “became

²People of Color (PoC): As a political platform, the term aims to build alliances between all racialised people of African, Asian, Latino, Arab, Jewish, Indigenous or Pacific Islander backgrounds. In a cross-group, inter-communal way, the term thus connects those who are oppressed in white dominated societies and collectively devalued by colonial traditions (cf. Kuria, 2015, p. 22).

³The term Black or *white* is not referring to a biological term or is related to a culture or is descriptive. The term Black and white are socio-political labels. They describe an inherent power structure within society. A person belonging to the colonial constructed *white* or Black group automatically gets assigned a position in society related to the power structures of coloniality (cf. Arndt & Ofuatey-Alazard, 2011, p. 190).

⁴Ibid.

the fundamental criterion for the distribution of the world population into ranks, places, and roles in [...] society's structure of power"(Quijano, 2000, p. 535). To leave out the race of migrants is ignoring the history of colonialism that also created the hierarchical racial order, shaping the power structure of the modern world and the North-South division. Thompson calls this phenomena *racial aphasia* (Thompson, 2013, p. 135). In comparison to *racial amnesia*, which is the attempt to obscure the power dynamics and the racist past involved in creating the division, racial aphasia "indicates a calculated forgetting, an obstruction of discourse, language and speech" (Thompson, 2013, p. 135). This pattern repeats itself within the migration discourse, as racism as a pervasive social structure is obscured by reducing racism to an individual's act or a personal attitude. By imposing a race-free discourse on migration, it seems impossible to archive substantive equality and „international and domestic racial orders [remain] firmly entrenched" (Thompson, 2013, p. 135). To ignore the racial component of European border control means to ignore the power relation of coloniality. As the European visa system's criteria sustains racial privilege, the external European border must be understood as a racial border (Genova, 2018), ultimately going along with the border between the Global North and the Global South.

The Sedentary Bias

The implicit co-negotiation of the South-North border regarding migration cooperation between the EU and Libya at CMSP also has consequences for the way migrants themselves are perceived. Those arriving are often described as "'desperate' and (supposedly passive) victims of 'merciless', 'ruthless' and 'unscrupulous' traffickers and criminal-run smuggling gangs" (Haas, 2008, p. 1306). The victimisation of African migrants denies them any self-initiative or agency. The need to find a solution to protect the vulnerable migrants then becomes a political matter. It initiates the fight against human traffics on the Mediterranean Sea and against root causes of migration. How the EU reacts and frames African migration is built on the assumption that some form of crisis is triggering human mobility on the African continent (cf. Bakewell, 2008, p. 1345). The desire to migrate is not considered as a normal part of daily life.

Out of a European perspective "[the] normal and desirable state for human beings is to be sedentary" (Bakewell, 2008, p. 1350) and "migration has been framed as a problem: a response to crisis rather a 'normal' part of people's lives" (Bakewell, 2008, p. 1345). The origin of considering the status of being sedentary as normal can again be retraced to the concept of the modern nation-state. Being sedentary or fixed to territory is what allows the formation of a nation-state, as mentioned above. Internal- and international African human mobility is commonly assumed to be a sign

of desperation. Besides, as African countries are predominantly classified as a less-developed or developing country, it is commonly assumed everyone crossing the Sahara will have the objective to escape Africa (Bakewell & Haas, 2007, p. 95) and find an “el Dorado”, in the EU (Haas, 2008, p. 1305). Accordingly, only desperation and crisis are what drive African citizens toward leaving their place of origin. This European perspective on migration is dominated by what Bakewell calls the *sedentary bias* (Bakewell, 2008, p. 1342). Following this assumption, it is not surprising migration is perceived as a problem. This belief goes hand in hand with the assumption that in order to stop migration, one has to address the origin of the crisis, meaning, the root causes of migration.

True to the sedentary bias, development programs in countries of origins are aimed to fight root causes of migration. „A successful development programme will help to create the conditions in that area in which people are able and willing to live and flourish. (...) Therefore, in general, a reduction in out-migration is taken [as] an indicator of development successes“ (Bakewell, 2008, p. 1351). What is overlooked, however, is the assumed sedentary goals do not match the aspiration of the local ‘target group’ of such projects. Projects tend to fail „understand[ing] the rationale for people’s mobility“ (Bakewell, 2008, p. 1353). It is not considered some of the targeted groups want to move; rather, they do not have the means to do so in a lawful fashion and must therefore take irregular routes. Moreover, it is not questioned whether development programs only create artificial circumstances creating temporary solutions. If Western development agendas generally aim to improve people’s living conditions and prevent and protect migrants from human rights violations and abuse, respecting the individuals’ decisions to move is essential. Development interventions aimed to reduce migration by „creating artificial incentives to keep people in their places“ (Bakewell, 2008, p. 1353) focus on international migration as a problem. It inevitably misses in addressing the overall “abusive institutional framework” in which South-North migration occurs (Bakewell, 2008, p. 1354). Acknowledging people’s wish for broader mobility in migration policies would enhance the chances to prevent human rights violations and abuse of migrants in their countries of origin, on their journeys through transit countries, and while arriving in their destination countries.

Considering the sedentary bias in analysing the cooperation between the EU and Libya, it questions the European development programs’ intentions to fight the root causes of migration. It also questions the overall narrative of migration from the African continent to the EU. Seeing migration as a problem or framing it as a normal aspect of life is essentially a ethical question of what a good

life is. What seems paradoxical is international migration only being considered as a response to crisis when poor people migrate from developing countries to developed countries. For those able to fit all the criteria for visas, international mobility or a lifestyle as a global trotter is not at all the consequences of crisis; on the contrary, it is a sign of success. In general, freedom of mobility is even a vital part of a good life. Consequently, there is a double standard of analysing, classifying, and responding to international migration, depending on where migrants originate. This double standard is deeply rooted within the North-South division. The racial aphasia knowingly ignores the inequality resulting from coloniality in which the humanitarian crisis on the Mediterranean is contextualised. Thus, managing international migration ultimately is “[an] exacting test of how serious we are about reducing inequality in the world” (Rimmer, 2003, p. 486).

International Migration Theories

How migration is analysed in the EU is significantly affected by the sedentary bias, racial aphasia, and the concept of the modern nation-state. In general, migration theories attempt to find patterns of human behaviour based on observation and data gathered over centuries. Migration studies try to understand, explain, and predict why and where certain people tend to move, and the impacts this mobility has on the place lefts behind and the destination. In *international migration* research, the focus is on cross-border migration, not regarding migration within a country from rural areas to cities. The theoretical analysis of international migration can be distinguished in two main categories: either it seeks to explain the initiation for migration or focuses on explaining the mechanisms leading to the continuance of migration “across space and time” (Massey et al., 1993, p. 432).

One of the best-known migration theories, the *neoclassical economic migration theory*, dominated the second half of the twentieth-century, building off on Sjaastads work (Sjaastad, 1962). The neoclassical economic theory explains the initiation of migration based on the example of labour migration in economic development (Lee, Sugiura, & Gečienė, 2017, p. 226). On a macro-level, the theory assumes the wage differences between states trigger labour migration. Nations with an abundance of capital and scarcity of labour force have high equilibrium wage. In contrast, countries with an abundance of cheap labour force and scarce capital have a low equilibrium wage. Consequently, labour flows from low-wage to high-wage countries (Jennissen, 2007, p. 413). The fact that there is a possibility of gaining more money for the same amount of work in another country pushes the individual to migrate (Todaro, 1987, p. 365). Wage differences form the *push- and pull factors* for migration.

Building on the push- and pull factor assumption, the *dual labour market migration theory* approach further splits the labour market into a primary and secondary market segment. The primary segments use capital intensive production methods (meaning technology and machinery), operating on the needs of high-skilled workers. It is the sector primarily reserved for natives. The secondary segment using labour-intensive methods needs more manual labour and is, therefore, suited for low-skilled workers (Piore, 1979, p. 44). Consequently, the secondary segment, which needs more workers with less specific knowledge, characterises a strong pull-factor for migration. In contrast to the first theory, the dual market approach argues, “immigration is not caused by push factors in sending countries (low wage or high unemployment), but by pull factors in receiving countries (a chronic and unavoidable need for foreign workers)” (Massey et al., 1993, p. 440). On a micro-level, both theories assume migrants conform to the ideal concept of *homo oeconomicus*. Both models assume the migrant is a fully informed person who makes only rational-economic decisions for income maximisation; social influences are not considered.

The *new economics migration theory* of labour migration in the 1980s (Abreu, 2012, p. 8), breaks with the “individual-in-the-social-vacuum” (Morawska, 2007, p. 9) assumption, considering the benefits migration has for households. Instead of on the independent individual, this theory assumes the decision to migrate is a joint one. To spread the sources of revenue more broadly and minimise the financial risks and insecurities, the household in question jointly decides to send one member of the household to work in a foreign country. Labour migration becomes an insurance for the household in case the local economic condition would deteriorate. The household can still rely on the remittance sent by the migrant. The new economic theory sees the individual embedded within a social system in distinction to the other theories. Within the context of this household-units, international migration and participation in the local market are not mutually exclusive. The economies of the countries of origin do not suffer from emigration; on the contrary, migrants’ contributions support its development. Accordingly, migration becomes a “calculated strategy” (Stark & Bloom, 1985, p. 175), negating the assumption that an enhanced economic development of the countries of origin does not reduce international migration pressure.

Today, the economic perspective on international migration with its push-and pull-factors is the basis for most migration management policies of countries in the global North. Aiming to minimise people’s motivation to move from the Global South to the Global North, the EU, for example, engages in migration partnerships with countries of origin and transit countries. By fostering the employment opportunities and using development funds to invest in infrastructural, educational

projects and peace missions, the objective is to stabilise the sending countries. The next chapter will provide a more detailed analysis of the current EU migration management strategies. However, the neo-classical models' problem is that they cannot draw an accurate picture of the migration experience. The narrow focus on income maximisation as motivation to international migrate tends to simplify the reality of migration. It overlooks the many factors influencing the impactful decision to leave home and migrate to another country. Even though economic factors are important, it dismisses the "importance of agency, autonomy, perceptions, cultural and historical factors and institutional constraints, [and] the complex multi-level and transitional nature of migration" (Collinson, 2009, p. 5). Human mobility is always embedded in the "economic, political and cultural relationship at work in particular places at a particular historical juncture" (Castles, 2010, p. 1573). Consequently, migration in its complexity can only be analysed and understood within a framework linking those different aspects that influence migration.

The *social network theory* approach – or how Wilson called it, the "network mediated migration theory" (Wilson, 1994) – and the *institutional theory* approach are two migration theories belonging to the second category of migration theories. They focused on the mechanisms ensuring international migration's continuance while acknowledging the impact of social capital. While the first migrant leaving his or her home has a relatively high transaction cost to establish him- or herself in the foreign countries, the second generation of migrants can already benefit from the experiences of the first generation. This network theory considers the impact of a diaspora community and the interpersonal connection between former migrant and potential migrants in countries origin. The social network between countries of origin and diaspora community lowers the costs and risks of movement (cf. Massey et al., 1993, p. 448); it explains the continuance of international migrations. A large inflow of international migrants builds a migrant network eventually changing to „the ethnic composition in receiving countries (...) [enhancing] the probability of employment and a decent income“ (Jennissen, 2007, p. 431). After reaching a certain number of individual migrating, "migration becomes self-perpetuating because each act of migration itself creates the social structure needed to sustain" (Massey et al., 1993, p. 449). The influence of the diaspora is not thematised in this analysis. However, it must be mentioned as it adds to the overall understanding of why a person decides to migrant. The institution theory is closely connected to the network approach but analyses the institutional structure (meaning the profit and non-profit), the illicit and legal organisation providing services and support for migrants. Besides the social connection formed by interpersonal ties, the flow of migrants also strengthens the material linkages between countries (cf. Jennissen, 2007, p. 432). Therefore, migration also creates a new lucrative niche

for “entrepreneurs and institutions dedicated to [promoting] international movement for profit“ (Massey et al., 1993, p. 450).

In summation, the brief insight into the most popular migration theories shows the diversity of approaches to assess, explain and comprehend migration and their similarities. Firstly, they all focus on one aspect of migration only, whereas the variety of approaches themselves show international migration is linked to all social science fields. Secondly, most of them have the concept of the national states at its core. However, migration between different regions and countries of the world is more than exchanging human resources between countries. Migration in the theories examined above is analysed apart from broader social relationships and global change processes (Castles, 2010, p. 1566). Following Castles argument of human mobility being linked to social transformation and global change, migration must be understood as a global phenomenon with the ability to generate fundamental shifts in how society is organised. The fundamental debates within the EU triggered by the maritime migration on the Mediterranean to the EU – here, also referred to as migration/refugee crisis – indicate how drastically migration can question existing social, economic, and political structures. Today specifically, global human mobility works as a mediator of *social transformation*. The term social transformation is borrowed from sociology, where it describes “a deep and sustained, nonlinear systemic change, generally involving cultural, political, technological, economic, social and/or environmental processes” (Linnér & Wibeck, 2020, p. 222). Transformation thereby is mediated “by local historical and cultural patterns, through which people develop varying forms of agency and resistance” (Castles, 2010, p. 1576). Consequently, global migration is capable of interlinking cultures, economies, societies and influences political structures. The analytical lens that reduces global migration to inter-national relations and economic factors is insufficient to grasp the complexity of migration.

From International to Global Migration

Reviewing the methods of analysing international migration and the sedentary bias demonstrates the maritime migration analysis on the CMSP needs a broader analytical framework. It would allow to build a holistic understanding of the complex, multi-layered matter of international migration. Firstly, this framework must understand migration outside of methodological nationalism. Secondly, it must regard the interdependence of the economic, social, political, and cultural dynamics at a global and local level while considering migration as a de-territorialised global process within its contextuality of space and time. Thirdly, the theoretical framework must surpass disciplinary

boundaries to overcome fragmentation into sub-fields, and fourth is aware of the bias of donor or/ and receiving-countries perspectives.

A global, holistic perspective and understanding on migration has the potential to “open up new ways of seeing, confronting, analysing, and interpreting” (Darian-Smith & McCarty, 2017, p. 30) global human mobility. Reframing international migration as *global migration* is the attempt to understand migration as a normal part of life instead of framing it as a problem that needs fixing. Consequently, normalising South-North migration refrains from the idea migration from the Global South can be turned on and off by adjusting the political setting (cf. Castles, 2004, p. 208). Movement of people must be understood as normal and natural behaviour. Integrating migration in the current situation of rapid and complex global transformation processes of globalisation allows to „detect conceptually subterranean trends than cut across our geopolitical divisions” (Sassen, 2014, p. 8). The term global migration breaks out of the international relation paradigm (also very present in the migration studies), taking the “national-states as the core unit of analysis” (Darian-Smith & McCarty, 2017, p. 31; Glick Schiller, 2009, p. 18). The mainstream social sciences of the nineteenth and twentieth centuries were „captured by the apparent naturalness and givenness of a world divided into societies along the lines of national-states“ (Wimmer & Schiller, 2002, p. 304). This notion can be seen as a consequence of national politics and conflicts having shaped this historical period (cf. Wimmer & Schiller, 2002, p. 303). *Methodological nationalism* inhibits a proper understanding of the nature of global migration. Considering this factor in analysis, migration

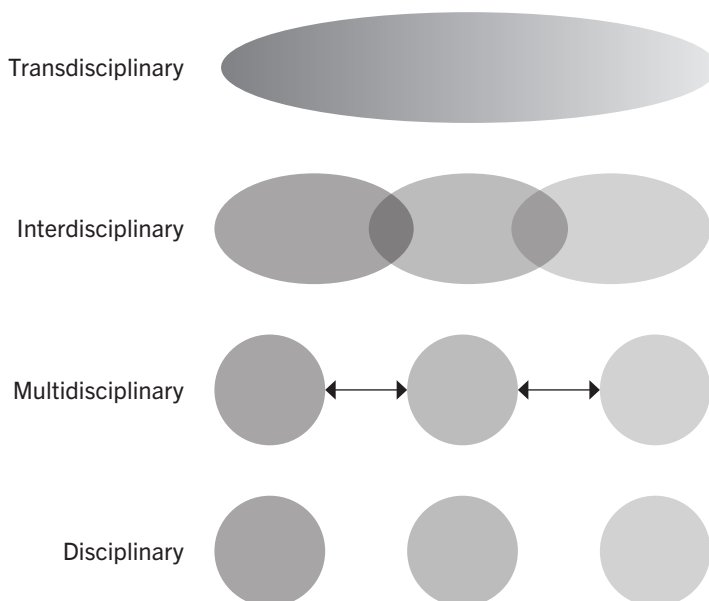


Figure 4: Transdisciplinary; reprinted from (Darian-Smith & McCarty, 2017, p. 60)

policies and migration partnerships between countries helps discover the limits, weaknesses and contradictions of measures taken to control migration. Although to dismiss the national state’s analytic unit would ignore the fact states are a crucial structuring element, they shape the everyday reality. Ultimately, surpassing the methodological nationalism does help to understand migration as a de-territorialised process. The global approach has “no hierarchy, directional flow, or

even clears linear causality” (McCarty, 2014, p. 286). This means, the analysis of migration in a point-to-point model is not sufficient to grasp the complex interdependencies between, countries of origin, transit- and receiving countries entangled within the global network created by global human mobility.

Subsequent to this global de-territorialised understanding of migration, the theoretical, analytical framework must be adapted accordingly. Like analysing migration through the perspective of national states system, the analysis of migration within the narrow scope of traditional social science disciplines only gives a fragmented understanding of the matter. A multidisciplinary approach will analyse global migration out of the different perspectives of the disciplines. On the other hand, the interdisciplinary approach would generate a greater spectrum to examine global migration dynamics because it acknowledges the disciplines’ superimpositions. Both theoretical frameworks reaffirm the discipline like how international studies is reaffirming the nation as an analytical unit. Therefore, the scope of the interdisciplinary approach “only extends so far beyond the disciplines against which their innovation and purpose are measures” (Darian-Smith & McCarty, 2017, p. 57). To transform the understanding of global migration, it needs a framework that is not „only [covering] interactions or reciprocities between specialised research projects but would place these relationships within a total system without any firm boundaries between disciplines“ (Piaget, 1972, p. 138). Piaget constructs this fluid use of research methods and tool in the transdisciplinary research practices, as shown in Fig.4.

The transdisciplinary framework can find new ways to organise knowledge beyond the disciplines and interdisciplinary frameworks. This framework is not the attempt to replace the inter-, multi-, and disciplinary practices. Instead, it must be understood as a complementary addition to those practices (Blassnigg & Punt, 2013, p. 2). It is an “issue- or problem-centred approach” that “prioritise the problem at the centre of research over discipline-specific concerns, theories or methods” (Leavy, 2011, p. 14). Regarding global migration, this framework allows examining migration as a socially transformative process in the context of “relevant historical, spatial, economic, political and social dimensions”. It engages in “a range of theories and methods” (Darian-Smith & McCarty, 2017, p. 74). Particularly in considering this research, it gives the analytical flexibility to draw out the complexity and multi-layered dynamics in which the migration cooperation between the EU and Libya is embedded.

Crucial in using this global transdisciplinary framework is the understanding of knowledge production. Knowledge is constituted as “a reflection and product of particular worldviews, ideologies, and cultural biases” (Darian-Smith & McCarty, 2017, p. 59), also inherent to theoretical analysis methods, as the sedentary bias already has shown. With the objective in mind to gain a holistic understanding of international migration, it is inevitable to be aware and to question the dominance of the Euro-American production of scholarly knowledge. As a European scholar, it is not easy to completely break out of western logics but to make global migration genuinely global, the knowledge produced outside of Global North and the non-western perspective is essential to intergrade in the research (cf. Comaroff & Comaroff, 2012). Additionally, binaries such as the global South and the Global North or rich and poor developed and developing countries, and peripheral regions are useful to highlight inequality, inequity, and injustice. Still, they can also lead to a simplification of global processes. The western binary logic must be reflected on their sufficiency to illustrate the matter at hand (cf. Darian-Smith & McCarty, 2017, p. 50).

Chapter Summary

In sum, this chapter contextualised the maritime migration on the Mediterranean Sea within the notion of global migration. In general, migration control came into existence with the formation of the modern nation-state—the nation-states sovereignty origins from the collective self-determination coming from the right to exclude foreigners from a citizen. Consequently, migration control is a core element creating a nation-state. Therefore, migration control and border control are interchangeable. The current form of borders must be understood as liquid borders, which remain open but secure though a selective visa system, distinguishing how is wanted or unwanted.

Migration control and the European interest to also influence African countries’ migration policies are based within the colonial past. Controlling African mobility during the colonial period was essentially meant controlling human resource distribution to ensure financial success. The inherited history of European control over African mobility mostly stays unacknowledged in the European migration debate and the policies. The exclusion of the colonial past within the migration discourse comes with turning a blind eye to the fact that those losing their life on the Mediterranean are PoC’s and Black people. Therefore, the maritime border between Libya and the external EU border must be understood as a racial one, embedded in the power structure of coloniality.

From the European perspective, migration is perceived to be the result of a crisis. Therefore, it is treated as a problem in need of repair. This tendency is also reflected migration theories analysing international migration. Most of these theories focus on only one aspect of migration while taking the nation-state as the analytical unit. However, to understand the complexity of international migration, there needs to be a theoretical framework capable of contextualising migration in a global context to surpass methodological nationalism. A global transdisciplinary framework allows for reframing international migration into global migration. Migration is seen as a global phenomenon installed in social, cultural, economic, political, local, and global processes. The transdisciplinary research framework gives analytical flexibility to assess global migration with all social science disciplines' tools. How does the idea of global migration and the theoretical framework constructed in this chapter benefit the analysis of the EU-Libya migration cooperation?

1. Understanding the maritime border between Italy and Libya as the border between the Global North and South allows for the analysis of European migration strategies in light of coloniality.
2. Portraying migration as a normal aspect of living and as part of all social relations combined while being aware of the sedentary bias questions the European attempt and manner to fighting root causes of migration.
3. Framing migration as an ongoing global, social process capable of reinforcing and initiating global transformation makes it easier to understand why nation-states consider human mobility a threat to national order.
4. The transdisciplinary framework enables a topic-led analysis of the cooperation without limiting it to a specific discipline method, allowing for the unfolding of the complex picture of maritime migration. Also, it gives enough analytical freedom to acknowledge different models of framing human mobility. These different understandings of human movement further help comprehend the agendas and intentions of the involved cooperation parties.

Chapter 2:

EU External Migration Policies

WHEN MIGRATION BECAME A CRISIS

Introduction

In Europe, the EU's Schengen Agreement in 1995 drastically changed the dynamics between the EU member states and their ways to deal and control their borders. The regulation processes of borders gained tremendous complexity. On the one hand, the space created by the Schengen Agreement made it seem like internal borders between the Unions member states disappeared-- however, only for EU citizens. On the other hand, it was never hard to enter the EU depending on the citizenship of the individual.

