

Migration and Its Regional Impact: Looking for Solutions in Libya¹

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Overview

Regional instability in the Middle East and North Africa (MENA) and sub-Saharan Africa, as a result of years of political misrule, corruption, economic malaise, armed conflicts, human rights abuses, environmental degradation and the lack of sustainable development has created a perfect storm. Millions of refugees and migrants are pulled and pushed to seek safety and livelihoods in developed European countries. These extraordinary circumstances have also created a dark economy where men, women and children - human beings all - are treated as a commodity in a multibillion-dollar human trafficking industry. Somewhat akin to the dawn “slave trade” of earlier centuries, where profits are derived in this instance from the transportation, housing, processing, placement and/or repatriation of humans. From the macro-level involving deals such as that between the European Union (EU) and Turkey to individual transactions between refugees and migrants and people smugglers. There are many complexities and injustices, which shall not be explored in this paper. Rather the focus here is on “Looking for Solutions in Libya” as a migration case study and its regional impact.

Understanding Libya

Post-2011 Libya perceives itself as much a victim of the negative consequences of mass migration as many European countries. Libyan officials, whatever ‘government’ they support speak about illegal immigration that involves “the clandestine” movement of foreign citizens

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into their country that do not fulfill the legitimate conditions or authorization to stay.

Libya distinguishing between three types of “illegal immigration”:

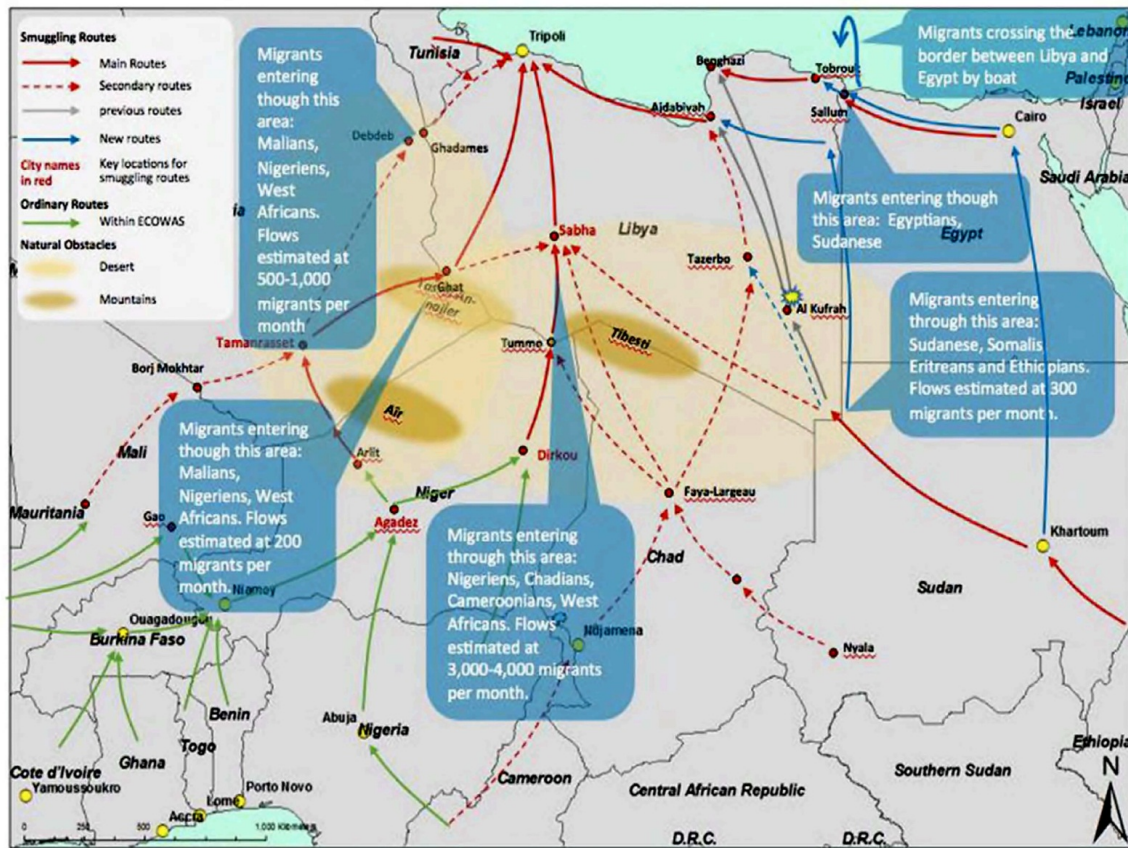
- Illegal immigration to stay in Libya over the long-term.
- Illegal immigration to pass through Libya to EU countries.
- Legal immigration to enter Libyan territory in order to cross into non-EU countries.

Libyan officials summarize reasons for the phenomenon of “illegal immigration” as follows:

- Lack of development, economic opportunities, civil war, corruption, poverty and unemployment in states that are a **source** of illegal immigration.
- Acceptance of illegal immigrants as “residents” by European countries and the provision of work opportunities or housing, healthcare, living benefits and in some cases livelihoods.
- The geostrategic location of Libya and its oil economy.
- The presence of organized criminal networks and armed gangs in a number of source, transit and border countries to Libya and in the EU in what is a multibillion-dollar people-smuggling “industry” is boosting the growth of this phenomenon exponentially.
- The failure of the Overseas Development Assistance (ODA) programs and Foreign policy of the European Union (EU) and United States (US) in Sub-Saharan Africa and the Middle and North Africa (MENA) – that has unfortunately contributed to:
 - Lack of development, economic opportunities, corruption, poverty and unemployment.
 - Low standards of living and lack of basic services in the source countries of illegal immigration.
 - Armed conflicts, civil wars, political turmoil, instability and “coercive” or “forced migration”.

The most important source countries of illegal immigration to Libya can be divided into two groups:

- Middle East and North Africa (MENA) and Sub-Saharan Africa:
 - Egypt – Tunisia – Morocco – Sudan – Algeria – Somalia – Ghana – Mali – Ethiopia – Chad – Sierra Leone – Eritrea – Democratic Republic of Congo – Niger – Nigeria – Senegal – Cameroon – Mauritania – Ivory Coast – Djibouti – Zambia – Guinea (Conakry) – Burkina Faso.
- West Asia and South Asia:
 - Iraq – Syria – Palestine – Lebanon – Jordan – Afghanistan – Pakistan – Bangladesh – India. Usually migrants from these countries obtain access to Libya through legitimate means and later travel to Europe illegally. However recently there is a record of the entry of illegal migrants from these countries, as well as cases of the use of fraudulent visas.