The EU's policy approaches on borders changed and underwent different stages during the twenty-first century depending on the narrative of migration in the EU migration discourse. In the case of EU migration policies, those tendencies cannot only be perceived as theoretical frames. The migration discourse and the policymaking process are mutually dependent. On the one hand, it is the understanding of migration produced by the discourse affecting the policymaking-process; on the other hand, it is the policies themselves responsible for creating the migration discourse. The tendencies within the discourse to "moderate and determine the course of action, of migrants, communities, nations, groups, institutions, and even regions" (Akanle, 2018, p. 162). The narratives are the product of different circumstances and interlinked dynamics including, firstly current events influencing the general attitude of the citizens toward arriving migrants; secondly, the political rhetoric of a current administration, depending on if they are more liberal or conservative; thirdly, statements by international non- and governmental organisations; and finally, the academic discourse and expert opinions. These factors together shape the narrative. Simultaneously, they are reproduced, multiplied, and re-created by (social) media and the public debate about migration. The migration narratives are interlinked with discourses on „rights issues, remittances as development mobilisers in sending/poor countries, ageing populations at destination countries, terrorism and border controls within insurgency and counterinsurgency strategising, international economics, and health in the age of globalisation“ (Akanle, 2018, p. 162). They create and manifest central elements inherent to the image of international migration, "commonly known and accepted by key players" (Akanle, 2018, p. 162) involved in the international migration discourse. The prevailing

migration narrative can influence the attitude, the beliefs, the course of action, policies, and practices of the governments of countries of origin, transit countries and destination countries. It also shapes the self-image of migrants themselves. Therefore, analysing the EU's external migration-strategies goes hand in hand with analysing the predominant European migration narratives and how they shift over time.

The narrative on migration oscillated between either depicting migration as an opportunity, something needing to be promoted, or as a threat and danger that needed to be strictly regulated and monitored (cf. Truong & Gasper, 2011, p. 7). In the early stages of EU's migration policies, migration was still perceived as an opportunity to promote development in sending- and receiving countries. In the current discourse, North-South migration is predominantly portrayed as a problem due to the sedentary bias and related issues. This trend is not declining, considering all the lost lives of migrants trying to reach the EU's shores at the Mediterranean Sea beginning in 2015 and the current inhumane circumstances of overcrowded refugee camps at the border between Turkey and Greece. The political, as well as the civil, response to the so-called refugee-crises varies in the range between *Willkommenkultur* and xenophobia in its variations, as already mentioned. The narration of the European migration discourse unfolded in the scope of the two poles. It is framed between the assumption of migration as a development resource and a phenomenon threatening national and social security. The narratives are not necessarily mutually exclusive yet simultaneously exist in different gradations and variations in Europe's policy agendas .

This chapter will show how the European migration policies changed and unfolded within the two poles displaying migration as an opportunity for development and as a threat to national security. It seeks to understand the interdependence of the discourse on migration and policymaking. The central questions this chapter aims to explore are: How the EU's regulation and control of human movement changed from the formation of the Union till the end of 2020? Which are the fundamental tendencies and narratives within the European international migration discourse? When, why, and how did migration become portrayed as a crisis? This chapter seeks to shed light on how the migration narrative is embedded in policymaking and how the policies themselves create a particular description of migration. This chapter will also study how the migration policies are a response to the internal tensions between the member states and events occurring in real life, such as the humanitarian crisis on the Mediterranean Sea beginning in 2015. By analysing key policy papers from the formation of the European Union and onward, this chapter further outlines the complex context in which the EU-Libya cooperation unfolds. It presents a possible explanation

for why the collaboration with third countries (i.e., non-EU-states) especially with African states, became so significant for the EU migration management and border control.

Building on Schöfberger, the analysis of this chapter splits the history of the EU's migration policymaking into four chronologically ordered phases. In the first phase from 1970s-2001, the debates on migration before the formation of the Union will be briefly outlined. This phase seeks to display the context in which the Union's migration discourse began, and which struggles the Union faced in creating a standard migration policy agreed on by all member states. The second phase from 2002-2014 examines the tendency to see migration as a development resource while simultaneously establishing a selective system regulating the influx of migrants. In 2015-2016, the third phase, the opportunistic approach on migration, shifts toward increasing securitisation of migration management. As a result, this phase is characterised by the effort of contracting migration cooperation with third countries. The fourth phase, from 2016 until present, studies the escalation of securitising migration management and shows the increased militarisation of border control. It examines the transformation of migration policies into pushback policies to keep irregular migrants from crossing the EU's external borders. The last concluding step of this chapter will explain the relevance of this analysis for the understanding of the EU- Libya migration cooperation.

EU External Migration Policies: Between Development Strategy and Securitisation

The first phase (the 1990s – 2004): Towards a common EU migration policy

Even before the EU was created, migration was a controversial topic within the national discourse of the future member states, alternating between promoting migration and strict regulation. The continually changing attitude toward immigration in European countries before the formation of the EU is a forecast to the struggles the EU has in finding a common Union-wide migration regulatory structure. The discourse on migration varies widely depending on the European country in question. France, the United Kingdom (UK), the Netherlands and Belgium as former colonial powers, for instance, became major European immigration countries between the end of the Second World War and the 1980s, in the process of decolonisation (cf. Oltmer, 2018). Germany on the other hand – even though not recognising themselves as an immigration country – was more influenced by its “Gastarbeiter”-policies –aimed to attract workers from Turkey and southern

European countries like Italy — and by the significant influx of international migration triggered by the opening of the “Iron Curtain” in 1989 (cf. Berlinghoff, 2018). Italy, as another example, shifted from being an emigration country in the nineteenth century into an immigration country in the twentieth and twenty-first centuries. While Italians left Italy before and after world wars to escape poverty, corruption, and organised crime, the country became a destination country in the mid-twentieth century due to shifting demographics increasing the demand for foreign labour force (cf. Scotto, 2017). The immigration laws from 1986 and 1989 reflected the need for workers by “acknowledging rights for migrants and improving the status of foreign workers and their families” (Scotto, 2017). In 2002 when a new centre-right government came into power, Italian migration policies started to develop toward the current, very restrictive migration policies (cf. Scotto, 2017). The changes within the post-war European debate on immigration manifested into the ambivalent perception of migration moving back and forth like a pendulum between liberal and restrictive, along with optimistic and pessimistic viewpoints (cf. Haas, 2010, p. 10). This oscillation between liberal and very restrictive migration regulations in core European countries is later reflected in the EU’s migration policymaking.

Inherent to the idea of the Schengen system was the establishment of a Union-wide (im)migration system to manifest the EU as a transnational unit. The Amsterdam Treaty in 1997 coming into force in 1999 with the Tampere Council Conclusion, first documented the objective for a universal migration management system. This intention challenged the former nation-based order, a conflict shaping the EU’s migration policy until today. The EU migration policy-making from the beginning on was a competition between the “national security-oriented and transnational development-oriented approaches“ (Schöfberger, 2019, p. 16). The negotiations had to find a common regulation for the two interlinked dimensions: the *external dimension* dealing with the immigration of non-EU citizens into the EU and the *internal dimension* dealing with the movement of non-EU citizens between the member states after they entered the Union (cf. Schöfberger, 2019: 2). The understanding of the mutual dependency of those two dimensions outlines the circumstances of European migration governance. With the Schengen space, internal borders between the member states disappeared for EU citizens but remained in place for non-EU citizens. This reality complicated the regulation of border and international immigrants drastically and showcased the border paradox of the EU. A joint policy framework was supposed to entail consistent management concerning non-EU citizens entering the Union and, once they entered the EU, the control of their movement between the member states. As internal border control within the Schengen area was reduced to the minimum almost automatically, the selection of who can move freely within the EU

fell within the duty of the EU’s external border control. Consequently, the significance and pressure to control the influx of migrants at the external borders rose.

The aim to establish a common EU regulation for internal movement of non-EU immigrants turned out to be a difficult task due to the different needs and circumstances of the EU member states. Those differences have various reasons. Firstly, some countries receive more migrants than others due to their “geographical positions, their economic performance and [their migration history as well as] their colonial past” (Schöfberger, 2019, p. 3). Secondly, since the demographics of each Member State, and therefore its labour markets, vary as their national needs for immigration also differ. With the new Eastern member states joining the EU in 2004, the differences became even more severe and drastically slowed down the process of finding a transnational regulation. An additional reduced need for labour immigration came with the economic crisis in 2008, which additionally nourished distrust in Brussels. The „important macro-economic decisions“ made on an EU level (Schöfberger, 2019, p. 4) were not in direct democratic control of the member states, but nonetheless influenced them extensively. The distrust resulting out of those dynamics further slowed down an agreement on joint migration regulation.

The difficulties in finding a universal system of managing migration also highlighted the inequality between the EU member states. The countries most affected by the economic crisis in 2008 such as Greece and Italy, were also the ones most affected by the increased influx of irregular migrants to the EU in 2014–2017 crossing the Mediterranean Sea, as they are the countries of first

● The first phase

- Formation of the European Union: 1997: The Amsterdam Treaty; 1999: Tampere Council Conclusion
- 2002: Mediterranean Transit Migration Dialogue
- 2003: European Commission Communication on Integrating Migration Issues in the European Union’s Relations with Third Countries
- 2003: The Dublin II Regulation
- 2004: European Border and Coast Guard Agency (Frontex)

● The second phase

- 2005: EU Global Approach to Migration
- 2005: „Rabat Process“
- 2005: EU Strategy for Africa
- 2008: Economic crisis
- 2011: Global Approach to Migration and Mobility

● The third phase

- Readmission Agreement
- European Agenda on Migration
- IS Terror Attack in Paris
- Valetta Political Declaration and Action Plan - Trust Fund for Africa

● The fourth phase

- 2016: The New Partnership Framework with Third Countries under the European Agenda on Migration
- 2017: Joint Communication on migration on the Central Mediterranean Route: Managing flow, saving lives
- 2020: New pact on migration and asylum

1990s – 2004

2005 – 2014

2015

2016 – 2020

arrival. The Dublin II Regulation coming into force in 2003, revisited in 2013, states only the member states of entry are responsible for examining an asylum application. Italy and Greece were left alone with the regulation of the migration influx. This internal struggle between the EU member states put a few already economically unstable states in sole responsibility in dealing with the irregular migration issue of the EU. “In both countries a perceived unpreparedness or unwillingness of the EU to manage economic downturns and migrant arrivals based on solidarity has strengthened national approaches” (Schöffberger, 2019, p. 4). Until today, there is no uniform shared system of migration management between the EU member states. The regulation of non-European movements continues to be regulated on an individual, national level (cf. Schöffberger, 2019, p. 3). The measure to cope with the incoming migrants for Italy, for instance, was to engage in bilateral agreements with transit- and countries of origin. An excellent example for such bilateral agreement is the Treaty of Friendship, Partnership, and Cooperation between the Great Socialist People’s Libyan Arab Jamahiriya and the Republic of Italy in 2008 – also known as the Friendship Pact – which had a lasting effect on the EU-Libya relations and migration cooperation. This treaty will be further analysed in Chapter 4. The agreement was aimed to stop irregular migration even before the migrants went on their journey to the EU.

The internal struggle of migration management turned into an effort to reduce the number of migrants arriving at the EU external borders (cf. Schöffberger, 2019, p. 4). The consequence of the course of action is the categorisation of migrants into “two main dichotomies: a) asylum vs non-asylum migration, and b) regular vs irregular migration” (Schöffberger, 2019, p. 4) While the EU is obligated under international law to grant asylum since they signed the Refugee Convention in 1951 and the Protocol 1967, it is not obligated to accept irregular migrants. The EU can return migrants who do not qualify for the refugee status to their state of origin. The process of readmission of migrants to their country of origin in itself poses a new challenge for the member states. It brings up the question of which country has the responsibility to return the migrants (cf. Schöffberger, 2019, p. 5). Both the readmission process and the process of reducing migration increases the need for cooperation with transit- or countries of origin and thereby makes the cooperation with third countries a significant aspect of EU migration strategy.

A vital element of the EU migration strategy became the cooperation with third countries to reduce the number of incoming irregular migrants. The European Commission made the first step toward its realisation in 2002 in their communication on Integrating Migration Issues in the European Union’s Relations with Third Countries. In this communication, the Commission stressed the need

for an overall approach on migration which would include “the reduction of migratory pressure by cooperation with the principal potential third countries of migration towards Europe” (European Commission, 2002, p. 7). However, migration is not to be perceived as a problem but as an “essentially positive phenomenon” producing “both opportunities and challenges” (European Commission, 2002, p. 7). But “[i]f carefully managed, it can be a positive factor for growth and success of both the Union and the countries concerned” (European Commission, 2002, p. 4). This statement is reaffirmed by acknowledging the fact that “[m]ost immigration countries – including EU member states – face labour shortages in both the highly skilled and low-skilled sectors” (European Commission, 2002, p. 11). The focus of the effort to integrate migration in third-country cooperation is on low- and middle-income developing countries. The intention behind this strategy is to embed the migration issue back into a broader global context and direct the attention to the driving forces of international migration also known as root causes of migration and how they impact developing countries. Simultaneously, this process highlights the specific case of people in need of protection. Changes and development in policies could contribute “to a better management of migratory flows, including the curbing of illegal migration” (European Commission, 2002, p. 8). This type of migration narrative contains a lot of elements identified as part of the development-orientated approach, emphasising a liquid perception of borders.

However, the 2002 Communication also introduces elements hinting toward a highly selective attitude concerning migrants by clearly outlining different migration categories and the notion to address root causes



of migration by cooperating with countries of origin. It creates a dichotomy between ‘legal’ and irregular – or even ‘illegal’ – migrants by distinguishing between “economic migrants and persons in need of protection” (European Commission, 2002, p. 9). As already mentioned, asylum is a human right. Therefore, states are obligated to grant it. In contrast, irregular migrants are considered to be individuals “that either illegally [enter] the territory of an EU Member State, or become illegal after ,over-staying‘ their valid visa or their residence permit, or after being rejected as an asylum seeker” (European Commission, 2002, p. 9). Further, it is stated, in comparison to economic migrants, forced migration is a result of conflict and insecurity in the countries of origin and is more “cyclical”. It is more likely that migrants forced to leave their home are keen on returning home when the situation stabilises. According to the communication, this is not the case for economic migration (European Commission, 2002, p. 12). To decrease the motivation or need for irregular migration “the reduction of poverty and the increase of job opportunities” (European Commission, 2002, p. 12) in the country of origin is suggested. The overall objective of the 2002 Communication can be summed up as a “balanced overall approach which addresses the root causes of migratory movements (...) to continue integrating migration issues into its political dialogue with third countries and regions” (European Commission, 2002, p. 46). Its emphasis thereby is not only on “illegal immigration but also on the channels for legal immigration” (European Commission, 2002, p. 46). The selectiveness in the migration regulation process and the fact that only certain migrants are welcomed in the EU manifested itself in the European Border and Coast Guard Agency (Frontex), founded in 2004. Frontex itself is not an executive body like the police. Still, it is tasked with the coordination of the member states border police and other agencies able to support the mission to secure the EU’s external borders. Their tasks include risk assessments and the collecting of data concerning irregular migration and cross-border criminal activities such as human trafficking and smuggling. In 2016 the agency was extended, now also responsible for search and rescue missions and readmission programs at the Mediterranean Sea. Frontex became a cornerstone for regulating the migration influx to the EU (cf. Frontex, n.d.). Having said that, the agency is also facing an extensive amount of criticism and backlash by human rights and refugee relief organisations accusing them of being involved in illegal pushback operations at sea (cf. Pro Asyl, 2013). The involvement of Frontex in joint border control missions with Libya will be further examined in chapter 4.

The combination of acknowledging the need and importance of migration and, at the same time, being aware that not all kind of immigration has a productive effect for the EU is a reoccurring theme in the European migration discourse. The first phase already lays out the challenges the

EU is facing regarding the management of migration. The described dynamics continue to affect the second phase and the most crucial migration policy pillar The Global Approach to Migration (GAM) when framing the negotiation with third countries.

The second phase (2005 – 2014): Migration Cooperation as a Development Opportunity for All

The core framework of the EU’s external migration strategy is the GAM. The European Commission firstly formulated the plan in November 2005 as a follow-up communication to the Summit at Hampton Court in 2005 (cf. European Commission, 2005b). One month later the European Council endorsed the Commission’s suggestion on this matter with slight changes in focus. In general, the GAM is the foundation for finding a cohesive strategy to reduce irregular migration and human trafficking. Additionally, it addresses the regulation of immigration and asylum. The in the GAMs stipulated efforts to strengthen the cooperation with third countries at this stage of the GAM was mainly directed towards African countries and in particular the Mediterranean region (cf. European Council, 2005, p. 9).

The dynamics influencing the development process of the GAM demonstrate how the two tendencies – development orientation versus securitisation - to approach the migration issue and the EU internal struggles (already identified in the first phase) translated into the EU executive organs. This highlights the need for a “coherent, overall and balanced approach on migration issues” setting up a “clear and consolidated EU immigration policy(...) aimed at promoting the synergies between migration and



development, [...] based on a long term strategy to address the root causes of forced migration“ (European Commission, 2005, p. 2). The Commission connects migration policy and development cooperation, pointing out the opportunities migration entails. Even though acknowledging the need to contain irregular migration, it stresses the need to build legal paths for migration. In their response to the 2005 communication, the Council focused on the need “to reduce illegal migration flows and the loss of lives, ensure safe return of illegal migrants, strengthen durable solutions for refugees, and build capacity to better manage migration, including through maximising the benefits to all partners of legal migration, while fully respecting human rights and the individual’s right to seek asylum“ (European Council, 2005). The involvement of border control agencies is pointed out as a central aspect of the EU migration strategy. The Commission, the EU’s politically independent executive arm, chooses a development orientated strategy whereas the Council, consisting of the EU Member State leaders, prioritises the securitisation of migration. This diversion underlines the national interests of the member states, with the EU’s transnational approach not aligning. The idea of national interests prevailing will become evident in phase three and four.

In 2011 the GAM was reformulated into the Global Approach to Migration and Mobility (GAMM) (European Commission, 2011) adding “mobility” as the extending element to include only temporarily staying foreigners in the EU, such as students, tourists, business personal or family members (Martie, 2013, p. 2). Otherwise, the GAMM replicates the central points of the 2002 Communication. Its main objectives can be summarised in: “(1) promoting and improving the organisation of legal migration, (2) preventing and reducing irregular migration, including by combating trafficking, (3) promoting internal protection and the external dimension of asylum, and (4) maximising the positive development effects of migration and mobility” (Kipp, 2018, p. 8). Overall, the GAMM followed a development orientated narrative, emphasising the need to promote legal migration, making the Commission’s approach a leader in migration policymaking.

The enhancement of the GAM to GAMM was seen “as a mutually beneficial strategy: not only did it serve the EU’s economic interests (labour force), but it was also a means to avoid *brain drain* and support development back in the country of origin” (Martin, 2013, p. 2). The portrayal of migration as a win-win solution, as an opportunity to benefit all participating actors, (cf. Piper, 2009, p. 94) is a more recent narrative. However, it is not entirely new and has been part of the debate after the Second World War period, when the focus was on superficially “filling labor gaps in the North” (Bastia, 2018, p. 315). In the 1970s and 1980s, the course of the debate again changed toward the assumption that emigration from developing or less developed nations

contributed to poverty and economic stagnation as it withdrew the country of their high-skilled labour force, a concept summarised under the term of brain drain (cf. Faist, Fauser, & Kivisto, 2011, p. 3). From the year 2000 on, the debate again returned towards a more optimistic framing from brain drain to *brain gain*, highlighting the knowledge transfer of diaspora communities back to their home countries. This current neo-optimistic trajectory of the migration-development discourse makes the migrant “the development agent par excellence”, constituting migration “as an element of development cooperation” (Faist et al., 2011, p. 7).

The argument for how migration benefits the countries of origin is supported by the concept of *remittances* – the money sent back by migrants to their families in their home countries (cf. Nyberg-Sørensen, 2012, p. 65). Remittances function like a direct person-to-person investment with the potential to rehabilitate or reconstruct regions of conflict. They are seen as an ideal bottom-up-development, financial instrument (which supports the redistribution of income better than “large, bureaucratic development programs or development aid”, since they are “free from political barriers and controls” (Haas, 2010, p. 9). Nevertheless, the benefits of such a remittance is limited to one household only, with the tendency to be a “better-off household within the better-off communities in the better-off countries of the developing world” (Nyberg-Sørensen, Van Hear, & Engberg-Pedersen, 2002, p. 53) contributing to reproduce already existing social hierarchies (cf. Bracking, 2003, p. 634). Remittances turn into a contribution to pre-existing inequality within the countries of origin – but only if they are exclusively seen as a financial transfer disregarding the transfer of



expertise and knowledge by returning migrants and the diaspora community. Therefore, the notion of ‚social‘ remittance was added to the idea of pure financial remittance. *Social remittance* refers to the transfer of knowledge, expertise, beliefs, and practices. In an ideal case, social remittance can affect the sending country “for example in the form of opportunities for political participation and democratisation of human relations (between the sexes, generations, ethnic and religious groups, and so on)” (Piper, 2009, p. 97). These social and economic effects are acknowledged by international organisations such as the International Labor Organization, the International Organization for Migration (cf. Lavenex & Kunz, 2008, p. 442), and several international financial institutions such as the World Bank (cf. World Bank, 2006).

The destination countries, on the other hand, benefit from migrants from abroad as they help to fill labour-gaps (cf. Piper, 2009, p. 95). Many high-income countries face demographic issues such as an ageing society, and as many low-paying jobs demand hard physical labour, long working hours and sometimes the risk of health hazards, as those jobs are increasingly carried out by foreign workers (cf. Piper, 2009, p. 95). The same happens the other way around in low-income countries; the attractive high-paying jobs are occupied by ‚experts‘ from the Global North “often described as ‚foreign talents‘” (Piper, 2009, p. 95). “The ‘North’ is present in the ‘South’ and the ‘South’ in the ‘North’, not only in the form of goods and capital flows but also in terms of border-crossing people” (Piper, 2009, p. 95). It is important to stress the fact that international migration is not a one-way movement from the Global South into the Global North. On the contrary, countries with emerging economies again change the face of the global labour market, creating new demands. To remain competitive, high-income countries started to put measures in place to attract high skilled migrants. This process resulted in the “hunt for ‚talent‘ (i.e. highly skilled migrants)” (Piper, 2009, p. 96) while the barriers for the less skilled migrants are increased through complex migration and visa categories. However, high-income countries are also in need of less-skilled workers, making the less skilled migrants “needed but not wanted” (cf. Piper, 2009, p. 96).

The neo-optimistic trajectory highlights the opportunities of migration, combining development-with migration policies, a practice known as the *migration-development nexus*, is inherently what the European Commission builds its strategy on in the GAM/GAMM. This nexus assumes migration to be a source of opportunity creating multiple gains for countries of origin, countries of transit as well as for destination countries. In this context, migration is regarded as “a source for development and increased (labour) mobility” which can become “a driving force for development” (Knoll & de Weijer, 2016, p. 7). It is not seen as a one-way movement, since a migratory project is

‘successful’; migration becomes a development resource capable to “contribute to economic as well as human development” (cf. Nyberg-Sørensen, 2012, p. 64). Key to such successes are mechanisms to ensure the successful integration of migrants in the host- or destination countries (cf. Knoll & de Weijer, 2016, p. 7). This approach highlights the need for a well-governed migration flow, enhanced and facilitated through legal regional, national, and international apparatuses and the global integration of local economies. This strategy considers the positive effects of remittances on countries of origin. The nexus strategic objective is to find a balanced long-term solution creating the optimal outcome for all parties involved, making migration into a tool to promote and enhance development if appropriately managed.

Initially, development policies have been separated from migration policies. Primarily, development policies have had the objective of reducing poverty in the poorest and least developed countries, usually not the case for the countries of origin (cf. Nyberg-Sørensen et al., 2002, p. 59). Contrasting the common perception, the most impoverished population “living on less than US\$1 a day, do not have the connections and resources needed to engage in inter-continental migration” (Nyberg-Sørensen et al., 2002, p. 51). Cross-continental migration is mostly a result of regions undergoing “rapid changes as a consequence of their incorporation into global trade, information, and production networks” (Nyberg-Sørensen et al., 2002, p. 51). Accordingly, South-North migration is not necessarily the consequence of poverty but can be a result of development itself. If one sees development policies and assistance only as a tool of poverty reduction, countries from which migrants come from do not fall into



its target. It would also explain why migration and development were frequently dealt with as separate issues.

The merger between development and migration policies originated from the intention to address the *root causes of migration*. Root causes for migration are push factors, such as insecurities caused by poverty, no employment options, conflicts, and inequality within the countries of origin triggering emigration. Accordingly, the objectives of development policies to stabilise the situation in the least developed and developing countries are aligned to reduce root causes. Tools used by high-income destination countries to build up resilience and economic opportunities are used within the countries of origin to minimise the reasons for leaving the country in the first place; direct investment, development assistance and aid money are also aid programs and projects on sight. The intention is for financial support this to eventually reduce irregular migration and forced migration in cases of armed conflict and political persecution (cf. Knoll & de Weijer, 2016, p. 7). Nevertheless, the strategy to address root causes ignores the facts established above. International migration to high-income countries in the Global North mainly originate from middle-income developing countries and the result of what is called the *migration hump*.

The theory of the migration hump questions the assumption of financial development tools working as a cure for root causes of migration. The migration hump is describing the rising number of emigrations in developing countries as a reaction to economic growth and rise of income-levels. Reasons for this increased motivation to migrate to developed countries are assumed to be because of the prospects of a higher level of education, an increased amount of available financial resources and increased employment possibilities (cf. Angenendt et al., 2017, p. 2). Consequently, development instead is rather an incentive for emigration than a factor to stop it (cf. Angenendt et al., 2017, p. 2). Critics of this theory point out the difficulty in finding a direct link between increased development and rising emigration. Suspected motivations for (irregular) migration were mainly of financial nature, as a reduction of the complex issue of migration is seen as “voluntary and forced migration blend[ed] together” (Angenendt et al., 2017, p. 2). Besides, the increase of emigration would also be temporary, until the country reached the economic level of an upper-middle-income country. Development aids to countries of origin were more and more only superficially allocated to enforce development, as development already occurred in the states of origin. They became more a sort of “indispensable investment [...] to preserve stability in [the] EU” (Schöfberger, 2019, p. 15) by preventing irregular migration.

The development-migration nexus had a lasting effect on the EU-African relation, as the linkage of development and migration resulted in increased conditionality, especially as the GAM/GAMM became the main strategic framework of a series of EU-Africa dialogues. Its development-orientated approach influenced the Mediterranean Transit Migration Dialogue (MTM-Dialogue), a „consultative platform“ initiated in 2002 to connect „migration officials in countries of origin, transit, and destination along the migration routes in Africa, Europe, and the Middle East“ (cf. Zanette, 2015, 1), and the „Rabat Process“ in 2005 (cf. The Rabat Process- Committed Partners Concrete Actions, 2018). What the EU- African dialogues indicate is a “mismatch in priorities” (Parshotam, 2017, p. 2). African countries see migration and human mobility as a natural process and are more concerned with “building resilience and employment in sending countries, addressing development concerns, and harnessing remittances” (Parshotam, 2017, p. 2). In comparison, the EU seeks to control and limit the migration of certain African nationals. Unsurprisingly, the EU effort of reducing migration is less appealing to African states, as they were not keen on giving up “their national sovereignty and competencies on migration and border control” (Schöfberger, 2019, p. 6).

The EU’s Strategy for Africa (cf. European Commission, 2005a), though developed without any participation of African actors, accentuates the vision of a long-term relationship between the African countries and the EU. This relationship was outlined as an equal partnership. An ambition, currently questionable when concerning cooperation on migration, for instance, is the need for the cooperation to be attractive for African nations by setting

The first phase

- Formation of the European Union: 1997: The Amsterdam Treaty; 1999: Tampere Council Conclusion
- 2002: Mediterranean Transit Migration Dialogue
- 2003: European Commission Communication on Integrating Migration Issues in the European Union’s Relations with Third Countries
- 2003: The Dublin II Regulation
- 2004: European Border and Coast Guard Agency (Frontex)

The second phase

- 2005: EU Global Approach to Migration
- 2005: „Rabat Process“
- 2005: EU Strategy for Africa
- 2008: Economic crisis
- 2011: Global Approach to Migration and Mobility

The third phase

- Readmission Agreement
- European Agenda on Migration
- IS Terror Attack in Paris
- Valetta Political Declaration and Action Plan - Trust Fund for Africa

The fourth phase

- 2016: The New Partnership Framework with Third Countries under the European Agenda on Migration
- 2017: Joint Communication on migration on the Central Mediterranean Route: Managing flow, saving lives
- 2020: New pact on migration and asylum

1990s – 2004

2005 – 2014

2015

2016 – 2020

artificial incentives, mostly in the form of financial incentives. The EU and its member states adopted a “carrot and stick” (Schöfberger, 2019, p. 6) approach, which entailed “the development of a mix of positive and negative incentives” (Schöfberger, 2019, p. 6) . The topic of migration became integrated into “the EU’s development and trade policies to reward those countries willing to cooperate effectively with the EU on migration management and ensure there are consequences for those who do not cooperate” (European Commission, 2016, p. 17). The subject of migration management became a key element to all kinds of cooperation between the EU and African states. A practice questioned by many critics, they pointed out that development cooperation’s were used as “leverage to secure third-country commitments” (Funk, Namara, Pardo, & Rose, 2017, p. 3) and to ensure the implementation of migration management measures suiting the EU’s agenda on migration matters. “In other words, development aid becomes a bargaining chip in negotiations that follow the objective of improving migration management” (Funk et al., 2017, p. 3).

To sum it up, the second phase continues to demonstrate the ambiguous attitude of the EU toward international migration while reflecting on its mixed approach. On the surface, migration is presented as a win-win opportunity for all parties involved. Yet, only regular migration and primarily high-skilled migrants are genuinely welcome. The linkage between migration and development has advantages and disadvantages, like any strategy. On the upside, this linkage, if conducted properly in equal cooperation and participation of all parties, underpins the opportunities brought by migration. Following the EU’s communications to the topic of migration, the chance for development through migration for the EU is through monitoring and selecting the migrants suiting to the needs of the member states marked. Development in this context is measured in economic terms, and productivity migration can generate. The main European concern is controlling the migration influx and contain irregular migration, which leads to the downsides of the nexus. With the linkage between development- and migration policies, development tools are linked to conditionalities ensuring the interests of the EU regarding migration are implemented. One way to do so would be to facilitate greater access to legal means to migrate; however, because that was not the case, development tools, foremost the financial ones, are now used to tackle root causes of migration. The objective with this strategy is to improve the living situation in countries of origin to the point where people see no reason at all to leave their home and to prevent them from becoming a potential irregular migrant. All in all, this second phase of EU migration policymaking has a mostly balanced strategy when dealing with international migration.

The third phase (2015): The fight against irregular migration

The unprecedented high number of arriving irregular migrants in 2015, triggered by the Middle East conflict and the Arab Spring, confronted the EU with new challenges to cope with the arrivals. As the EU internal pressure to reduce the number of newcomers grow, there was use of “emotional language” in the form of “expressions such as ,thousands of migrants‘, ‘emergency‘, ‘plight‘, ‘shocked‘ ‘risk their lives, ‘human misery‘ and ‘escape”” (Schöfberger, 2019, p. 14) within the EU migration policies. In contrast, the second phase seemed to maintain a balance between development- and security-oriented approaches. In the third phase, the tendency shifted toward securitisation. The cooperation with African countries became a fundamental aspect of the EU’s migration strategy of increased border control. Under those new circumstances, the EU needed a short-term strategy, coming in the form of the European Agenda on Migration (EAM) in 2015. The agenda became the new frame for EU-Africa negotiations and migration cooperation’s. The new agenda, a bolder version of the GAMM, was used by the EU as a political guideline, outlining further EU-Africa negotiations and agreements. The Valletta-Summit and its result, the Valetta Political Declaration and Action Plan, can be seen as a direct implementation of the EAM goals into EU-Africa relations.

The EAM, however, based on the GAMM, overtook its role, and became the guiding policy framework used to handle the high number of irregular migrations. Thereby, the EAM is a direct response to the increased illegal border crossings and asylum applications starting in 2014. The EAM repeats the central points of the GAMM such

● The first phase

- Formation of the European Union: 1997: The Amsterdam Treaty; 1999: Tampere Council Conclusion
- 2002: Mediterranean Transit Migration Dialogue
- 2003: European Commission Communication on Integrating Migration Issues in the European Union’s Relations with Third Countries
- 2003: The Dublin II Regulation
- 2004: European Border and Coast Guard Agency (Frontex)

● The second phase

- 2005: EU Global Approach to Migration
- 2005: „Rabat Process”
- 2005: EU Strategy for Africa
- 2008: Economic crisis
- 2011: Global Approach to Migration and Mobility

● The third phase

- Readmission Agreement
- European Agenda on Migration
- IS Terror Attack in Paris
- Valetta Political Declaration and Action Plan - Trust Fund for Africa

● The fourth phase

- 2016: The New Partnership Framework with Third Countries under the European Agenda on Migration
- 2017: Joint Communication on migration on the Central Mediterranean Route: Managing flow, saving lives
- 2020: New pact on migration and asylum

as the demand for a “strong common asylum policy, as well as a new European policy on legal migration“ in support of the “robust fight against irregular migration, traffickers and smugglers, and securing Europe’s external borders“ (European Commission, 2015, p. 6). It suggests different ways to limit the influx of irregular migration. Firstly, the interconnecting different policy sectors like “development cooperation, trade, employment, foreign and home affairs policies” (European Commission, 2015, p. 6) has to be the foundation for a coherent framework. Secondly, a strong “framework for legal pathways of entrance to the EU (both through an efficient asylum and visa system)” has to be put in place to “enhance the security of European borders as well as safety of migratory flows” (European Commission, 2015, p. 6). When migrants are legally admitted to the EU, the member states are obliged to assist them to the best of their abilities in the integration of those in their new community. However, the EAM emphasised that “the EU needs enact consequences when migrants do not meet the criteria to stay” (European Commission, 2015, p. 6). Irregular border crossing or the stay of migrants in the EU beyond legal permission “constitutes a serious problem” (European Commission, 2015, p. 6). Thirdly, migrants identified as ‘illegally’ being in the EU can be returned to their country of origin, as agreed upon in the Readmission Agreement of 2015 (European Parliament, 2015). The readmission of migrants also plays an integral part in the negotiation of third-country migration agreements. Fourthly, European migration management could only succeed if the EU “[engages] beyond its borders and strengthen[s] cooperation with its global partners, address[es] root causes, and promote[s] modalities of legal migration that foster[s] circular growth and development in the countries of origin and destination” (European Commission, 2015, p. 6).

The wording used in by the EAM regarding irregular migration changed in comparison to the GAMM. A shift in the narrative was indicating by framing irregular migration as a danger or threat to the EU making turning migration into a security issue. Whereas the GAMM used the formulation of “preventing and reducing irregular migration and trafficking in human beings” (European Commission, 2011, p. 7), the EAM calls for a “robust fight against irregular migration, traffickers and smugglers” (European Commission, 2015, p. 6). The GAMM highlights that “[in] essence, migration governance is not about ,flows‘, ,stocks‘ and ,routes‘ it is about people” (European Commission, 2011, p. 6). The GAMM seeks a balanced and sustainable “migrant-centred approach [...] to respond to the aspirations and problems of the people” (European Commission, 2011, p. 6). In comparison to this empowering-migrant strategy, the EAM focuses on the irregular migration of the Mediterranean Sea by predominately highlighting its connection to human trafficking and smuggling. This connection between irregular migration from the Global South, from the North

African continent and the Middle East to the Global North, the EU, with “global mafias, organised crime, drugs and weapons trafficking, human smuggling, international money laundering, Islamic radicalism, terrorism, urban violence and/or other ills” (Nyberg-Sørensen, 2012, p. 66) helps to construct irregular migration as a boogyman. The boogyman is not the migrant – meaning the individual – itself, but the whole process of irregular migration. The migrants are depicted as victims of smugglers. It was argued that even though the migrates in the beginning of their journey were “willingly engage in the irregular migration process by paying for the services of a smuggler to cross an international border, while in the latter they are the victims, coerced into severe exploitation which may or may not be linked to the crossing of a border” (Footnote European Commission, 2011, p. 8). As a consequence, the EAM’s strategy is to emphasise the need for more substantial European external border control and joint forces with countries of origin and transit to address the root causes of irregular migration. Border management in the EAM is framed as a vital measure to save the lives of migrants in the hand of smugglers and traffickers. With this shift in wording in the EAM and its increased focus of EU Migration policy on one category of migration only (irregular migration), the management of migration and the migration cooperation with third countries becomes a crucial element of European security matters.

The interlinkage between migration policies and European security concerns steadily securitised European migration governance. Securitisation describes “the process of turning a policy issue such as (...) international migration into a security issue” (Faist, 2006, p. 2). This linkage between migration and security matters constructs the



security-migration nexus. The tendency to connect migration, in particular irregular migration, to organised crime like in the EAM promotes migration as a threat to “national security, socio-economic welfare and cultural survival” (Knoll & de Weijer, 2016, p. 7), arguing that the inflow of irregular migrants can cause “instability, security risks and competition in labour markets as well as threats to socio-cultural stability and social cohesion” (Knoll & de Weijer, 2016, p. 7). This line of argumentation is mostly used by destination countries, aiming to reduce the inflow of irregular migrants.

What is considered as ‘a threat to national security’ has varied and changed in the past. After the Cold War at the end of the 1980s, it became evident the traditional perception of ‘threat’ to national security in the form of military intervention now had to be supplemented with a new kind of threat. A threat to national security could now not only stem from military attack, but also could come from “non-military sources of instability and could affect the economic, social and environmental spheres” (Pinyol-Jiménez, 2012, p. 37). Increasingly, non-state actors were identified as transnational security risks such as “organised crime, drug trafficking and environmental disasters – and not to forget international migration” (Faist, 2006, p. 2). Instead of posing a danger to the sovereignty of the state, non-state actors became a threat to the general “ability of a nationally bound society to maintain and reproduce itself” (Faist, 2006, p. 2). Migration, especially from the low-income regions of the world, was progressively shaped by the fear of ‘strangers’ coming to take ‘our’ jobs, housing, and trying to gain access to state benefits (cf. Akanle, 2018, p. 165; cf. Faist, 2006, p. 3; cf. Pinyol-Jiménez, 2012, p. 38). After the terror attack on the World Trade Center on September 11, 2001 (referred to as 9/11), this trend gained further momentum and evolved into the stigmatisation of migrants, islamophobia, and general xenophobia. Migrants, especially those from Muslim countries, became linked to terrorism. How an individual was identified as a potential terrorist was purely based on superficial, racist stereotypes (cf. Bigo, 2001, p. 122), resulting in a generally more hostile environment for all foreign individuals not fitting the predominantly white stereotypical population features of the Global North. This tendency was further driven by the war on terror, declared by former U.S. President G.W. Bush (cf. Pinyol-Jiménez, 2012, p. 38). In times the war on terror further created arguments feeding into the narration of the “Clash of Civilisations” (cf. Huntington, 1993), making migration a threat to collective identity and cultural homogeneity (cf. Faist, 2006, p. 4).

The Valetta Declaration and its Action Plan, the result of the EU-Africa summit organised in Valetta in 2015, further emphasised migration as a security risk for firstly the migrants themselves

and, secondly, for both the countries of origin and of destination. The political context of the Summit helps to demonstrate this critical turn in framing irregular migration as threat to national security, as the Summit followed the 2015 terror attacks in France (cf. Schöfberger, 2019, p. 13). The terror attacks in Paris in 2015 claimed by the terroristic organisation ISIS displayed how vulnerable the EU was and exacerbated existing hostile attitudes against foreign, irregular migrants and increased Islamophobic prejudices. The outcome of the Valletta Summit was a political response to contain the threat. The main priority of the Valetta Declaration states “to save lives and do everything necessary to rescue and protect the migrants whose lives are at risk” by “[managing] migration flows in all their aspects, guided by the principles of solidarity, partnership and shared responsibility” (Valletta Summit, 2015, p. 1). While the aspect of root causes, identified as lack of economic development, is within the GAMM frame, the new element of fighting irregular migration and the human smugglers and secondly on the return and readmission processes (cf. Valletta Summit, 2015, p. 2) is in line with the EMA. By highlighting the fight against smugglers, the militarisation of border control was justified.

With the Valetta Summit, the EU’s ‘emergency’ Trust Fund for Africa (EUTF) was installed as a flexible tool to react rapidly to the migration influx and pressure on EU external borders. It signaled a shift towards the fight against irregular migration and a more security-oriented migration approach. The main strategic objectives have been determined as: “(1) Greater economic and employment opportunities; (2) Strengthening the resilience of communities, and in particular the most



vulnerable, as well as refugees and displaced people; (3) Improved migration management in countries of origin, transit and destination; (4) Improved governance and conflict prevention” (Kipp, 2018: 5). The goal is to “address root causes of irregular and displaced person in Africa” (European Commission, 2020c, p. 1). The aim to address root causes with a five-year emergency fund seems questionable. As already outlined above with the migration hump, there is no evidence that the strategy to address root causes through stimulating development prevents migration. Even if stimulation of economic growth would contain irregular migration, a five-year period is not nearly enough time to “address complex and long-term root causes” (Castillejo, 2016, p. 5). Thirdly, African leaders have complained that the number of financial recourses made available for 23 countries would not make any significant impact in reducing root causes.

Taking a closer look at the funding gives reason to agree with the suggestion of critics pointing out that the EUTF “central aim of the EUTF is simply to demonstrate to the European public that leaders are taking action on migration” (Castillejo, 2016, p. 6). The overall amount of financial recourses dedicated to the EUTF reached €4,7 billion in December 2019, of which €590 million were provided by the EU member states and other countries such as Swiss and Sweden, and €3.1 billion a provided by the already existing European Development Fund (EDF) (cf. European Commission, 2020b, p. 11). These resources are invested in 223 approved actions, in three main focus areas: 101 actions in the Sahel and Lake Chad region supported by €2.0 billion; 87 actions funded by € 1.6 billion on the Horn of Africa; and further €807.0 million dedicated to 31 actions in North Africa (cf. European Commission, 2020b, p. 13), where Libya as one of the main benefactor (cf. European Commission, 2020b, p. 33). 45% of the budget was allocated to “strengthen resilience of affected communities and creating economic and employment opportunities”, “31% went to improve migration management” and “21% to improve governance and conflict prevention” (European Commission, 2020b, p. 7). The EUTF’s strategy and use are decided on by the Strategy Board, and it’s Operational Committee which are both chaired by the European Commission (cf. Castillejo, 2016, p. 10). Even though the fund was initiated by a joint EU-Africa Summit with the intent to support African countries, the EU actors decided on the distribution of the aid money, and African actors have little to no influence on how the fund gets divided. Besides, the fund does not support or enhance legal ways of migration, which would also be reflected in African interests.

The efforts in 2015 had significant effects on further migration policies. Aids are increasingly allocated toward “countries based on their migration profile, thereby undermining EU principles on aid effectiveness and stretching the definition of development assistance” (Parshotam, 2017, p. 3).

The development assistance becomes a mere tool to solve the EU's migration issues. In EU-Africa-cooperation's the aids are used to ensure the African countries commitment on readmission and border control (cf. Parshotam, 2017, p. 3). Securitisation of migration management gained ground and conditionality to development aid supporting the EU's migration objectives became a new practice. Therefore, the two separate nexuses become one, the migration-development-security nexus.

The fourth phase (2016 – 2020): Securitisation of Migration and Push-Back-Policies

In the fourth phase, the notion of migration as a development-driving agent nearly wholly vanished. The direction had been taken in 2015 by the EU toward securitisation and allocating development assistance to stop irregular migration to the EU consolidates. This manifestation especially shows in the New Partnership Framework with Third Countries under the European Agenda on Migration (MPF) set up in 2016. Moreover, EU migration policy leans toward supporting the bilateral agreements between member states and African countries, resulting in member states interests dominating EU external migration policies.

So far, the MPF is the most transparent, “openly interest-driven” (Castillejo, 2017, p. 6) migration initiative of the EU redefining migration cooperation's with third countries as “transaction relationships” (Castillejo, 2017: 6). The aim of the MPF is “a coherent and tailored engagement where the Union and its member states act in a coordinated manner putting together instruments, tools and leverage to reach comprehensive partnerships (compacts) with third countries to better manage



migration” (European Commission, 2016, p. 6). In achieving the EU’s objective, the MPF makes clear that the integration of migration issues in all aspects of the EU’s foreign policy is needed. Every tool and resource at the disposal of the EU further can be instrumentalised as leverage for those compacts (European Commission, 2016, p. 17). Development policies must increasingly be aligned with the migration agenda “to ensure that development assistance helps partner countries manage migration more effectively, and also [incentivise] them to effectively cooperate on readmission of irregular migrants” (European Commission, 2016, p. 9). The main focus of the framework is still on African countries, despite MPF expanding its efforts for compacts with Pakistan, Bangladesh and Afghanistan, identified as sources for irregular migration, as well as Iran, as another key transit country (European Commission, 2016, p. 16). The priority countries in the cooperation receive more targeted support packages out of a broader EUTF programming and “migration-related assistance of member states” (Castillejo, 2017, p. 8). With the MPF, the lines between development and conditionality blur. National interests of the member states and the EU agenda became more coherent in their attempt to reduce the pressure on the EU external borders.

Within the framework of the MPF, the dynamics influencing the migration cooperation’s have shifted further away from this approach and “the principles of genuine partnership” (Castillejo, 2017, p. 6). The objective and the understanding of migration between the EU and the potential African partners are so fundamentally different; even the threat of negative incentives did not convince some countries, such as Nigeria and Ethiopia, to cooperate on the EU’s readmission plan (cf. Castillejo, 2017, p. 12). Such negative incentives can come in the form of reduced aid money or the limitation of diplomatic visa access within the legal possibilities of doing so. The limited availability of fund does not measure up to the amount a country receives out of remittance. African actors criticise the EU objectives as unrealistic, as it is not possible to stop migration completely. However, instead of acknowledging the difference in interests between the negotiating partners, which would signalise a “genuine recognition of each side’s priorities and an attempt to seek compromise” (Castillejo, 2017, p. 32), the MFP continues to pretend African partners would share the EU’s interests because of the EU’s set incentives. These differences lead to a slow and unproductive process.

Because of slowly progressing multilateral negotiations and agreements, the EU engaged increasingly in supporting pre-existing bilateral agreements driven by the national interests of EU’s critical member states. The bilateral agreements between the member states and transit- or countries of origin, such as the Friendship Pact between Italy and Libya resulted in

fragmented national approaches which later translated into the transnational cooperation structure (cf. European Parliament et al., 2017, p. 5). This progression becomes visible in the “Joint Communication on migration on the Central Mediterranean Route: Managing flow, saving lives” in 2017 (European Parliament & European Council, 2017). This Communication outlined the specifics of a joint border control mission with Libyan officials that builds on the Italy-Libya relation and their naval and air operation “Mare Nostrum” in 2013. This operation aimed to “identify, capture and dispose of vessels and enabling assets used or suspected of being used by migrant smugglers or traffickers, to disrupt their business model in the Southern Central Mediterranean, and prevent the further loss of life at sea” (cf. European Parliament & European Council, 2017, p. 5).

The fourth phase, with the EU’s s joining bilateral agreements to strengthen border control operations, showcases the radical shift from a people-centred approach to a national- and security-driven strategy faced with criticism to use all measures meant to push back asylum seekers. Only thin traces of what was formulated in the GAMM remained in the EU’s migration agenda. The European Commission in the communication in 2018 on the topic of Enhancing legal pathways to Europe: an indispensable part of balanced and comprehensive migration policy (cf. European Commission, European Parliament, & Council of the European Union, 2018) stresses the necessity of a legal pathway to the EU and finding a joint EU approach on migration. Otherwise, the EU migration policy faced harsh critics by the civil society and Non-Governmental Organisations (NGOs) accusing them of *pushback* strategies conducted on the



Mediterranean Sea. The term pushback describes a practice used by authorities to prevent those seeking protection to appeal for asylum by stopping them before they have the chance to apply. “Pushbacks violate international and EU law because they undermine people’s right to seek asylum, deny people of the right to due process before a decision to expel them is taken, and may eventually risk sending refugees and others in need of international protection back into danger” (Oxfam International, Belgrade Centre for Human Rights, & Macedonian Young Lawyers Association, 2017, p. 4). In June 2019, the EU even faced legal consequences. A group of lawyers, led by Juan Branco and Omer Shatz, made a legal submission to the International Criminal Court (ICC), accusing the EU and in particular its member states Italy, Germany, and France, of committing “crimes against humanity” by proceeding with pushback policies for asylum seekers and migrants fleeing from Libya over the Mediterranean Sea. According to the lawyers, the EU’s policies turned the “central Mediterranean to the world’s deadliest migration route” (Branco & Shatz, 2019, p. 8), causing “i) the deaths by drowning of thousands of migrants, ii) the refoulement of tens of thousands of migrants attempting to flee Libya, and iii) complicity in the subsequent crimes of deportation, murder, imprisonment, enslavement, torture, rape, persecution and other inhumane acts, taking place in Libyan detention camps and torture houses” (Branco & Shatz, 2019, p. 8).

Even if it is not obvious whether there is a causality between the complaint to the ICC and the self-proclaimed „fresh start on migration“ (European Commission, 2020e) announced by the European Commission at the end of 2020, it came in form of the proposed New Pact on Migration and Asylum (European Commission, 2020d). As this new pact is currently only a proposal and in the adoption process by the European Parliament and the European Council is still pending it will not be analysed in this chapter. The main objective is to address the shortcomings of the EU external migration policies in the refugee crisis 2015-2016. However, the main objectives remain the same: “[a]ddressing the root causes of irregular migration, combatting migrant smuggling, helping refugees residing in third countries and supporting well-managed legal migration are valuable objectives for both the EU and our partners to pursue through comprehensive, balanced and tailor-made partnerships“ (European Commission, 2020d, p. 2).

Chapter Summary

This chapter explored the circumstances and context in which the European migration policymaking unfolds. It discussed how the European discourse on migration, which is represented on the theoretical meta-level, is interdependent and linked to the migration policymaking, being the

legislative level and the executive level in the form of actual actions taken. All three levels are influenced by real-life events such as terror attacks (I.e the terror attacks in Paris 2015) or emergencies (the refugee/migration-crisis at the CMSP 2015). Within this dynamic, the meaning of (im)migration develops. In this interplay, the (im) migration issue gets reproduced, reframed, and recreated. The chapter displays how international migration was framed differently throughout the history of the EU. By chronologically analysing the policies, two tendencies within the EU's migration agenda are identified. Firstly, the development-oriented approach also called migration-development nexus and secondly a progressing trend toward securitisation, called the migration-security nexus. The trend toward securitisation also explains why migration partnerships with third countries became a vital strategic objective in the EU's migration policy.

The four phases, structuring this chapter, have produced four insights:

1. The first phase marked the period formation phase of the EU and displayed the struggle to find a union-wide migration policy. It revealed the internal and external dimension of EU's migration-management, showing the dissent between the member states.
2. The second phase revolved around the GAMM, a policy promoting the developmental benefits brought about through migration for countries of origin-, transit- and destination, if managed appropriately. The GAMM displayed how development policies and migration policies were increasingly merged to fight the root causes of migration. Migration cooperation

The first phase

- Formation of the European Union: 1997: The Amsterdam Treaty; 1999: Tampere Council Conclusion
- 2002: Mediterranean Transit Migration Dialogue
- 2003: European Commission Communication on Integrating Migration Issues in the European Union's Relations with Third Countries
- 2003: The Dublin II Regulation
- 2004: European Border and Coast Guard Agency (Frontex)

The second phase

- 2005: EU Global Approach to Migration
- 2005: „Rabat Process“
- 2005: EU Strategy for Africa
- 2008: Economic crisis
- 2011: Global Approach to Migration and Mobility

The third phase

- Readmission Agreement
- European Agenda on Migration
- IS Terror Attack in Paris
- Valetta Political Declaration and Action Plan - Trust Fund for Africa

The fourth phase

- 2016: The New Partnership Framework with Third Countries under the European Agenda on Migration
- 2017: Joint Communication on migration on the Central Mediterranean Route: Managing flow, saving lives
- 2020: New pact on migration and asylum

1990s – 2004

2005 – 2014

2015

2016 – 2020

with third countries at the beginning, predominantly with African countries, became a vital element of the EU's migration strategy.

3. The third phase, the year 2015, was a turning point in European migration policies because of the unprecedented influx of irregular migrants. Central to the strategies developed in 2015 was the fight of irregular migration. One main aim of the policies made in this phase was to find a short-term solution to stop irregular migration to the EU. The EAM manifested the shift from a development-orientated approach to framing irregular migration as a threat to the EU's security.
4. In the fourth phase, all measures and tools at the EU's disposal were used to contain the immigrational pressure and stress on the external European borders and the countries of the first arrival. The migration issue became embedded in all foreign policies, to set positive and negative incentives for the partner countries. EU created incentives were necessary, as the African countries interests and attitudes toward migration differed sharply from European interests. The fourth phase displays an escalation of securitising migration and enhancing border control.

Regarding the EU-Libya relation, the analysis of the European understanding of (im)migration, driving factors, and interests to engage in migration cooperation's helps to understand and untangle the complexity of the Libya - EU relationship in the next chapter. This chapter tells one side of the story and sheds light on the complex dynamics shaping the EU migration policy. The partners of EU's migration partners help the EU on a short term to contain the arrivals of irregular migration in the EU. The next chapter will take a closer look at the EU-Libya relationship. It seeks to study Libya's aspiration and interest in joining such a partnership, the foundation of this partnership, and finally explains why Libya is a central country for the EU when it comes to migration cooperation. It also highlights Libya's significant role within the African context of migration and examines why the EU is dependant on the collaboration with Libya.

Chapter 3:

Libya-EU Migration Partnership

WHO ARE THE GATEKEEPERS OF THE EU?

Introduction

In many ways, the Libya - EU migration cooperation is an interesting case, regarding migration cooperation's between the EU and third countries, as the further analysis will show. The partnership demonstrates the contradictions within the EU's institutional structure of migration management. At the same time, it shows how the migration issue can and has been used as a political tool in foreign policy to influence the behaviour of negotiation partners during the Qaddafi regime. Located directly at the Mediterranean Sea as part of the Northern Africa countries, Libya is a junction between the Sub-Saharan region, the Middle East, and the Mediterranean Sea leading to the EU.

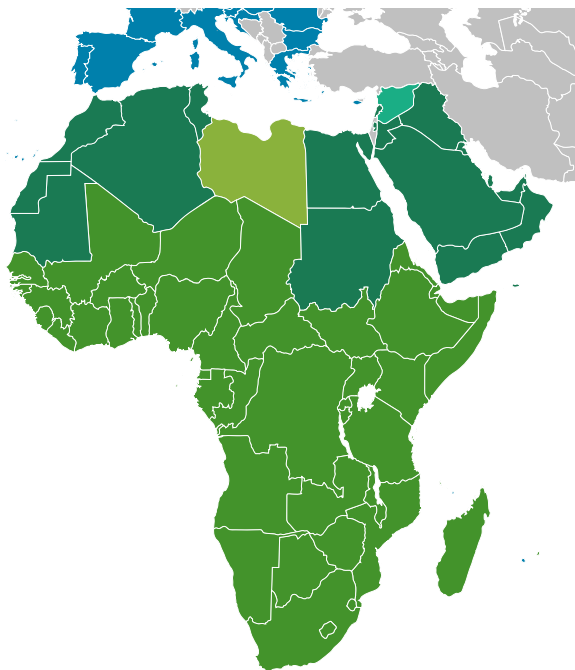


Figure 5: Libya (light green), the junction between the EU (blue), the Arab League (dark green), and the African Union (green); Created by Florian Bürstl (Bürstl, 2021)

It is a transit zone between the EU, the Arab League, and the African Union (displayed in Fig. 5). It marks the border between the Global South and the Global North. Besides the geography of the country, Libya has a significant fossil fuel reservation and was considered by “Western oil strategists as an alternative to the ,unstable‘ political environment that characterised the rest of the Arab world in the ,50s and ,60s” (Collins, 1974, p. 13). Later, after the Libyan regime was removed from the American list of supporting forces of terrorism under the Patriot Act, Libya also established itself as an ally of Western countries against terrorism. Though this chapter mainly focuses on the politics of migration, it is not possible to clearly distinguish the different

reasons why Libya is an attractive partner for the EU and its member states, as this chapter will also show.

Before 2002, Libya was not considered a relevant partner for migration cooperation's since the CMSP was rarely used by migrants to reach the EU. What made Libya one of the major transit countries was Italy's migration politic on the Adriatic route. In the 1990s, a major transit country wherefrom migrants started their journey to the EU via Italy was Albania. The Straits of Otranto, where only 70 km separates Albanian from Italy, became the main migration route to the EU (cf. Lutterbeck, 2006, p. 61). In 1991, with the end of the Cold War and the fall of the communist regime in Albania, the country turned from a state of origin into a transit country for migrants from Turkey, Iraq, Afghanistan, Pakistan and China (cf. Lutterbeck, 2006, p. 62). Because of the increased involvement of organised crime in human trafficking and drug smuggling by the Albanian mafia, Italy increased its border control. The militarised border made the irregular border-crossing at this entry point almost impossible. As a result and reaction to the shutdown of the Adriatic route, the migratory flow shifted toward Libya (cf. Lutterbeck, 2009, pp. 170–171).

From the beginning of the twenty first century on, Libya is either the final destination, a temporary destination providing employment or an intermediate stop on the way to Europe for migrants from neighbouring countries, namely the Sub-Saharan region, the Middle East and increasingly also from South Asia (Displacement Tracking Matrix (DTM), 2020, p. 5). During the Qaddhafi rule, Libya became very attractive to seasonal workers, as economic opportunities and comparatively high wages were rising the attraction for the region. Seasonal workers would usually stay a few years to work and return with savings back to their countries of origin. Parts of the remaining foreign population in Libya also consisted of asylum seekers predominantly from Syria, Eritrea, Somalia, Ethiopia, Palestine and Iraq, mainly planning to continue their journey to the EU (see Altai Consulting, 2013, p. 9). This trend continued after the Arab Spring in Libya and the violent downfall of its former Colonel Qaddhafi. In October 2020, around 574,146 migrants were living in the country (IOM & Displacement Tracking Matrix (DTM), 2020). From January until April 2020, nearly 3,500 asylum seekers arrived in Italy crossing the Mediterranean Sea. Up until the end of April, approximately 3,300 migrants were intercepted by the Libyan Cost Guard on the sea and returned to Libya; around 150 died (Displacement Tracking Matrix (DTM), 2020, p. 21). Libya, together with Tunisia, provides one of the most direct access points to the CMSP. Therefore, the Libyan involvement and alignment with the EU's interests are essential for the EU's migration strategy.

The CMSP, particularly the Libya-Italy corridor, is the irregular entry hotspot for undocumented migrants (cf. DeBono, 2020, p. 462). The Libya-Italy corridor is part of a longer route, also including

Tunisia and Malta, which are both included in the EU's border regime and EU's external migration strategy. Italy plays a significant role in hampering the migration flow from Libya to the EU. Italy, together with other countries of first arrival like Malta, Greece, and Spain, became the leading forces to cooperate with their North African neighbours. Spain was leading in negotiations with Morocco, whereas Italy's bilateral agreements build the basic framework for the EU's cooperation with Libya.

Italy's cooperation with Libya, which goes hand in hand with the EU's endeavour to cooperate with the North African countries, aligned with the external dimension of EU's migration policies as seen in the previous chapter. The migration cooperation's with African countries like Libya as strategic element of the external dimension has been criticised and accused of externalising EU border and migration control to third countries. The definitions and understandings of externalisation of border control differ. Lember-Pedersen, for instance, describes it as "a continuum of instances where one actor through international negotiations may gain 'remote control' over the border control of the actors which in turn can lead to extraterritorial migration control" (Lemberg-Pedersen, 2017, p. 36). To the contrary, Boswell divides the externalisation process into two approaches. On the one hand, it signifies an externalisation of "traditional tools of domestic or EU migration control" (Boswell, 2003, p. 619). Such tools serve to support and encourage countries of origin and transit to engage in "strengthening border control, combating illegal entry, migrant smuggling and trafficking", as well as agreeing on readmission programs for migrants who illegally entered the EU (Boswell, 2003, p. 619). All these measures can be summarised in the EU's effort to "strengthen the capacity of third countries to manage migration" (Hamood, 2008, p. 20). The idea to establish transit processing centres in EU's neighbouring countries, which would process asylum claims outside the EU, were briefly considered but abandoned— at least for now. On the other hand, the cooperation and policies entail a preventative mechanism, meaning "measures designed to change the factors which influence people's decision to move, or their chosen destination" (Boswell, 2003, p. 620). The preventive dimension of externalisation includes the objective to address the root causes of migration or to provide protection zones in the country of origin. This approach contains direct investments, trade, foreign policies and development assistance. Migration cooperation, in general, comprises a mixture of both techniques, "the externalisation of control tools and prevention" (Boswell, 2003, p. 620).

Building on these considerations, this chapter attempts to find an answer to the following questions: What is Libya's understanding and history regarding international migration and migration control?

How did the relationship between Libya and the EU develop over time and what role is Italy taking within this relationship? How are the dependencies in this migration partnership? Which forms of action does migration cooperation between the partners materialise? Its aim is to analyse the dynamics between Libya, the European Union, and its member states, in particular Italy, as the primary country of first arrival. In order to determine whether the migration partnerships between Libya and the EU contains parts of the externalising mechanisms. This chapter also examines which tools migration, and border control, are transferred to a foreign territory intending to “pre-empt immigration flows, asylum applications and the stay of irregular migrants on EU territory” (Lemberg-Pedersen, 2017, p. 34). The possibility of the increasing militarisation of borders will also be investigated. This analysis is accompanied by a study of Libya’s role, its interests, and “hoped-for” benefits from migration cooperation and, above all, how migration is used as a diplomatic negotiating tool.

The chapter unfolds chronologically. The first part analyses the Libya-EU cooperation during the Qaddhafi regime, putting the migration agreements in historical perspective. This part demonstrates Italy’s central role as a mediator and driving force in engaging with Libya on the matter of migration and its push-back strategy and militarisation on the sea border. The second part will examine the changes brought to the cooperation influenced by the Arab Spring in 2011 and Qaddhafi’s downfall. Central to the argument is the analysis of the European maritime mission which show the paradoxical combination between the rhetorical intend of the SAR task and the border control action they practice. Additionally, the renewed Memorandum of Understanding (MoU) signed between Libya and Italy in 2017 and its effects on the irregular border crossing will be examined to gain a complete understanding of the cooperation between the new Libyan government and the EU.

Part 1 (2000 – 2011):

Migrants, the pawns in the game of power between the Qaddhafi regime and the EU

The three stages of Libya’s foreign affairs under the Qaddhafi regime

Libya’s history was marked by continuous foreign interference. Even though Libya was one of a few North African states, not claimed by the big European imperial powers during the “scramble for Africa”, the nation still has a long history of occupation and has been shaped by a “never-ending procession of foreign rule” (Collins 1974, p. 3). Italy, though a young nation in the 1860s,

was the first European country showing ‘interest’ in colonising Libya, which still belonged to the Ottoman empire (see Collins, 1974, p. 3). After the second world war, the fall of the fascist Italian regime and a short period of British and French occupation, Libya finally gained independence in December 1951 (cf. Collins, 1974, p. 10). After independence, Libya was ruled by King Sayyid Idris (cf. Collins, 1974, p. 10) until the military coup d’état in 1969, also known as Al Fateh Revolution, orchestrated by Colonel Qaddafi ended King Idris ruled. The overthrow of the King was not unexpected, as its highly corrupt patrimonial system stood in stark contrast to the modernisation and the demands of an outward-oriented oil economy. The revolution also did not encounter significant opposition but did also not provoke any mobilisation within the general population. What was unexpected were the orchestrators of the coup. A group of young military officers, under the leadership of Colonel Qaddafi, called themselves Revolutionary Command Council (RCC); these officers stemmed from the middle class without a specific education or any former connection to the monarchy or politics. 27 years into Colonel Qaddafi’s leadership would drastically change Libya’s diplomatic relations with Western countries, its direct neighbours, and other African countries (cf. Vandewalle, 2012, p. 76). Under his rule the first agreements, including the agenda to stop irregular migration between Italy and Libya, would be signed.

It is necessary to have a broad understanding of the historical events defining the EU-Libya relations during the Qaddafi regime in order to understand the complexity of the EU-Libya migration cooperation. The relationship between Qaddafi’s military reign and European countries can be structured in three stages, characterised by different intensities of aggression against each other. The main elements within all three stages are commercial ties related to Libya’s oil industry and matters concerning migration control. The first stage could be called the “Pan-Arab Dream”; the second “The Mad Dog of the Middle East”; and the third “Reconciliation”. The third phase plays the most crucial role regarding migration cooperation; however, this cannot be seen outside of the previous colonial history shaping the EU-Libya relations.

1. The Pan Arab Dream

The beginning stage, (or the first stage) of Colonel Qaddafi’s rule in Libya was shaped by “a strong ideological agenda, deeply infused with a number of traditional historical, cultural and symbolical references [resonating] with Libya’s history”, anti-western rhetoric and the ambition to build a strong Pan-Arab union (Vandewalle, 2012, p. 79). The vision of the young new leader for Libya was inspired by the Egyptian President Nassar’s Pan-Arab revolutionary thought. One year into Qaddafi’s ruling, he “became the self-appointed guardian of Nassar’s legacy, nurturing

the notion of Arab nationalism and unity as part and parcel of the Libyan revolution” (Vandewalle, 2012, p. 79). The realisation of this vision and a precise formulation of a political agenda of the new Libya lasted until December 1970. The new regime condemned the interference of western forces within the region. It demanded the withdrawal of stationed American and British troops, ignoring the fact that their departure was already a subject of negotiation before the revolution. In this beginning phase, the confrontation with the West remained mainly verbal (cf. Vandewalle, 2012, p. 85). Like in the monarchy before, all political parties were suppressed contradicting the initial intent of the RCC to build a state under Popular Rule or Peoples Power and to “[remove] all political barriers or intermediaries that stood between the country’s leadership and the people” (Vandewalle, 2012, p. 82). This intention was quickly abandoned due to the existing political apathy. The Arab Socialist Union (ASU) was to function as a vessel to mobilise the general public to create a Jamahiriya, which reach out to a state of the masses, but did not work as intended. In support of this notion, the new leadership adapted new religious credentials. Even though the leader was “cautious in appropriating Islam as part of the revolution” (Vandewalle, 2012, p. 87) in the beginning, he broke with the old ulama by implementing somewhat symbolic acts like banning alcohol and closing nightclubs. The vast revenues of Libya’s oil industry allowed the new regime the freedom to pursue political agenda and allocated all necessary resources behind their cause. Besides the controversial ideological rhetoric of the administration, the revolution was a relatively mild one. Due to a lack of experienced staff, the new regime was not able to fill all the bureaucratic and diplomatic positions.

Colonel Qaddhafi used migration at this stage as a strategic tool to influence Libya’s neighbouring states and Sub-Saharan countries. Since the discovery of oil in Libya in 1957, migration from neighbouring countries in the Maghreb to Libya rose as migrants became vital to fill the labour gaps in the oil industry. The much-needed foreign workforce, consisting of non-Libyan Arabs, made up 85% of the labour force between 1973 and 1975 (cf. Paoletti, 2011, p. 217). The labour migrants originating from neighbouring Arab countries were essential for the development of both the “formal and informal economy” (Paoletti, 2011, p. 217) of Libya in the 1970s and 1980s. To ensure the steady flow of migrants, Libya’s authority actively engaged in recruiting foreign workers by negotiating contract-packages with Tunisia, which entailed the import of the labour force to the country (Paoletti, 2011, p. 2017). Migration became a crucial factor for Libya’s economy and led to increased diplomatic activities between the entire North African region.

The negotiation of labour migration from neighbouring countries to Libya was used to push the regime's idea of Pan-Arabic union. Since the revolution in 1969, Qaddafi made sure to position Libya as an Arab nation by removing all European influence. In 1989, Algeria, Libya, Mauritania, Morocco and Tunisia established the Arab Maghreb Union and opened the eastern border. Simultaneously, Libya and Tunisia's relationship deteriorates, with the election of Tunisian Prime Minister Hedi Nourira who was very sceptical of Libya's leader. At the same time, Tunisia was still very much dependent on Libya since, without Libya's oil industry, the country would have severe unemployment. Aware of Tunisia's dependency, Qaddafi implemented stricter migration rules for Tunisian migrants and even expelled some of them, sending a signal to the Tunisian government (Paoletti, 2011, p. 2018). Qaddafi actively used "migration and border control measures as [a] foreign policy tool", exaggeratedly expressed as "migrants were taken 'hostage' and used strategically in the course of the political transaction between the two countries" (Paoletti, 2011, p. 218).

Using migrants as political weapons became a recurring theme in Qaddafi's foreign policy (cf. Choucri, 1977, p. 5). After the Libyan colonel used the same strategy to pressure Egypt, accusing the government of being too close to the U.S., Libya's tactics were not perceived well by other Arab countries. This resulted in the disintegration of the Arab Maghreb Union (cf. Paoletti, 2011, p. 220). Consequently, Colonel Qaddafi turned from his Pan-Arabism to Pan-Africanism. In addition to Arab migrants, Libya started also to welcome migrants from the Sub-Saharan regions. Migration again became an instrument for Qaddafi's regime to gain influence in the Pan-African movement and to establish himself as a leader in an international setting, despite being isolated from Arab countries and the West. He played a central role in establishing the African Union (AU) with his anti-colonial sentiment between 2000-2002 and had "a strong voice in the African Development Bank" (Schmidt, 2018, p. 267). In 2009 he was appointed as chairman for the AU. However, in the same period, Libya's migration politics tightened again, cracking down on undocumented migrants in the country due to security concerns after riots in 2000 (Paoletti, 2011, p. 222). The strategy of inviting migrants into Libya and simultaneously adopting new stricter migration laws highlights the paradox strategy of Qaddafi. On the one hand, Libya is dependent on the foreign workforce, and on the other hand, Qaddafi is using the migrants in his country as pawns to pressure other countries to support the regime's interests.

Meanwhile, the increased radicalisation of the Qaddafi regime and its anti-imperialist, anti-Western rhetoric created additional tensions between Libya and Western countries. In the early

phase of Qaddafi's rule, the radicalisation and anti-western rhetoric of the new government was tolerated by most Western countries involved in the region. It was directed mainly against the United States (US). In the context of the Cold War, the US were concerned primarily for containing Soviet influence in the area. Up to 1980s the regime's external policy was more focused on the realisation of a Pan-Arab union or towards African countries (cf. Joffé, 2001, p. 80). However, the adoption of the Green Book's stateless society⁵, also known as the Third Universal Theory, and alternative to capitalism and socialism did not particularly correspond with the European capitalistic interest. Additionally, the aim of the Colonel to contain neo-colonial influence in North Africa by forcefully repatriating Italians on Libyan territory in 1970 and the nationalisation of European oil companies did not spark sympathy for the new regime. However, some European countries like France and Malta gained from their relationships to the new regime. France signed an agreement guaranteeing the oil supply of Libya in exchange for technical and financial cooperation in 1974. Malta enjoyed cheap oil and Libyan investment due to personal sympathies between the Maltese premier and the Colonel. Germany supplied chemical equipment. And after overcoming the shock of the repatriation also Italy revived diplomatic and economic relation with Libya (Joffé, 2001, p. 81). The predominantly commercial connections between Libya and European countries demonstrate that the economic interests in Libya played an essential role in the relations. Particularly regarding the Western relation with the Qaddafi regime the Western interest in the Libyan oil industry made them ignore the rhetorical provocations of the Colonel. Economic and cooperation in the matters of migration will facilitate tolerance regarding human right violations. A pattern and issue that will be taken up again in the next chapter.

2. "The mad dog of the Middle East"

The second stage was characterised by the radicalisation of the Libyan cause and the Colonel's notion to lead the jihad against imperialism and colonialism starting in the late 1970s. Already early in the Middle East conflict, the Libyan regime sided and supported the radical Palestinian cause. Along with the support of Palestinian interests came the first confrontation with western and European interests. A series of terroristic attacks related to the Middle East conflicts occurred

⁵The Green Book is interpreted as Colonel Qaddafi political manifesto of action to root his modernisation effort. It is reflecting the tribal ethos that allows the ordinary Libyan people to directly manage the bureaucratic and administrative institutions shaping their daily live. In its essence the Green Book is creating a stateless society where the people manage their one affair through direct democracy. This system comes with the emphasise on consultation and equality with the aim to remove hierarchies of state functionaries (cf. Vandewalle, 2008, p. 19).

in European Countries. The Libyan regime was somehow implicated in all attacks, “either as a state than had supported those responsible (...) or because of its role in their resolution” (Joffé, 2001, p. 83). The UK was joined by several other European states, who were determined to stop the violence spread by Libya supported terrorism in the EU. The killing of a policewoman during an altercation in front of the Libyan embassy in April 1984 triggered Britain’s outrage. The UK immediately broke off all diplomatic relations with Libya and associated itself with the US and its antagonism with the Qaddhafi regime. Simultaneously, the French link to Libya deteriorated over the Chad conflict. In the following years, several other bombings all bearing the hallmark of Qaddhafi’s support, predominantly in airports and in plains, further shocked the European countries. The climax of attacks against European countries was the destruction of the aircraft of a French airline UTA in Niger 1989, conducted by Libyan citizens (Joffé, 2001, p. 83; cf. Vandewalle, 2012, p. 169).

Although official diplomatic relations between European countries and Libya were almost completely shut down, the commercial and informal ties remained. In general, the European reaction to Libya’s aggressions were slightly hesitant compared to the US. The US already had imposed its first sections against the Qaddhafi-lead Libya in 1978, prohibiting the sale of all military equipment to Libya. Further, the US closed its Libyan embassy in 1980 and imposed an export embargo on all oil-production-related products from the US to Libya. The conflict escalated after a bomb attack on a German night club popular under US army members stationed in Germany in 1986 (cf. Joffé, 2001, pp. 83–84; cf. Vandewalle, 2012, p. 131). The US, with British support, bombed Tripoli and Benghazi. The European states reacted with an arms-and military-equipment embargo in the same year. More far-reaching European sanctions only came in the wake of the UN sanctions against Libyan.

Under the pressure of the UK and the US, the UN imposed sanctions on Libya in 1992 (cf. Joffé, 2001, p. 86) after Libya refused to extradite two Libyan nationals accused of being responsible for the Lockerbie affair. The Lockerbie attack was another aeroplane bombing of a Pan Am airline flying from London to New York, exploding over the Scottish town Lockerbie in 1988. Those sanctions entailed the banning of all air-links to Libya, restrictive rules for travelling of Libyan nationals, a universal arms and military equipment embargo, the freezing of Libya’s financial assets aboard, and banning the provision of equipment necessary for oil refining (cf. Joffé, 2001, p. 86). The consequences of the aggressive course of the Qaddhafi regime significantly impacted Libya’s commercial viability and managed to manoeuvre Libya into total western isolation.

3. Reconciliation

The US bombing of Tripoli and Benghazi marked a turning point in Libya's diplomatic course. The economic consequences of Libya's foreign policy came in the way of the regime's radical objectives. Libya had lost its standing with international affairs, and the revolutionist leader was marked as the "mad dog of the Middle East" as the former US president Ronald Reagan called him in a news conference in 1986 (Reagan, 1986). The first step the Colonel took away from the confrontational path was his condemnation of the annexation of Kuwait in 1990 by Iraq, positioning Libya against the radical forces (cf. Joffé, 2001, p. 86). Libya's authorities also signalled their willingness to resolve the UTA and Lockerbie conflict by proposing a compromise to trailing the accused in a third countries.

The combination of the Colonel's new conciliatory attitude and the willingness of the European countries to bury the hatchet due to their dependency on Libya's oil paved the way for a renewed rapprochement between Libya and the Western Hemisphere. Combined with the pressure from the Arab League and the African States in 1997, which would no longer enforce the sanctions against Libya, the conflict eased a little. Italy resumed its diplomatic dialogue with Libya again in 1996, violating the UN sanctions. France resolved the UTA affair by agreeing to let the accused be convicted in their absentia in 1998. In the same year, the US and Libya agreed on a compromise. The defendants of the Lockerbie attack would be trailed in the Netherlands. The UN suspended its sanction after the transfer of the accused to British authorities in 1999, and Libya promised to recompensate the families of the victims. However, the US sanctions remained until after the September 11, 2001 attacks, when Qaddhafi was the first Arab leader condemning the attack on the twin towers (cf. Vandewalle, 2012, p. 169), thereby contributing a resolution to the Libya-US conflict. These complex diplomatic and economic considerations would have crucial consequences for the politics of migration between European countries and Libya, as we will now see.

"More oil and fewer migrants" – The triangular relationship between Libya, Italy and the EU

During Libya's isolation, Italy became "Libya's door to Europe", and Libya became "Italy's bridge to Africa" (Paoletti, 2010, p. 118). In 1996, before the sanctions against the Libyan state were lifted, the two countries renewed the Euro-Mediterranean dialogue. This is representative of a historic turning point in Italy-Libya relations in the form of the Joint Communication signed in 1998 (cf. E. Paoletti, 2010, p. 114). The Joint Communication provided the foundation for further

bilateral economic relations such as the cooperation of oil companies. It is a historical document because it included the first formal acknowledgement of Italy's wrongdoing in the colonial area. The Joint Communication of 1998 was an essential step toward cooperation and reintegration of Libya after its isolation from the West. Italy's endeavours to re-establish economic ties with the oil-rich North African country and its efforts to reduce the inflow of migrants eventually also lead to the end of EU's arms embargo at the end of 2004 (Associated Press, 2004).

Sparked by the increasing number of irregular migrants arriving on Italian shores (cf. Statista, 2020), the first steps toward joint actions against irregular migration made by Italy and Libya were stipulated in a Memorandum of Intent (MoI). This was signed in 2000 and was supplemented by the technical, operational protocols in 2007 (cf. Statista, 2020)(cf. Statista, 2020)(cf. Statista, 2020) . The MoI contained the first details about the exchange of information, on "the modus operandi and the itineraries of illegal migrant flows and the criminal organisations that favor them" (Paoletti, 2010, p. 121). Furthermore, it included the commitment to "reciprocal assistance and cooperation in the fight against illegal immigration" (Paoletti, 2010, p. 121) and to engage in informal repatriation operations. The result out of the first framing of the cooperation between Italy and Libya was a series of repatriations of undocumented migrants newly arrived at the island of Lampedusa between October 2004 and March 2006 (cf. Paoletti, 2010, p. 143). In this period, Italy systematically conducted return flights to Libya. From Libya onwards, the migrants were mostly directly transported further to their country of origin, also financed by Italy (cf. Paoletti, 2010, p. 146). Italy's

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repatriation measures were highly criticised by Amnesty International (cf. Amnesty International, 2005) which had expressed serious concerns of Italian authorities violating the fundamental right to apply for asylum and the principle of non-refoulement. The *non-refoulement principle*, under the international human right law, states that “no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm. This principle applies to all migrants at all times, irrespective of migration status“ (cf. OHCHR, n.d.). The UNHCR also expressed their concerns about the untransparent procedures of Italy’s repatriation. The UN organisation confirmed Amnesty International’s fear that Libya, a country that not has signed the 1951 UN Refugee Convention, could not guarantee the safety and protection of asylum seekers (cf. UNHCR, 2005). However, not only did NGOs and international organisations question Italy and the European Parliament’s practices (cf. European Parliament, 2005), but also those of the Council of Europe’s Committee for the Prevention of Torture and European Court of Human Rights. By 2007 there was no further evidence of Italy continuing to conduce repatriations; instead, they engaged in push-back measures on the sea.

In 2007, Libya and Italy agreed on a protocol of cooperation and an additional technical and operative protocol (Libyan Government of National Accord & Italian Government, 2007), which gave Libya’s authorities considerable control over the maritime missions and intensified the measures taken against undocumented migrants crossing the sea. Italy would provide equipment and training for the Libyan Coast Guard to either prevent the departure or intercept boats with migrants before they reached Italy’s territory and bring them back to Libya’s shores. Adding to this process was Italy’s push-back missions on the sea. In 2003, Italian authorities released a decree which allowed the Italian Navy to intercept boats carrying migrants to escort them then back to the territorial waters they came from (cf. Human Rights Watch, 2006, p. 113) In these cases, Libyan authorities would take over. This push-back method of Italy created an international outcry accusing Italy to thereby violate its obligations under European human rights laws. The degree and the push-back operations by the Italian Navy did not entail the differentiation between those which potential be able to have right for asylum and those how are not. Additionally, the protocols did not include what happened with the intercepted migrates back in Libya, leaving them vulnerable to all kinds of harm (cf. Vari, 2020, p. 111). In 2012, the court found Italy guilty of several violations against the European human rights laws. The appeal manifested the illegality of Italy’s push-back policies, as was the case of *Hirisi Jamaa and others versus Italy*. The case was brought before the European Court of Human Rights (ECHR) by a group of Eritrean and Somalian nationals concerning the interception of three boats in 2009 by Italian military ships and their forceful return

to Tripoli (cf. Nascimbene, 2014). The return to Tripoli, even though there is no formal readmission agreement between Italy and Libya, was only possible through the close informal cooperation between the two countries.

The most significant formal agreement between Italy and Libya, which later would be a foundation for the EU-Libya relation, was The Treaty of Friendship, Partnership and Cooperation between the Italian Republic and Great Socialist People's Libyan Arab Jamahiriya (the Friendship Pact). It was signed in 2008. The Friendship Pact was the result of numerous little informal agreements before. Nevertheless, the Friendship Pact was a turning point for the Libya-Italy relation but also influenced Libya's connection to the EU. Firstly, it continued to be the base for other agreements and understandings between the two countries. Secondly, it is the first and only formal contract that entailed a form of reparation payments for colonial brutalities paid by a former coloniser to the colonised, even though scholars highly debate this aspect (cf. Cesari, 2012; cf. Ronzitti, 2009). Thirdly, it reinforced the joint efforts to restrict irregular migration. The friendship pact was an "expression of a nexus of interlocking interests" (Gazzini, 2009). For the Qaddhafi regime, it was, on the one hand, a moral victory over the former colonial power, underlining his anti-imperial rhetoric and a commercial opportunity to reconnect to the West. However, to Italy it was a strategic step toward economic gain but also toward containing irregular migration, for instance "more oil, fewer migrants" (cf. Gazzini, 2009). The main aim of the treaty was to build a legal framework for the special and privileged bilateral relationship between the countries, so as to finally close the painful chapter of the past-- Italy's colonial occupation of Libya. Moreover, it was there "to

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reinforce peace, security and stability, particularly in the Mediterranean region”(Great Socialist People’s Libyan Arab Jamahiriya & The Republic of Italy, 2009, p. 7).

As for migration, article 19: “Cooperation in the Fight against Terrorism, Organised Crime, Drug Trafficking, and Illegal Migration”, in the Friendship Pact was merely an addition to the previously unpublished arrangements dealing with the containment of irregular migration and the 2007 protocols (cf. Vari, 2020, p. 110). The most significant impact this agreement made in terms of irregular migration was meant to install technical control system for the Libyan land border (cf. Great Socialist People’s Libyan Arab Jamahiriya & The Republic of Italy, 2009, p. 7) and the involvement of funding’s from the EU. The Friendship Pact marks the first bilateral agreement between Libya and a European country. The financial setup of the technology would be split 50/50 between Italy and the EU (Cesari, 2012, p. 320). With the conclusion of the Friendship Pact, except for the brief interruption during the Arab Spring in 2011, until today, Italy and Libya took on “the role of Europe’s gatekeeper” (Cesari, 2012, p. 317). The new administration in Italy under the Italian Prime Minister Gentiloni and the UN-backed Libyan Government of National Accord (GNA) lead by Fayez al-Serraj reconfirmed their roles in the MoU in 2017 (cf. Anja Palm, 2017).

With the conclusion of the Friendship Pact, Italy increased its pressure on the EU to establish a supporting framework agreement between the EU and Libya. The EU’s intent to gain Libya as a partner had already started after all sanctions were officially lifted in 2004. Driven by the desire to establish hegemony over the Mediterranean region (cf. Joffé, 2011, p. 233), the EU tried to include Libya in the EMP. The EMP, whose origin can be traced back to the conference in 1995 in Barcelona, is a trade partnership agreement to establish a Euro-Mediterranean Free Trade Area. It aims to remove all barriers to trade and investment between the EU and southern Mediterranean countries. Driving forces in the effort to find an agreement with Libya on EU level were Italy, France and the UK, which all had high commercial interests in Libya. Libya’s alternative concept of “non-capitalist communal ownership and popular control” did not match the neo-liberal capitalist logics on which the EMP was based. The animosity between Colonel Qaddafi’s state and Israel, which was part of the EMP, added another reason as to why Libya did not sign the Euro-Mediterranean Association Agreement until today (cf. Joffé, 2011, p. 241). As the European Neighbourhood Policy (ENP) was combined with the EMPs in 2007, similar difficulties and insurmountable differences inhibited Libya’s participation in this stage. In order for Libya to be included in these regional agreements, the country gained the status of passive observer in the Union for the Mediterranean (UfM) into which the ENP developed in 2008. What had been

signed between Libya and EU was a Memorandum of Understanding in July 2007 which “highlights the areas of common interest such as trade, migration, education, public health and culture, among others” (cf. European Commission, 2009). Only in 2012 did Libya join the main initiative of the renewed ENP, the Euro-Mediterranean Transport Partnership (EUROMED), while maintaining an observer status (cf. J. Smith, 2016).

As all attempts of the EU failed to include Libya within a pre-existing Mediterranean policy framework and under Italian pressure in 2008, the EU and Libyan officials started the negotiation process for a Framework Agreement. The driving motivation was to deal with the issue of irregular migrants at the external borders of the EU. The ostensible aim of the negotiation with Libya was to create a formal framework that would address the matter of irregular migration at a European level and not on a national one. Such a framework would take the pressure off the southern European member states and would no longer make them solely responsible for the challenges posed by irregular migration flows to the EU. Furthermore, the EU’s objective with the framework was to build a foundation to create “a free market economy, introducing respect for human rights and the rule-of-law agreement by encouraging changes in governance” (Joffé, 2011, p. 243). In this form, the European goals would have strongly interfered with the sovereignty of Libya. The framework agreement would have had significant implications for Libya’s governance and would require fundamental, national reforms. Nonetheless, the main point of contention remained the flow of undocumented migrants coming from Libya to the EU and readmission of irregular migrants back to Libya. To police Libya’s

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borders effectively, Colonel Qaddafi demanded €50 billion every year from the EU (cf. Joffé, 2011, p. 242), a demand that was rejected. Moreover, the EU pressured the Libyan government into signing the United Nations Refugee Convention, which Libyan authorities refused. The mixture of normative conditions, the demand for security and migration management measures and commercial interests of the EU made consensus between the two parties almost impossible.

After the Union prioritised security and migration issues over normative aspirations, the EU and Libya were able to find a compromise in October 2010. They formulated this in a Joint Communiqué, creating a framework for a joint migration cooperation agenda. This document, covering the years 2011 to 2013, marked the “first official and legal relationship between the EU and Libya” (European Commission, 2010, p. 1). The agreement entailed financial support package of €60 million for the three years dedicated to the health sector, economic development and the modernisation of Libya’s administrative body. It also includes measures to enhance the capacity of “border surveillance systems, mobility-related issues, smuggling and trafficking in human beings and dialogue on refugees and international protection” (European Commission, 2010, p. 1). Border control posed a prominent issue in the treaty. It includes training of border control officials and the support of Libya’s Search and Rescue missions on the sea, as well as information sharing system and gap-analysis programs to determent weakness in Libya’s current functioning modalities. All efforts aimed to reduce human trafficking and the crossing of irregular migrants.

The Communiqué not only covered irregular migration but also stipulated a more efficient system to manage labour migration in Libya, a measure ensuring that those coming to Libya to work would later not turn into irregular migrants trying to reach the EU. On the other hand, it stated the intent to simplify the process to get a short-stay visa for Libyan citizens (European Commission, 2010, p. 2). To ensure safety and Libyan compliance to international right and standards, the agreement included grants to NGOs and international organisations were granted access to Libya. It also included the provision of funding for proper treatment, reception and assistance to irregular migrants (European Commission, 2010, p. 3). All in all, this agreement entailed far more pragmatic objectives compared to the beginning of the negotiation. The Communiqué reflects a clear prioritisation of the EU, neglecting the normative goals in favour of security and economic issues (Joffé, 2011: 244).

Nevertheless, aware of the EU’s vulnerability and internal pressure to reduce the flow of irregular migrants, Libya’s authorities used their advantages in the negotiations. Libya’s position in the

talks compared to other African countries involved in migration cooperations were much stronger due to their control over much-desired oil resources and the ability to regulate the migrant flows to the EU. Colonel Qaddafi understood the power and influence this control afforded him. Contradicting the conception of his foreign affairs as “ad hoc and contradictory, ‘ebullient’ or ‘unpredictable’” (Tsourapas, 2017, p. 2371) or “controlled chaos” (Paoletti, 2011, p. 226) it was a reoccurring pattern in his foreign policy seen as *migration diplomacy*. Migration diplomacy is “the use of processes and procedures to manage cross-border population mobility (...) to achieve goals related to migration” (Tsourapas, 2017, pp. 2367–2368).

Similarly, to the Colonel’s previous strategic use of labour migrants in the negotiation with Libya’s Arab neighbour states and African countries, the control over migration flows worked to Qaddafi’s benefit during his negotiations with the EU. Migrants continued to be a weaponized diplomatic tool, used in Libya’s negotiation with Italy and the EU. In June 2002 he stated that “no North African state wishes to guard the gates of Europe for free” (Bredeloup & Pliez, 2011, p. 8; Tsourapas, 2017, p. 2376). In 2004, the Colonel made clear Libya could no longer act as Europe’s coast guard if the sanctions against the country remained in place (cf. Greenhill, 2010, p. 330). In the same year, the European embargos against Libya were lifted. As the numbers of undocumented migrants on Italy’s coasts spiked between 2007 and 2008, Italy followed Qaddafi’s request of a formal apology of Italy’s colonial occupation in Libya and the two parties signed the Friendship pact. Finally, after the Colonel warned that “tomorrow Europe might no longer be European, and even black, as there are millions than want to come in” at the EU-Africa Summit

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in Italy in August 2010 (cf. BBC News, 2010), the Joint Communiqué was signed. Qaddafi's use of migration as a bargaining tool worked again in favour of his regime. Everything would change in 2011, when the revolutionary Arab Spring erupted in the Middle East and North African countries, and Colonel Qaddafi was violently removed from power.

The first part of the cooperation between Italy, the EU and Libya under the Qaddafi regime shows the delicate power balance framing the migration control at the CMSP. Italy, as the primary entry point for migrants crossing the sea, is the driving force in the negotiations with Libya. The member states' interest regarding migration are also those most reflected within the EU Libya agreement. Additionally, in backing Italy's interests, there are clear signs of externalising control tools to Libya. The externalisation is not the direct intervention in the sovereignty of Libya by overtaking the control or remotely controlling operations to control the flow of migrants. Externalisation, in this context, comes in the form of financial support and encouragement of the third country to take measures which benefit European interests with regards to migration. Italy financing the construction of facilities for non-Libyan undocumented migrants returned to Libya after they were intercepted on the sea (cf. Paoletti, 2010, p. 141 et seq.). Another example would be the repatriation agreements between Italy or the EU and Libya (cf. Paoletti, 2010, p. 143 et seq.) which can be interpreted as forms of externalisation. Part of externalising border control tool is the technology and equipment (cf. Paoletti, 2010, p. 156 et seq.) provided by the EU as well as training for border control personal and for joint, and coordinated patrols of the sea and land border (cf. Paoletti, 2010, p. 152 et seq.). This joint effort of patrolling the Mediterranean Sea is expanded upon in the next part of this chapter. The preventative measures of externalisation, like the addressing of root causes, are taken even beyond Libya's border in countries like Niger, Mali and Burkina Faso, to slow down the flow of migrants to Libya (Puig, 2019).

At the same time, it is essential to also acknowledge Libya's active role in the negotiations. To neglect the "reciprocal nature" (Paoletti, 2010, p. 174) of the agreements between Libya, the EU and Italy would simplify the complex dynamics defining the power structure around the Mediterranean Sea concerning migration. Regarding the dependency on Libya's cooperation in the management of irregular migrants, Italy and thereby the EU, the Qaddafi regime has leverage over the EU. This capacity to regulate EU borders raises the question about Libya's leverage and political advantage in the context of migration policy with the EU. To stipulate that Libya's border control was somewhat remote-controlled by the EU would underestimate Colonel Qaddafi's tactical use of undocumented migrants as pawns in his political agenda. To refrain from presenting Libya

as a mere vessel of the supposedly stronger European will and interest, Poletti suggests using the term of *de-territorial collaboration on migration* which can “offer a more nuanced account of the production and negotiation of border control” (Paoletti, 2010, p. 174). The term of de-territorial collaboration is in line with the title of this analysis *quid pro quo*, which already hints to the conclusion that the cooperation between Libya and the EU follows the principle of mutual “give and take”. As we will now see, the Arab Spring drastically altered the dynamics of the EU-Libya cooperation and gave a new dimension to the notion of de-territorial collaboration.

Part 2 (2011 – 2020):

Migration Cooperation Within Civil War Circumstances

The Post-Qaddhafi Power Struggle and its Impact on Migration

After decades under either monarchs or secular presidential regimes, the demand for political reform sped across North Africa and the Middle East in 2011, triggered by Côte d’Ivoire moving towards “national reconstruction and democracy” (Schmidt, 2018, p. 329). This spark of hope lit a fire of protests and uprisings amongst populations craving for change. Students, labourers, women organisations, but also more Islamist groups turned against their governments and rebelled against autocrats and clanic or dynastic state institutions. Tunisia’s and, afterwards, Egypt’s regime were the first to tumble. Inspired by these successes, the protests and revolutionist ideas led to an awakening of the region, a movement that is now known as Arab Spring (cf. Schmidt, 2018, p. 239). Libya was no exception: on February 16,

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2011, protest rose against the regime. “What began as a day of rage was rapidly transformed into an all-out rebellion against the Qaddafi regime” (Schmidt, 2018, p. 265) and therefore was brutally shut down by governmental forces. 200 protesters were killed and 800 wounded in only three days. Seven days later on the 23rd, the western city Misurata became controlled by rebels and on the 27th February, Qaddafi opponents established their provisional government (cf. Schmidt, 2018, p. 265).

The Western support for the Qaddafi regime quickly ended in response to his brutal reaction to the uprising. New sanctions and an arms embargo were set in place. Embassies were closed and Qaddafi’s existing assets on international accounts were frozen. In response to those measures, Colonel Qaddafi returned to his previous diplomatic use of migrants. In an interview he gave to *Le Journal de Dimanche* in March 2011, he warned France, as one of the promoters for a European military action in Libya, to refrain from its plan to intervene, stating that:

*“Vous aurez l’immigration, des milliers de gens qui iront envahir l’Europe depuis la Libye. Et il n’y aura plus personne pour les arrêter. Ben Laden viendra s’installer en Afrique du Nord et laissera le Mollah Omar en Afghanistan et au Pakistan. Vous aurez Ben Laden à vos portes.”*⁶ (cf. Le JDD, 2011). His threats play into the principal concerns stipulated within the EU’s foreign affair policies: the security threat posed by extreme Islamic terror networks and migration.

Despite his warning, the UN Security Council proceeded with a vote on a no-fly zone over Libya in the same month. The Council voted for the implementation of the no-fly zone over Libya, to force the Libyans air force on the ground. The result of the votes was not unanimous. Leading and willing to implement all the necessary measures to enforce the no-fly zone became France, Italy, and the UK, also volunteering to take the lead in the military operation. Only two days later, airstrikes against Libya were initiated under the authority of France and the UK. Libya’s air defence was destroyed by the end of March and the command of the operation was surrendered to NATO (cf. Schmidt, 2018, pp. 270–271). Encouraged by Qatar, the Arab League agreed with the western imposed no-fly zone, although most of its members abstained from active participation in enforcing the

⁶Translated by Fenzen: “You will have immigration, thousands of people will invade Europe from Libya. And there will no longer be anyone to stop them. Bin Laden will base himself in North Africa and will leave Mullah Omar in Afghanistan and Pakistan. You will have Bin Laden at your doorstep“ (cf. Frenzen, 2011).

zone (cf. Schmidt, 2018, p. 271). After Libya's air force was defeated, the Security Council, as well as the EU, proposed to resume diplomatic negotiations.

In the end, Qaddafi did not resume power. He left the country in political chaos and caused immense harm to civil society, which found itself trapped between the sides. In August 2011 the capital was taken, and Colonel Qaddafi fled. In the course of conquest, the Colonel's opposition also targeted the civil society that supported him. On 20 October 2011, he was captured by his opponents, brutalised, and finally executed. The North Atlantic Treaty Organization (NATO) mission ended on 31 October 2011. Qaddafi and the EU left behind a power vacuum. Libya was vulnerable and without civil society institutions. Moderate Muslims were faced with radical violent Islamist groups. By 2014, the country was thrown into civil war and experiencing many civilian deaths. In July 2012, Libya held its first free election under the supervision of international NGOs to elect the General National Congress (GNC). The election did not vote a stable government into power due to a lack of organised political parties. Armed groups attacked and undermined the authority of the elected government in 2014, initially created as protection for the GNC. However, the GNC still exists as one of three governments vying for power. Back then, the GNC gave authority to the Government of National Salvation lead by Prime Minister Khalifa Ghwell based in Tripoli. In the end, Ghwell's government stepped down in 2016 to stop the bloodshed in Libya (cf. Libyan Express, 2016).

In the post-Qaddafi era in Libya, two leading governments (or in other words political blocs) have emerged next to

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several armed groups and jihadists controlling smaller regions. As the power struggle in Libya is ongoing, the actors in power are continually changing. In the end of 2020, the political situation in Libya is still uncertain and power transitions are occurring. A detailed layout of the power shifts in the post-Qaddafi Libya would extend the scope of this chapter. Therefore, the following will only give a brief outline of the leading power agencies in the country. The first results out of the Libyan Political Agreement (LPA) signed in December 2015, which challenged the GNC's power. As a reaction to the unstable government of the GNC, the LPA was agreed upon. The LPA was a central political agreement in Libya which was unanimously endorsed by the UN Security Council Members, declaring the GNA located in Tripoli as the only legitimate Libyan government. The GNA is presided by the Presidential Council (PC) located in Abu Sittah, which is currently led by Fayeze al-Sarraj. According to the LPA, the GNA holds the executive authority. At the same time, the House of Representatives (HoR), provisional based in Tobruk has the legislative power and entails the independent High Council of State as the consulting body (cf. Toaldo & Fitzgerald, 2016, p. 2). The GNA government was approved by most of the international community and by the city-state of Misrata and its militia. The GNA government became one of the long-term stable political forces in Libya. In 2020, the government under the GNA is still one of the two remaining active governments in Libya. It is now backed by Turkey and Qatar (Allahoum, 2020).

The second current power hub is based in Tobruk and Al-Bayda led by Khalifa Haftar, who commands the Libyan National Army (LNA) and rules over the east and most of the southern regions (cf. Toaldo & Fitzgerald, 2016, p. 2). His rule is supported by Egypt, the United Arab Emirates and Russia. The tensions between the GNA and the government under Haftar increased drastically in 2019 after Haftar attacked armed groups with jihadist backgrounds. The aim was to gain influence in southern Libya and remove the GNA. The international involvement, particularly of Russia's and Turkey, plays a central role in the current conflict between the two sides, thrusting Libya into new geopolitical arenas (cf. Joffé, 2020).

The unstable political situation and conflict in Libya dramatically enhanced human mobility within the region. The already existing mixture of immigrants in Libya consisting of migrant workers (as the largest group), refugees and the smaller group of transit migrants were now forced to flee the country (cf. Fargues & Fandrich, 2012, p. 3). In contradiction to the European narrative of migration crisis resulting out of the Libyan conflict (cf. Paoletti, 2014: 133), the majority of people in Libya did flee to neighbouring countries, not exclusively to the EU. Tunisia and Egypt, as well as Algeria, Sudan, Niger, and Chad received the most migrants. Tunisia and

Egypt, carrying the heaviest burden with over a half of a million migrants, received an additional half a million of their own nationals who also fled Libya (cf. IOM, 2011b). Still, they maintained an open-door policy and cared for the newcomers with the immense support of local NGOs, the army, and financial support by the IOM entrusted to them by the EU (cf. IOM, 2011a). In the end, the reception of those from Libya in Tunisia was only possible thanks to the immense solidarity of the Tunisian population (cf. Fargues & Fandrich, 2012, p. 10). Even though the flow of migrants crossing the Mediterranean Sea to seek protection in the EU was only a fraction of those across North Africa, the southern European country reported a sudden increase in irregular migrants arriving at their shores. In 2011 the asylum application in mainly Malta and Italy increased by 87% in comparison to the previous year (cf. UNHCR, 2012). As a response, Italy stated to cooperate with Libyan rebel groups and Tunisia to block the flow of undocumented migrants to Italy.

Italy was on the forefront to negotiate migration matters with North African countries partly supported by the EU. Requiring support to address the new pressures resulting from this spike in irregular migration, the Italian government asked for the immediate support of Frontex in February 2011, leading to the Joint Operation (JO) Hermes. In the framework of the Hermes operation, Frontex coordinated the maritime patrol of Italian border control vessels. In addition to the naval patrol, Frontex also took over the coordination of the airborne surveillance systems provided by other European member states such as Germany, the Netherlands, France, Malta and Spain. Simultaneously, Frontex supplied experts whose task it was to define the nationality of undocumented migrants

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and gather information on their transport routes to control the maritime search and rescue mission and potential return operations (cf. Frontex, 2011). The Hermes operation was the first joint mission on the Mediterranean targeting human trafficking; in reality, it meant targeting undocumented migrants travelling in unseaworthy boats. Italy also negotiated an agreement with Mahmoud Jibril, the then rebel leader of Libya's intermediate National Transitional Council (NTC), even before an official government had formed in Libya. They agreed on sharing information about irregular migration and repatriation measures (cf. Reuters, 2011). Jibril also ensured to continue to honour previous accords signed during the Qaddhafi era (cf. Fargues & Fandrich, 2012, p. 6). One could say Italy picked up exactly where it had left off with the Qaddhafi regime. The change of power in Libya did not alter the Italian push-back strategy.

The migration pressure on Italy, and thereby on the EU, increased steadily from 2011 onwards. Similar to Italy's migration policies, the events at sea did not trigger in-depth reforms within European-wide migration strategies. The EU policies only reinforced the pre-existing tendency of securitising migration policies, as already discussed in previous chapters. The further focus was shifted toward migration partnerships to address the issue of human smuggling and its root causes. In 2014, the numbers of arrivals peaked. Approximately 170,000 people reached Italy via the central sea route in comparison to the 43,000 the year before. In addition to the number of arrivals, the number of persons missing or presumed dead at sea increased from 644 up to 3,161 in only one year (cf. European Commission, 2017, p. 2). As a result, a fundamental migration and border control tool became the various maritime missions and SAR operations. According to official European rhetoric, the European naval missions were able to combine SAR missions and border control, despite the two objectives seemly to contradict each other. The analysis of the post-Qaddhafi period will mainly focus on the examination of those missions.

The maritime missions are central to the overall analysis of the migration partnership between the two countries. First, the joint missions were a core aspect of the migration partnership between Libya and the EU in the post-Qaddhafi era. Second, they demonstrate the contradictions between the official European narrative and the actual naval missions carried out in the Mediterranean in cooperation with the Libyan Coast Guard. Third, they show further inconsistencies within the European migration strategy due to the "legal and moral imperative to rescue migrants" and the "task [to reduce] illegal crossing into the Southern border of the Schengen area" (Cusumano, 2019, p. 8). Fourth, they reveal a tendency of militarisation at Europe external borders. Before analysing the cooperation between Libya and the EU, a rough overview of the unfolding of the EU maritime

missions is necessary to understand the complexity and context of the naval cooperation between the North African state and the EU.

EU Maritime Missions

The first maritime SAR mission called Mare Nostrum was under Italian leadership. Triggered by the tragic sinking of a boat packed with migrants at October 2013, leaving hundreds to drown near the coast of Lampedusa, Italy launched its first SAR mission at sea. It was predominantly motivated by “the moral responsibility to meet a growing humanitarian crisis” (Patalano, 2015, p. 15). The shipwreck became a turning point in how irregular migrants were perceived. They shifted from merely being asylum seekers or even unwanted intruders to “being subjects who should benefit from protection, migrants at sea [became] people to rescue” (Tazzioli, 2016, p. 8). In contrast to the maritime missions to come, the Mare Nostrum mission was not only connected to border control tasks or charged with controlling the influx of irregular migrants. The task of the mission was to proactively prevent the loss of life on the Mediterranean. The SAR operations responded to data previously collected by an air-naval task force which gathered data even beyond the official SAR area of Malta and Italy to rescue as many persons in distress as possible. The large capacity of the naval warships at sea operating the mission also allowed non-naval personal aboard, such as medical personal, police and custom-control officials. Therefore, the Mare Nostrum vessels worked as a highly effective swimming migration reception office. Mare Nostrum intercepted 99% of the migrants before they reached Italy, and

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thereby “[eliminated] the number entering the country without prior screening” (Patalano, 2015, p. 17).

In other words, the naval logistic platforms combined border control and SAR missions, enabling them “to act as a highly mobile border and police forces as well as healthcare control and medical-assistance centres” (Patalano, 2015, p. 16). Between the 18 October 2013 until 18 September 2014, the Mare Nostrum operation was able to save 150,000 undocumented migrants at sea (cf. Amnesty International, 2014; cf. IOM, n.d.). Although the mission was able to save a considerable number of lives, it was not fully able to end all deaths at sea. Nevertheless, the Mare Nostrum mission demonstrates the successful “intertwinement between military and humanitarian” (Tazzioli, 2016, p. 7) efforts. In the end, the very effective mission was eventually terminated because of the lack of support by the other European member states, arguing the mission would be a pull-factor encouraging irregular migrants to cross the Mediterranean.

Resulting out of the debate about pull-factor of SAR missions, Italian national naval operation Mare Nostrum was replaced by the Joint Frontex Operation Triton (or JO Triton). The argument of the SAR operation having any influence on an individual’s decision to flee to the EU was never proven. On the contrary, several studies (cf. Cusumano, Fellow, & Villa, 2019; cf. Gabrielsen Jumbert, 2020; cf. Heller & Pezzani, 2016, cf. 2017; cf. Patalano, 2015) proved the assumption to be wrong. In the end, the debate had far-reaching consequences. The comment made by the British Minister of State, Foreign and Commonwealth, stated SAR missions, like the Mare Nostrum, would “[encourage] more migrants to attempt the dangerous sea crossing and thereby leading to more tragic and unnecessary deaths” (cf. United Kingdom Parliament, 2014), is representative of a continuing trend in European migration policy. Therefore, the following maritime mission JO Triton launched in November 2014 and was not at all a joint European replacement of Mare Nostrum. The JO Triton was instead as an extended version of the previous Hermes operation (cf. Jorge & Frontex, 2014, p. 10). Affected by the pull-factor debate over SAR missions, the JO Triton was limited to border control and monitoring tasks. The JO Triton operation also deployed fewer vessels within a limited area further away from the Libyan coast, only a third of the Mare Nostrum budget (cf. Cusumano, 2019, p. 9; cf. Jorge & Frontex, 2014).

Those three factors – (1) the termination of Mare Nostrum; (2) the decision to move the SAR zone of the JO Triton further away from the Libyan coast; and (3) the periodisation of border control instead of SAR missions – left a significant gap behind. Frontex themselves acknowledged

undocumented migrants would be at greater risk of drowning as “the boat must now navigate for several days before being rescued or intercepted” (Frontex, 2015a, p. 2) due to the reduced operational area compared to the Mare Nostrum mission. They further stated that “the withdrawal of naval assets from the area, if not properly planned and announced well in advance, would likely result in a higher number of fatalities” (cf. Jorge & Frontex, 2014, p. 6). Considering the Frontex assessment of the change from Mare Nostrum to the JO Triton, it becomes clear that the shift from SAR mission to a border control mission had deadly consequences. Those consequences were predicted even during the conceptualisation of the JO Triton. This observation reinforces the suspicion the EU was and still is more interested in stopping the influx of irregular migrants than in protecting human life.

The gap of Mare Nostrum’s termination and transition to the JO Triton was partly filled by civil society organisations. Additionally, it was partly considered involuntary, private rescue operations. Organisations such as the Migration Offshore Aid Station (MOAS) (cf. Migrant Offshore Aid Station, n.d.), the German Sea Watch (cf. SeaWatch e.V., n.d.) and branches of the Médecins Sans Frontières (MSF) (cf. Médecins Sans Frontières (MSF), 2015) started to conduct SAR operation from the beginning of August 2014 on near the coast of Libya. In 2016, NGOs had taken on over 22% of all rescues in the central Mediterranean (cf. European Commission, 2017, p. 4). The NGOs’ SAR operations were well organised. Smaller NGOs with smaller vessels would focus on ‘rescuing on the spot’, which includes the distribution of fresh drinking water and life jackets as well as providing emergency medical care. They would then wait for other NGOs equipped

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with larger vessels to transfer the migrants to Italian ports (cf. European Commission, 2017, p. 4). Other rescue attempts to help migrants in distress were led by commercial ships passing closest to the migrants, although these rescue attempts were often deadly. In the week starting from April 2015, two shipwrecks occurred due to such unsuccessful encounters of unequipped private vessels and boats full of migrants “which together cost the lives of more than 1,200 people” (Heller & Pezzani, 2016). This tragic week in April 2015 highlighted the fact that the JO Triton, as it was operating at the time, was not at all able to deal with the situation in the Mediterranean. Even the former European President Jean-Claude Juncker admitted that “[it] was a serious mistake to bring the Mare Nostrum operation to an end. It cost human lives“ (cf. Juncker, 2015). As consequence, the JO Triton was extended and shortly after the EU launched the Common Security and Defence Policy (CSDP) operation EUNAVFOR Med Sophia, which is further referred to as Operation Sophia. It started its operation in June 2015.

As a direct consequence of the shipwrecks in the Black Week of April 2015, the European Commission announced to step up its SAR operations “to restore the level of intervention provided under the former Italian ‘Mare Nostrum’ operation” (European Commission, 2015, p. 3) by extending the JO Triton and adding a new operation. The budget of the JO Triton was tripled, new air, as well as sea vessels were made available for the operation to enhance its capacity. To meet the scope of Mare Nostrum, the extended JO Triton also enlarged its operational zone which still not fully cover the extent and impact of the previous Mare Nostrum (European Commission, 2015, p. 3; cf. Frontex, 2015b). Nonetheless the JO Triton mission did not change, with border control still its primary assignment but not proactive SAR operations (cf. Heller & Pezzani, 2016). In addition to the extension, the EU launched a new military mission Operation Sophia, which operated within the Libyan SAR zone tasked “to systematically identify, capture and destroy vessels used by smugglers“ (European Commission, 2015, p. 3). In 2016, legitimised by the United Nation Security Council Resolution, Operation Sophia was also tasked to enforce the Libyan arms embargo as Operation Sophia’s remit was in international waters. Moreover, Operation Sophia also became responsible for the training of the Libyan Navy and Coast Guard (cf. Eunavfor Med, n.d.). Operation Sophia links the EU maritime missions back to the migration cooperation between Libya and the EU. In this case precisely the cooperation between EU naval missions and the Libyan Coast Guard (cf. European Parliament & European Council, 2017, p. 6 et seq.).

Joint Maritime Efforts to Stop Irregular Migration

Cooperation between Libya and the EU at sea within the frame of Operation Sophia was strengthened on February, 2017, with the renewal of the bilateral agreement, the Memorandum of Understanding (MoU2017), between Italy and Libya's GNA under Fayez Al-Serraj (cf. Uselli, Filippo, Marati, & Palm, 2017). Only one day after, the European leaders endorsed the objectives of the MoU2017 within the framework of the Malta Declaration (cf. European Council, 2017). The goals declared in both agreements linked up to previous understandings between Italy and Libya and did not include drastic changes. Both documents show the MoU 2017, and the Malta Declaration reaffirmed the main strategic points of the EU's external dimension of migration on capacity building of the Libyan Coast Guard and the intent to strengthen its border control to reduce the departure of ships full of undocumented migrants. To do so, Italy stipulated its financial and technological support of the Coast Guard topped off with training for the Coast Guard and the staff at the so-called reception camps in Libya. The rhetorical emphasis is mainly on the joint fight against smugglers, human traffickers and irregular migration (Uselli et al., 2017, p. 2 Article 1). The joint fight would be financed within the framework of the EUTF, the Valetta Action Plan and the Italian Fund for Africa (cf. European Council, 2017, p. 2; cf. Palm, 2017, p. 3). As in the previous agreement with Colonel Qaddafi, Italy is ensuring the provision of financial support for development programs in various sectors such as sustainable energy, infrastructure, health, transport and education (cf. Uselli et al., 2017, p. 2 Article 1) in exchange for the Libyan cooperation in migration matters – quid pro quo. A mixed committee is tasked to

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identify the priorities in action and decide over the implementation and monitoring of the ensured projects (cf. Uselli et al., 2017, p. 3 Article 3); however, how balanced the participation of both parties in the decision-making process actually is, is questionable.

Both the MoU 2017 and the Malta Declaration do not have documents to address options on how to prevent migrants from dying in the Mediterranean Sea. Therefore, it is not surprising that SAR missions are not subject to the cooperation between Libya and its European partners. It appears as if the main objective of the MoU 2017 is to “[shift] the burden of border and migration control to other countries” (Palm, 2017, p. 3). After the Italian government was severely criticised in 2012 for its push-back methods, it now seems that with this renewed agreement the task was transferred to the Libyan Coast Guard but reversed into pull-back measures. Pull-back measures, in contrast to push-back measures, concern the human right to leave a country which is contained in Article 13(2) of the Universal Declaration of Human Rights (UDHR) (United Nations, 2015, p. 28). The method used by the Libyan Coast Guard to intercept departing boats full of migrants before they leave Libyan waters to then detain them in reception centres (cf. Markard, 2016, p. 616) is as questionable and is similarly seen as the push-back method practised by Italy. To ensure the basic needs of those captured by the Libyan Coast Guard, Italy promises to provide medical equipment to improve health care in the camps. The MoU 2017 also includes allowing international organisations like the International Organisation for Migration (IOM) and the UN Refugee Agency (UNHCR) to operate in Libya. No mention is made of the inhumane living conditions and human rights violations in these camps. Article 5 of the MoU 2017 mentions the respect of international human rights, which seems almost cynical regarding Libya’s chaotic, civil war-like political situation in 2017, making it impossible to guarantee the rule of law. In general, the guarantee of al-Serraj to comply with the MoU is taking into account the power imbalance between the GNA, independent militias and the parts of Libya which are under General Khalifa Haftar (cf. Palm, 2017, p. 4). The same concern applies to the protection of the undocumented migrants in Libya, because Libya has also never signed the 1951 Refugee Convention. The disastrous impact of the Libya-Italy cooperation had on the lives of detained irregular migrants in Libya is discussed in more detail in the next chapter.

However, it is indisputable the MoU 2017 has had the desired effect and at least temporarily, drastically reduced the arrivals of undocumented migrants in Italy. The numbers of arriving undocumented migrants at Italy’s shores dropped from approximant 119,000 arrivals in 2017 to 23,000 in 2018 (cf. UNHCR, 2020a). Various reasons can be considered to explain the sharp decline in arrivals. Italian officials point to the stabilisation of Libya with support by Italy, considered a

key reason for the decrease (cf. Vari, 2020, p. 118). The implementation of the law against migrants smuggling through Niger probably also reduced the transit migration to Libya (cf. Tinti, 2017), but above all the interception, the 60% of all ships leaving the Libyan shores by the Libyan Coastguard made the difference (cf. Vari, 2020, p. 118). This achievement, meaning the implementation of the objectives stipulated in the agreements, came at the price of immense suffering by undocumented migrants in Libya's reception centres (cf. Sunderland & Salah, 2019).

The MoU 2017 and the EU-Turkey migration deal⁷, agreed-upon on March 2016, both deal with the same objective-- to stop the uncontrolled influx of irregular migration to European countries. Those two are often the subject of comparison. The comparison in this context is interesting as it demonstrates why it is questionable to conclude migration agreements with Libya in the first place. The first significant difference between the two migration deals is that Turkey was not an unstable state in civil war at the time of the agreement. Libya cannot guarantee the protection of the migrants that are pulled back to Libya, as they do not have any legal framework to do so. This also explains why the MoU 2017 does not contain the term refugee, asylum, or a concept of legal migration. All non-Libyan migrants “[are assigned to] the undifferentiated category of illegal (as narrated in the [MoU2017]) migrant” (Palm, 2017, p. 3). The second

⁷The EU reached an agreement with Turkey in March 2016 to contain the flow of irregular migrants crossing over from Turkey to Greece. From the moment the agreement came into force, migrants arriving from Turkey were returned there (Corraro, 2019). Find more information here (accessed 12.02.2021).

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aspect distinguishing Libya from Turkey as a European partner is related to the first one. Libya's precarious human rights situation cannot be compared to the one in Turkey (cf. Kuschminder, 2017). Therefore, the MoU 2017 can only be seen as a bad replica of the EU-Turkey deal. Nevertheless, both cases show the treatment of migrants in the process of closing off the EU as morally questionable. One could argue that the MoU 2017 is a negligent endangerment of the lives of the migrants, regardless of their residence status.

The latest developments regarding the joint maritime operation of the EU with the Libyan Coast Guard remain almost unchanged. In 2018, the JO Triton was replaced by the new Frontex operation named Joint Operation Themis, further JO Themis, but its core assignment remained the same (cf. Frontex, 2018). Operation Sophia was terminated but was replaced by the Operation Iriini, launched in March 2020, which continues the mission of Operation Sophia. It includes the training of Libyan Coast Guard officials (cf. European Council, 2020). Both renewed operations include SAR missions, yet both have an emphasis on border control and interrupting human trafficking. In addition, Italy continues to uphold the agreements made in the MoU 201 (cf. Varvelli & Villa, 2019). This permits further pull-back measures. The issue of SAR missions in the Mediterranean was addressed by a ministerial meeting on migration in Malta in September 2019, attended by the Ministers of the Interior of France, Germany, Italy, Malta, the Finnish Presidency of the European Council and the European Commission (cf. Government of Malta, 2019). Part of the ministerial meeting was the new closed-door policies by Italian. This new regulation banned NGO rescue vessels from entering Italian ports, leaving them stuck at sea for days, traumatized and in need of medical attention. (cf. Frasca & Gatta, 2020, p. 2). The meeting was aimed to find a joint solution for a quicker disembarkation and relocation process of the rescued migrants that would guarantee a balanced distribution. It did not produce any significant results even if interpreted as a step in the right direction in terms of solidarity of European member states. However, the non-binding Joint Declaration of Intent, drawn up at the meeting, was hardly heard in the European Council (cf. Frasca & Gatta, 2020, p. 1). The reasons and outcome for this meeting demonstrate the situation at the Mediterranean Sea did not change but instead has become progressively worse for the migrants trying to reach the EU.

Chapter Summary

This chapter has given an overview of the Libyan history and its position and perspective on migration. Additionally, it examined the EU-Libya relationship while outlining the details concerning the EU-Libya migration cooperation, with Italy as a key middle player. The analysis demonstrated that several different actors were involved with the mission to stop irregular migrants crossing European external borders. In the case of the examined CMSP, the southern European countries, such as Italy, Malta and the coastal states of North Africa, are at the forefront, while Libya and Tunisia shape the bulwark or buffer zone (cf. Lemberg-Pedersen, 2017, p. 37) for the ‘fortress Europe’. Immediately acting as gatekeepers on site are the naval officers of both sides’ conducting maritime border control missions on the Mediterranean. This chapter showed the complex dynamics of the interaction between the parties involved in this buffer zone. What becomes apparent is that within this zone, the migrants are the ones suffering the most. It is evident that the Mediterranean Sea is “a space of governmentality– a space of intervention ” (Tazzioli, 2016, p. 2) and the naval operations exemplify the entanglement of military and humanitarian objectives (Tazzioli, 2016, p. 7).

Two main conclusions can be drawn:

1. To reduce the cooperation between Libya, Italy and the EU, which have triangular relations on matters of migration to the mere externalisation of European border mechanisms, would undermine the agency of Libyan authorities. This line of argumentation would reproduce the narrative of the strong developed Global North and the Global South. Especially during cooperation between Italy and the Qaddafi regime, the colonel strategically used migration as a negotiation tool (i.e., as leverage to secure European concessions). The assumption that the EU would have gained remote control over Libya’s migration policies is questionable. Turning the tables, one could also argue Libya has a degree of control over the EU. This is because migration is not a problem for Libya itself, as it has always been a country of immigration. Libya’s control over ports of entry into the EU gives the North African country a great deal of power. Two main elements provide new insights into the EU external dimension of its migration policy. First, the fact that the EU is willing to negotiate with a regime with a poor human rights record shows that Italy, and therefore also the EU, is willing to collaborate with oppressive regimes if it provides them some benefit; in this case the EU intends to stop irregular migration from North Africa. Secondly, aid and development programmes are used as a method of ‘payment’ for Libya’s cooperation on migration issues. It is questionable whether development aid should

be used to implement European interests. Therefore, the negotiations between Libya, Italy and the EU should instead be categorised as a transaction; as a quid pro quo, or a give and take. This should be considered, particularly in regard to the agreements between Italy, the EU and Libya (under Colonel Qaddafi).

2. The second part of the chapter highlighted the argument made above that Italy is willing to stop irregular migration at all costs. Despite Libya's civil war, Italy, supported by the EU, signed agreements with one of the Libyan governments and works closely together with the Libyan Coast Guard to intercept migrants at sea. Fearing that SAR missions in the Mediterranean could further encourage migrants to take the dangerous sea path to Europe, rescue missions are quickly transformed into border control missions. This is in the full knowledge that this shift in priorities would put even more human lives at risk. Additionally, it is becoming more and more difficult for NGOs to bring the rescued safely ashore without being accused of complicity with human traffickers. This is despite NGOs feeling a responsibility to protect human life and close the gap left behind by states. The militarisation and securitisation of migration appears to bring about a shift in perception: those seeking protection become unwanted intruders, and anyone who helps them symbolically also becomes a security risk to the EU.

In summary, EU-Libya migration cooperation, as it is currently structured, has only short-term objectives and no long-term sustainable vision. This specific partnership is contextualised by many extreme circumstances, but in its entirety can be regarded as representative of many migration partnerships between the EU and other African partners. The victims of this partnership are the migrants. The following chapter will deal with this aspect in more detail.

Chapter 4:

Stopping irregular migration, but at what cost?

ON RESPONSIBILITY AND HUMAN RIGHTS

Introduction

Although it is safe to say that the journey of any irregular migrant and asylum seeker to the EU is marked by insecurity and hardship, the route through and from Libya to Italy poses extreme challenges and requires extreme sacrifices on the part of those seeking a life in the EU. The exceptionally high death rate of people crossing the Mediterranean Sea and the violence and inhumane treatment they endure on their way through Libya (cf. Kuschminder & Triandafyllidou, 2020, p. 207) underlines this statement. The impact of the European migration strategies and the migration partnership with Libya consequently has a direct and indirect impact on the fates of these migrants at various levels. This will also be subject of this chapters analysis.

The previous chapter focused on political parties and their interaction. This chapter will examine the questions: What is the outcome and humanitarian consequence of the migration cooperation between the EU and Libya? Is the European role, as a self-proclaimed normative and ethical actor, promoting human rights as part of their foreign policy in conflict with the actions taken to control irregular migration? It seeks to analyse and display the impact of the migration partnership on the migrants themselves. Previously, migrants were rather discussed as an abstract. They were described as pawns within a power dynamic between Libya and the EU. They were predominantly reduced to being a potential security threat or development opportunity. Most of the time – also in the course of this research so far – the first perception of them is not that they are human beings but irregular migrants. To examine the EU's migration strategies and operational outcomes through the humanitarian or human rights angle allows firstly, to demonstrate the impacts of the EU migration strategies on the life of migrants and secondly, questions the European role as self-proclaimed normative and ethical actor promoting human rights as part of their foreign policy. It examines inconsistencies between the humanitarian aspirations of the EU's policies and the normative practices and outcomes of, for example, maritime missions.

The rhetoric used in core migration policies and strategy documents such as the GAMM suggests that the focus of the EU is predominantly on the well-being and protection of fundamental human right of migrants. These normative, humanitarian aspirations are continuously repeated in the different agreements and declarations outlining the cooperation between Libya, member states influenced by the influx of irregular migrants and the EU. Following the narrative of the official documents, the only reason why the EU is cooperating with the Libyan Coast Guard on the Mediterranean Sea is to save migrants and asylum seekers from human traffickers and smugglers. The fight against the illegal business model of smugglers and their violence inflicted upon the migrants is said to be the main reason why Italy and the EU intervene at sea. Saving lives is the main proclaimed priority. Yet this self-proclaimed goal contrasts with the fact that the EU and Italy are not afraid to cooperate with Libya, even though Libya itself is a country that violates the human rights and freedoms of migrants within its own borders. A second argument contradicting this objective is that SAR missions have been reduced following the replacement of Mare Nostrum, as discussed. Thirdly, SAR missions carried out by NGOs have become increasingly illegalised and complicated by closed-door policies of Malta and Italy. Fourthly, Italy itself has been accused of committing human rights violations because of its push-back policies, as previously discussed.

The chapter is structured in two steps. It will first determine what makes the EU normative and humanitarian power to get an understanding of why the normative aspirations are so present within the EU's migration policies. In a second step, the journey of a migrant and asylum seeker will be reconstructed to illustrate the abuse they have to endure in Libya because of EU push-back policies. Therefore, the self-proclaimed humanitarian objectives of the EU migration policies will be set in the context of the practical consequences for migrants.

The EU, an Advocate of Normative, Humanitarian Values?

In the context of foreign policy, some scholars discuss the EU as a *normative power*. To hold normative power means to establish “a kind of hegemonic power, i.e. the power to shape the values of others” (Diez, 2005, p. 616). The term normative power is used as an analytical category to examine the EU's position within the power dynamics of global governance. At the same time, it is a rhetoric the EU displays as one of its core values, since the EU is a multilateral political union of different states, centred around a set of agreed humanitarian, moral, ethical, and normative values and practices. The EU is a “treaty based legal order” (Manners, 2002, p. 243) which legitimizes its actions through a set of core values. Theoretically, normative aspirations are reflected within its

foreign and development policy objectives and are defined around the “consolidation of democracy, rule of law, and respect for human rights and fundamental freedoms” (Manners, 2002, p. 243; cf. The European Communities, 2002, Art.177, cf. 2012 Art.6, Art.11). There is also a commitment to pursue these norms according to international laws (The European Communities, 2012 preamble, Art.11) and the European Convention of Human Rights (ECHR) (The European Communities, 2012 Art.6).

Whether these objectives are achieved in practice is another question. The discrepancy between theory and practice will become more evident while studying the journey of migrants later. The commitment and ability to promote those normative values is only possible through the “willingness to use force in an instrumental way” (Manners, 2002, p. 242). Without the means of leverage, it can come in the form of military power or financial means. In the broadest sense, the pure aspiration is to promote and commit to these set of norms; the EU cannot be titled a normative power. To further understand the notion of normative power and the willingness to use force, it is essential to examine the origin of this category.

The term of normative power developed out of the distinction between *military power* and *civilian power*. Military power is based on the military means a nation must enforce its civil objectives. Civil objectives are defined as a set of values, a world view and guidelines of “what is considered appropriate behaviour by other actors” (Diez, 2005, p. 615). Three main aspects define this civilian power. Firstly, the state’s economic power is central “to achieve national goals” (Manners, 2002, p. 237). Secondly, “the primacy of diplomatic cooperation to solve international problems“ and thirdly its “willingness to use legally-binding supranational institutions to achieve international progress” (Manners, 2002, p. 237). According to this theory, the two ways to achieve national objectives are either through military or economic dominance.

The division between those two forms of power is not as straightforward as the theory suggests. Let us look at the example of the US to demonstrate the ambiguous separation between those two powers. In the context of global governance, the US is often presented as an example of military power, unlike the EU, which is described as a civilian power. Reviewing the history of American foreign policy shows that, especially in the twentieth century, the global North has been shaped by the North American normative concept. With the creation of international institutions like the World Bank (WB) and the UN after the Second World War, the US played a crucial role in laying ground rules for the conduct of multilateral governance and the procedure of intergovernmental

cooperation. In comparison to the EU, the US more often turned toward the use of military interventions to impose their sets of values “while refusing to bind itself to international treaties” (Diez, 2005, p. 622). The EU, on the other hand, is committed to promoting their set of values through binding normative commitments (cf. Diez, 2005, p. 622).

When it comes to the migration policy discourse, the issue of normative power takes a slightly different path, as the example the EMP shows. The aspiration to create a normative hegemony over the region is also a way to support the EU’s strategy to manage irregular migration, as has been mentioned in chapter 4. The intent to create an area of “peace, stability and security” (The European Community, 1995, p. 2) linked to a free trade area, connects the normative values to financial incentives. This practice of setting “positive” financial incentives to promote EU’s interests is also predominantly used in negotiations of migration partnerships. The narrative of partnership in the EMP is contradicted by the way the text is constructed and “is primarily directed at the non-EU Mediterranean states” (Diez, 2005, p. 631). Regarding irregular migration, this phenomena further highlights that “the partners, aware of their responsibility for readmission, agree to adopt the relevant provisions and measures, by means of bilateral agreements or arrangements, in order to readmit their nationals who are in an illegal situation” (The European Community, 1995, p. 6). Although the EMP is a clear example of civilian power, the division between military and civilian power is not always so clear and is often somewhat ambiguous. The maritime missions on the Mediterranean are an example of military operations morphing into humanitarian missions. To move away from this binary approach, Manners introduced the concept of normative power which instead focuses on the “ability to shape connections of ,normal‘ in international relations” (Manners, 2002, p. 239). Therefore, normative power is an analytic category that allows us to examine the measures taken by the EU to back up certain values, particularly in the external dimension of the EU’s migration policy.

The normative and humanitarian aspirations of the EU are everywhere in the EU’s migration policy and its partnerships with transit and countries of origin. The GAMM, which has been already discussed in chapter 2, as one of the core documents of the EU external migration dimension, states that the EU’s four-pillar approach is centred around well-being and human rights of the migrants themselves. Addressing human trafficking, the root causes of migration and connecting migration to development opportunities are measures aimed to protect international alyssum and “[the] human rights of migrants are a cross-cutting dimension, of relevance to all four pillars in

the GAMM“ (European Commission, 2011, p. 6). After boats full of migrants at the shores of Lampedusa were capsized, eventually leading to the Italian Mare Nostrum, the European Council declared to “mobilise all efforts at its disposal to prevent further loss of life at sea and to tackle the root causes of the human emergency than we face. Our immediate priority is to prevent more people from dying at sea.” (European Council, 2015). This rhetoric is constructing the EU as an institution saving lives of those in need.

Given such a display of proclaimed humanitarian and normative objectives, one would expect the EU would implement measures to ensure those objectives are met. In the context of the critical situation at the Mediterranean Sea, one would expect the EU

1. To engage in finding more legal ways for migrants to come to the EU to minimise the risk to migrants’ lives.
2. To step up SAR missions to save those in distress at sea and welcome all non-governmental actors offering their help. As already discussed in chapter four, the Italian mission Mare Nostrum did fulfil the expectations of a sea mission aligned with the proclaimed humanitarian aspirations. The European replacement to Mare Nostrum, the JO Triton under the coordination of the border security institution Frontex and later the European military JO Sophia, only partly covered the operation area and tasks of Mare Nostrum. However, it was more concerned about border control than about saving lives. With this re-prioritisation, SAR missions conducted by NGOs became increasingly illegal. Needless to add, the push-back and pull-back measures would not align with the normative agenda of the EU. This shift in operational tasks has already been discussed in the previous chapter.
3. To have a uniform asylum process in place that makes a quick evaluation process of the asylum’s applications possible, currently not the case.
4. To establish a quick distribution system that minimises the duration of time that migrants and asylum seekers may spend in European reception facilities like Lampedusa or Moria.
5. To ensure that migrants denied asylum are returned to countries in which their human rights are guaranteed. And if their country of origin is also a country in which their human rights were threatened, it should be reason enough to grant them asylum.

The reality of the brutal and life-threatening journeys of migrants towards the EU, draw a very different picture of the actual effects of the European operations: a reality that deviates significantly from the normative rhetoric and objectives of the EU. The results and indirect effects of the execution and practical realisation of those strategies are in direct opposition to the normative and humanitarian narrative of European migration policies claiming to be migrant centered. In this light, the fight against smugglers and for the human rights of the migrants seemingly becomes an excuse to intercept and return migrants to Libya before they reach the EU. Moreover, the EU does not seem to have any regard for the suffering of migrants after their return to Libya in Libyan reception camps. To get a better understanding of what obstacles and human right violations migrants and asylum seekers encounter on their way to the EU through Libya and in cases of repatriation back to Libya, the next part of the chapter will outline the obstacles of those in search for a safe harbour.

The journey of migrants from Libya to the EU

The journey of migrants seeking to reach the EU by taking the CMSP can be structured in three segments. The first segment consist of two parts, firstly the travel to reach Libya and secondly the path through Libya. Both parts of the first segment of the journey cost separately between 800 and 1000 dollars (cf. Toaldo, 2015b, p. 83). The second segment is the crossing of the Mediterranean Sea itself, which costs at least double the amount of the first journey and risks the possibility of being intercepted and returned to Libya. Lastly, the third segment is the processing of migrants within the EU's migration management system at European reception centres like Lampedusa and the difficulties of seeking asylum. However, this chapter will only cover different circumstances lived through by the migrants before arriving in a European reception centre. It would be beyond the scope of this thesis to discuss the situation and distribution of refugees and asylum seekers who reached the EU.

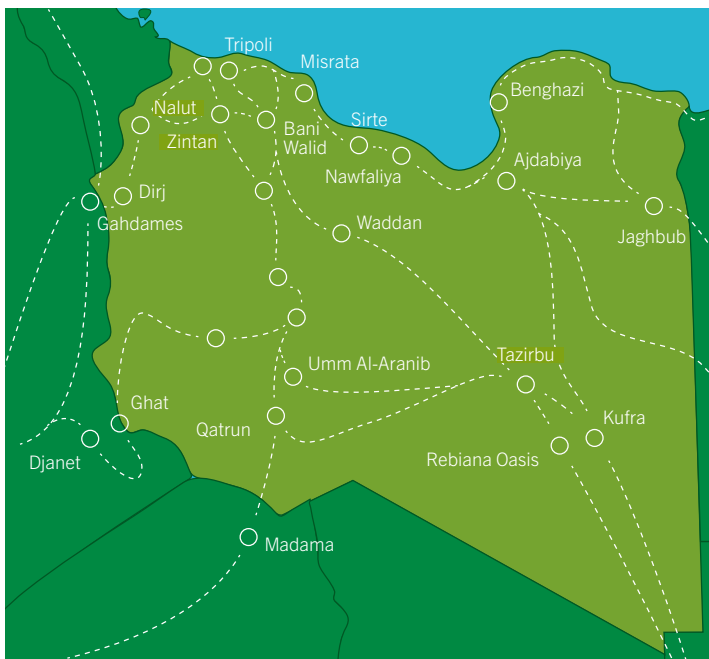


Figure 6: Major Smuggling Routes Across Libya; reprinted from (Kuschminder & Triandafyllidou, 2020, p. 210).

1. Through the desert into the web of Libya's illicit smuggling economy

Most journeys are arranged via social media: smugglers create Facebook pages or groups for example, engaging with those looking for a better life, just like a travel agent would do (cf. Toaldo, 2015b, p. 84). The major smuggling routes across Libya are displayed in Fig.6. Migrants wanting to reach the EU passing through Libya must pay two times: First, to enter Libya and

second, to leave Libya again on a boat aimed to reach Italy. The experience of each migrant differs depending on their point of entry and who controls the regions of the four main smuggling routes (cf. Kuschminder & Triandafyllidou, 2020, p. 211). Migrants from the coastal states of West Africa such as Gambia, Senegal, and Mali, mainly use the first smugglers route crossing Algeria to reach Libya. The second point of entry is along the shared border with Niger in the southwest of the country, a territory ruled by the Tebu or Toureg clan members. The third path to enter the transit country is via the southeast border shared with Sudan, controlled by the Toubou clan, where most

migrant's origin from Sudan, Ethiopia, Somalia, and Eritrea. The shared border with Egypt at the eastern coast of Libya is the fourth route mainly used by Egyptian, Syrian and South Asian migrants (cf. Kuschminder & Triandafyllidou, 2020, p. 210; cf. Shaw & Mangan, 2014, p. 14).

The journey toward Libya is marked by hardship and deprivation and many lives are lost even before they arrive in Libya. Particularly dangerous is the section from Agadez (Niger) to Libya crossing the Sahara, as the conditions of this desert route constantly shift due to sandstorms. Without local guidance, migrants' predominantly from West Africa risk getting lost, "and once lost, they run out of fuel – and then water" (Kingsley, 2015b), often times resulting in death. Additionally, rival smuggler groups, jihadists, and other opportunists merely looking to profit steal cars and either kill the drivers and their passengers or leave them in the desert without water. Migrants are extremely vulnerable and dependent on their smugglers (Kingsley, 2015b). The precarious situation for migrants in the Niger desert was exacerbated in 2017, when Niger passed an anti-smuggling law and actively fought smugglers supported by the EU who trained Niger's security apparatus. As a result, smugglers increased their prices, leaving migrants more exposed to their arbitrary power (The Migrant Project, n.d.). Without money to continue their journey to Libya or to return home, they are left stranded in a city without job opportunities, always fearing to be arrested. Some resort to desperate attempts to cross the desert by foot, making the Sahara passage an even deadlier section of their journey than the crossing of the Mediterranean Sea. It is assumed that at least twice as many migrants die in the desert than on sea crossings (Nebahay, 2017). Once they reach Libya, their journey does not get more comfortable. Now subject to the illicit economy run by armed groups, or local tribal leaders, the migrants become just another commodity to make money off.

The next section of the journey is the border crossing to Libya from which point onward asylum seekers become a profitable commodity for the Libyan smugglers. The smuggling of migrants, however, accounts only for a relatively insignificant part of the illicit economy blossoming in the border regions of Libya. The trade with weapons, drugs, and contraband brings more money to the smugglers than migrant smuggling. Consequently, weapons and drugs rank higher in the hierarchy of smuggling subsidised goods into Libya than migrants. Smuggled migrants instead become a way of transporting drugs and other prohibited goods. Migrants carrying small quantities of drugs are even accepted as a way of paying for the transport (cf. Shaw & Mangan, 2014, p. 9).

Although the smuggling of migrants in Libya already existed during the Qaddafi rule, it transformed after his downfall. Before 2011, illicit trafficking and smuggling in Libya was the primary source of income for underserved and marginalised border communities. The regime tolerated the alternative source of income for those regions, as it allowed them to be largely self-sufficient (cf. Shaw & Mangan, 2014, p. 6). Nevertheless, the Qaddafi regime continued to control this sector of the economy, as it ensured that mainly families and communities loyal to the regime prevailed. A key element to sustain a livelihood for some Libyan communities, smuggling and trafficking were not even considered as illicit trade. For the sake of clarity, the illicit economy is defined here by “transactions and commodities for which production and marketing are legally prohibited unless they comply with relevant regulations and taxation requirements. They differ from ordinary crime in their complexity, sustainability, and repeated nature of the transactions. Organised criminal groups are generally (but not exclusively) the key operators of illicit economies, given the requirement for high levels of organisation to facilitate and protect repeated transactions” (Shaw & Mangan, 2014, p. 7). In the post-Qaddafi power struggle, the fight to gain control over the two sources of revenues in the country— oil resources and of the illicit economy— became more competitive and led to increase conflicts and clan rivalries. Different leaders, clans and militias strive for supremacy.

The illegal transport of people into Libya also contributes in other ways to the Libyan economy. A crucial and mostly overlooked aspect of the job of a smuggler is to also provide facilities in which migrants stay – in some cases for weeks – before they board a vessel to the EU. The provision of safe-houses or illegal detention centres run by armed groups is another lucrative part of profit-making by smugglers and corrupt state officials (cf. Toaldo, 2015b, p. 83). During this intermediate situation, migrants turn into a quasi-inexhaustible supply of free or low-paid workforce who are unprotected by state law. In many cases, the migrants and asylum seekers arriving in Libya have to pay their transport to Libya with “forced or illegal labour either in the border communities or in the main coastal cities” (Toaldo, 2015b, p. 83). The detention, or how the EU is calling them, the reception camps become a prison for many migrants. They are part of a kidnapping system in which the migrant is only freed when their family can pay the ransom. The ones unable to pay are sold as slaves (cf. Baker, 2019) or are forced to fight on the side of their tormenters for freedom (cf. Hayden, 2019). Within this inhumane, cruel system, a racial hierarchy exists. Arab speaking migrants are treated better than Sub-Saharan Africans (cf. Eltahawy, 2020, p. 43). The origin of this hierarchy can be traced back to Libyan migration history and racist prejudices and resentments against black Africans (cf. Toaldo, 2015b, p. 84).

Apart from slavery, unlawful deprivation of liberty and extortion, the detention camps are generally the scene of other massive abuses and human rights violations. Multiple NGOs such as Amnesty International, Human Rights Watch and the UN Commission of Human Rights report about facilities unfit for human habitation and inhumane conditions. The centres are mostly heavily overcrowded, and lack of access to suitable sanitation facilities and clean water cause the spread of contagious diseases and skin infections. Besides, there are no protective or precautionary measures against diseases and no adequate health services available (cf. Sunderland & Salah, 2019, p. 1; cf. UN-High Commissioner for Human Rights, 2016, p. 15). Particularly in times of the global COVID19 pandemic the risk for infection is very high. The UN Secretary-General Antonia Guterres even calls for the closure of the detention camps in Libya (Sanderson, 2020). Those held in the facilities report to suffer from malnutrition due to “poor quality and meagre rations of food distributed” and “scarcity of potable water” (Eltahawy, 2020, p. 28). Furthermore, migrants interviewed describe torture and ill-treatment by guards. Migrants and asylum seekers are beaten with metal ropes, hoses and given electrical shocks. Notably, children and women are vulnerable towards sexual harassments, abuse, and rape (cf. Eltahawy, 2020, p. 30; cf. Sunderland & Salah, 2019, p. 36; cf. UN-High Commissioner for Human Rights, 2016, p. 1, cf. 2018, p. 31). The horrendous treatment of the migrants and asylum seekers in detentions consequently resulted in multiple deaths in custody. “Witnesses cited gun violence, torture, starvation, lack of medical care and generally poor conditions of the detention as causes of death” (Eltahawy, 2020, p. 31).

The vicious and violent acts against migrants and asylum seekers do not only occur in illegal detention camps. They are also part of everyday life in official detention camps run by the official Directorate for Combating Illegal Migration (DCIM) from the internationally recognised government of Libya (i.e., the official cooperation partners of the EU and Italy). In the EU documents, the difference between the state-led, often referred to as “reception camps and detention camp” under the control of the criminal organisation and prisons is blurry (cf. Eltahawy, 2020, p. 7). A country still trapped in the civil war and the constant fight for authority between different powerhouses, the ownership and control over such camps change quickly due to the profit the parties in charge can make from it. The DCIM detention centres are also the faculties in which the migrants and asylum seekers are brought to following their disembarkation by the Libyan Coast Guard, a unit trained and equipped by the EU. Consequently, the EU’s cooperation with Libya on matters of irregular migration feeds into the vicious cycle of abuse of migrants and asylum seekers in Libya.

The abuse of migrants in Libya, not only in the detention centres themselves, are in clear violation of international law and standards. Even though Libya did not sign the 1951 Refugee Convention, it still obligated to comply with the Universal Declaration of Human Rights and the UN Conventions it signed. To only name a few and most obvious violations: Article 9 of the International Covenant on Civil and Political Rights (ICCPR) signed by Libya, states that “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law“ (ICCPR, 1976 art.9), which is not the case for detained migrants in Libya. The torture and ill-treatment of migrants are in absolute violation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatments or Punishment (Convention against Torture, 1987), Article 7 of the ICCPR (ICCPR, 1976 Art.7) and Article 5 of the African (Banjul) Charter On Human And Peoples’ Rights (Banjul Charter, 1981 Art.5).

Despite the fact that these violations are well known, the EU continues to cooperate with Libya to contain irregular migration. This migration partnership in itself is a violation of international law since under Article 56 of the UN Charter, all UN member states are obligated to take action for “the achievement of the purposes set forth in article 55”, which includes “universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion” (UN Charter, 1945 Art. 55,56). The EU-Libya migration cooperation, therefore, stands in sharp contrast not just to international law but also to the self-proclaimed intent to save lives and promote the human right of the EU.

2. Crossing the Mediterranean Sea

After surviving the desert and reaching Libya, the harsh circumstances for migrants and asylum seekers continues within Libya while stationed only 300 km away from the EU. The 300 km sea route turns out to be one of the deadliest passages to the EU. From the beginning of 2014 until November 2020, the Missing Migrant Project of the IOM estimated 37,219 deaths on the Mediterranean Sea (cf. IOM, 2020a), 17,049 of those who died on the central passage (cf. IOM, 2020b). The previous chapter has already discussed the critical aspects, and changes of the maritime missions conducted by the member States and the EU’s border control. The chapter also mentioned the allegations brought forward against the EU, Italy, and its Libyan counterpart the Libyan Coast Guard and their push- and pull-back measures which are in breach of international law. Therefore, this section will focus on the increasing criminalisation of the SAR missions of NGOs and the resulting consequences of delayed disembarkation of migrants and people seeking asylum.

SAR missions conducted by NGOs at the Mediterranean Sea to save boats and their passengers in distress became a political issue for European member states. Most NGOs followed the slogans such as “Save life first. Sort out politics later” (Cusumano & Villa, 2020, p. 5). The NGOs followed the unwritten law or tradition at sea, which is accepted as customary law: “shipmasters must render assistance to those in distress at sea, regardless of their status or circumstances” (cf. Amnesty International, 2018, p. 7). This law obligated the shipmasters, including those from commercial ships, to provide assistance by “embarking people in distress at sea” (Amnesty International, 2018, p. 8) and to disembark them as soon as possible in a reasonable place to minimise further deviations from their voyage. However, the disembarkation of the rescued migrants and asylum seekers has become problematised, most importantly, the SAR missions carried out by NGOs. After the Italian Mare Nostrum mission ended, different NGOs tried to fill the gap left behind. From 2014 till 2017 the NGO-conducted SAR operations were nearly completely in agreement and coordinated with the Rome’s Maritime Rescue Coordination Centre (MRCC) and disembark migrants did not belong to the responses of the NGO vessels, due to their limited capacity (cf. Cusumano & Villa, 2020, p. 5). Only a few bigger NGOs like the Migrant Offshore Aid Station (MOAS) and the MSF were able to do so. The cooperation between the Italian officials and the NGO underlined the humanitarian motif and the fact that the NGOs activities were seen as a “multiplier for European rescue capacities” (Cusumano & Villa, 2020, p. 5). They complemented the efforts of the European Navy and Coast Guards, helping over 110,000 people in this period (cf. Cusumano & Villa, 2020).

The shift from seeing NGO-conducted SAR missions as a support for the European maritime missions, to portraying them as complicit and encouraging illegal migration and the business concept of smugglers started in 2018. Italy and Malta stopped accepting the responsibility for the SAR missions and denied the NGO vessels entrance to their ports. NGOs additionally started to face a series of criminal investigations and were accused of abetting illegal immigration. Following the investigations, some NGOs suspended their operations while others had their ships confiscated. The NGOs’ activities dropped radically from the beginning of 2018 after the Italian ports closed for “all foreign-flagged vessels” that had rescued migrants on board (Cusumano & Villa, 2020, p. 8). As a result, they only saved people and children forced to wait on board of the NGO vessels. Most of them exhausted and traumatized from their experiences in Libya and their journey on the unseaworthy rubber boats needed medical care due to injuries. The people on board waited an average of nine days for the authorisation to land in Italy. In 2019, a prominent case when Carola Rackete, the captain of the Sea-Watch 3 part of the German NGO Sea-Watch decided to enter the port of Lampedusa without permission after waiting 20 days for the permission to do

so. Carola Rackete was arrested but eventually let go, and her charges dismissed (cf. Cusumano & Villa, 2020, p. 8).

To deny the immediate disembarkation of migrants to the nearest place of safety shows that the normative aspirations of the EU take a back seat when it comes to the migration malmanagement strategy of the EU and its member states. Nevertheless, Italy's close door policy is comprehensible considering that Italy and Malta, as member states at the front line, were mostly left alone with the responsibility to assist and care for irregular arrivals. Yet, this political decision resulted in migrant boats left in perilous situation on the Mediterranean Sea and consequently led to further casualties. For example, it led to the return of more migrants and asylum seekers back to detention camps by the Libyan coast guard.

3. Seeking Asylum in the EU

Reaching Lampedusa, the EU does not automatically imply that migrants and asylum seekers have arrived in a stable, secure life. The reception centres are mostly heavily overcrowded and their capacity to process arrivals and asylum applications has been far exceeded. The conditions in some reception centres are grossly deficient as they are intended only as a temporary station for migrants and asylum seekers in the EU. It is intended that migrants are later distributed to other facilities or even other member states. However, due to the overwhelmed system, the processing of asylum applications takes time. Moreover, an asylum application does not automatically guarantee the right to remain. Many continue to face the fact that they can be deported at any time. In many cases after asylum seekers and migrants have to leave the reception facilities, they try to apply for asylum in the other European member states, "roaming Europe in search of protection" (cf. Kasparek, 2016, p. 60). A majority of roaming asylum seekers are arrested and deported back to Italy, or their country of first entry point due to the Dublin III Regulations. The analysis and the reform-worthy aspects of the Dublin System regulates the asylum process and the distribution of migrants between EU member States. Since September 2020, the EU is planning a new pact on asylum and migration as a system based on "the principle of solidarity and fair sharing of responsibility" (European Commission, 2016). The analysis of the European asylum system and the comparison between the former Dublin System and the new pact however poses a separate research question which would extend the scope of this work.

Chapter Summary

This chapter placed human beings on their way through Libya to the EU at the centre of the analysis to reveal the discrepancy between European migrant-centred rhetoric and the reality of their lives. This reality stands in sharp contrast to the extensive discourse on values and normative power displayed by the EU, letting us question when or if this self-proclaimed aspiration to save as many lives as possible on the Mediterranean Sea and to protect migrants on the way to Europe materializes. Instead, and as this thesis shows, the EU privileges pragmatic partnerships centred on security issues, not humanitarian ones.

Three main conclusions can be drawn:

1. The pragmatic perspective on the partnership with Libya makes it very clear that the people who try to start a life in the EU benefit least from this cooperation. To claim that the migrant's and asylum seeker's well-being is the main reason for the measures taken by the EU to stop irregular migration, appears contradictory.
2. This analysis has demonstrated that the measures taken by the EU to stop irregular migration led to the opposite effect of what the EU intended. If the goal of the European migration policy is to save lives on the CMSP, the EU would provide legal and fair avenues for those seeking asylum. One option could be to offer a humanitarian visa, which would allow the asylum seeker to travel to the EU and apply for asylum safely. The visa would provide the applicant with permission to stay until his request is processed. A humanitarian visa is only practical and realistic if there is a uniform European asylum system, as well as balanced distribution of applicants across the bloc. Additionally, it should be clear, even before the applicant reaches the EU, where he/she will be accommodated, exactly how long such an examination procedure may take and, above all, where he/she will be returned to if the application is rejected.
3. To come back to the EU as a normative power, in the case of migration policies, this chapter has shown that the EU's normative aspirations and claims to promote human rights is questionable, particularly in the cooperation with Libya. It is rather rhetoric to hold up the European image as a virtuous institution. With financial incentives, the EU makes sure that its own interests on migration matters, mainly defined through a security lens, are implemented within the migration policies of the partner states, leaving aside humanitarian and normative debates.

Conclusion

This research aimed to find out why the EU and Libya cooperated on the matter of maritime migration on the CMSP. It did so by examining the nature, the different objectives, and the outcome of the EU-Libya partnerships concerning migration management on the CMSP.

The first chapter demonstrated the need for controlling human mobility originated in the modern national-state system. It showed the historically grown circumstances and the global power structures in which the maritime irregular migration on the CMSP is contextualised. By studying the historical, cultural, social, and political implications and surroundings of the EU-Libya migration partnership, the understanding of its nature became more differentiated and created a holistic picture. Additionally, it established a basic understanding of why migration is perceived differently depending on the perspective and socio-political, historical background.

The second chapter analysed the European migration policies starting with the formation of the union till 2020. It shows the shift in narrating irregular migration from a win-win opportunity for development in the countries of origins and the receiving countries towards migration as a security risk for receiving countries. The European migration cooperation with third countries became a core strategy to address root causes of migration, based on the presumption that migration from the Global South is mainly triggered by crisis. The joint missions on the CMSP were justified by the fight smugglers and human traffickers and save lives at sea. This chapter portrayed the position of the EU and their perspective and objectives regarding irregular migration from the African continent.

The third chapter showed Libya's position on the partnership with the EU. The analysis of Colonel Quaddhafi and later, the GNAs', history of using migrants as pawns or leverage to ensure their interests are met contradict this thesis's prefixed hypothesis. The findings of this research showed that Libya's negotiating powerhouse used its position of controlling migration in the region to their benefit. To assume Libya would submit to the EU's interests without reciprocation denies the North African country's self-determined agency and reproduces the narrative embedded in the North-South division and coloniality. Although there is still a historical asymmetry biased on the colonial past, it is more accurate to describe the cooperation between the EU and Libya as a de-territorial collaboration based on a mutual give and take, respectively, a *quid pro quo*.

Furthermore, in this cooperation, not only Libya could be portrayed as the gatekeepers of the EU. At the other end of the CMPS, Italy and Malta are gatekeepers of the EU to the same extent as Libya. Following this study's outcome, the response to the central question of why the EU and Libya are cooperating in migration control is because both sides benefit from the cooperation in one way or another.

The fourth chapter demonstrated which of the groups involved in the partnership suffered most: the migrants. The situation and hardship of migrants on their journey to the EU were demonstrated using the humanitarian and human rights perspective. Their experience contradicts the proclaimed objectives of, firstly, the European migration policies and, secondly, the goals of the joint operative missions at resulting the cooperation. This last chapter confirms the initial presumption that the operative reality and outcome of the EU-Libya partnership does not correspond to its stipulated intentions and aims. On the contrary, neither did the migration partnership reduce the suffering of migrants nor did the cooperation manage to stop irregular migration on the CMSP, (assuming that this is the cooperation's underlying European objective). In 2021, still, more than 5 300 people reached Lampedusa (INFOMigrants, 2021).

Concluding from this research, the main factor creating this discrepancy between intended objectives and outcome is the European presumption that migration can be turned off or on by altering the policy settings. This does not match reality. Therefore, the cooperation does not fulfil its purpose because of its complex and incoherent nature. It lacks a holistic understanding of global migration. Therefore, the cooperation with Libya only produces short-term results to quickly relieve the migration pressure at the external European borders. However, irregular migration continues, and the joint mission only postpones the migrant's arrival or, in the worst case, makes migrants even more vulnerable to exploitation and violence.

Recommendations and Outlook

This thesis's transdisciplinary approach allows bringing together different theories out of different disciplines to situate the cooperation within its social context across time and space. Hence, the research can establish a holistic theoretical understanding of this specific cooperation's nature while highlighting global circumstances, shaping, and creating conflicts linked to South-North migration. Furthermore, it gives an insight into current academical migration discourse and displaces the versatile application possibilities of global studies theories and frameworks. For the European migration policymaker, this study highlights inconsistencies within the policies and

provides food for thought for possible European external migration strategy reforms. This critical analytical approach to examine the operative outcomes of the migration cooperation can also benefit development agencies in reprogramming development strategies addressing root causes of migration. At the same time, the analysis of the different positions of the involved parties can support the NGOs' position as mediator, bridge and buffer between the parties.

Based on the findings of this thesis, there are five general recommendations to make without claiming to be conclusive or to bring the ultimate solution for handling irregular maritime migration at the CMSP. The EU should consider to ...

1. Acknowledge the European colonial history of controlling African mobility and its racial dimension within its migration policies. Treating migration and border control as an ahistorical action leads to racism and discrimination not considered in the migration policies. The first European steps toward including an anti-racism-attitude within migration policy can be seen in the EU Anti-Racism Action Plan 2020-2025 (European Commission, 2020a). It remains to be seen how much of the Action Plan's goals will be translated into the context and reality of migration control.
2. Make global migration a sustainable win-win opportunity for everyone, as South-North migration needs to be rethought in the EU. Global migration cannot be turned off yet must be understood as an ongoing natural process.
3. Save lives at the CMSP, a new framework for regular migration pathways must be created. This framework could come in the form of a humanitarian visa, allowing asylum seekers to enter the EU safely and expire when the asylum process is concluded. Another possibility is to establish a maritime mission following the example of the Mare Nostrum mission. Furthermore, part of rethinking maritime missions must also be a productive inclusion and cooperation with NGOs.
4. Should establish common EU asylum system in place. An asylum system must be based on the principle of solidarity and shared responsibility between the EU member states. The New Pact on Migration and Asylum is the first European step in reforming its current asylum system. Time will tell what impact this new policy framework will have on how the EU's is dealing with asylum seekers and migrants seeking it.

5. Reform its notion of addressing root causes. In terms of forced displacement addressing root causes is reasonable, but the related programs and projects should seek to produce long-term solutions and development. These programs must be treated as an investment into creating equity between the Global North and the Global South by promoting sustainable stability, peace, and prosperity in regions of conflicts. Additionally, NGOs and local civil society should be integrated into a sustainable development strategy. This cooperation will only serve to benefit of all parties involved.

Further research must be conducted to give more detailed recommendations. To form a better, in-depth understanding, fieldwork in Libya would provide more insight into the country's reality. The research of this thesis was limited to the theoretical and political understanding without producing quantitative data. Such data is needed to gather a conclusive picture. Therefore, this thesis can be seen as the first step into a more extensive examination of the EU-Libya migration partnership.

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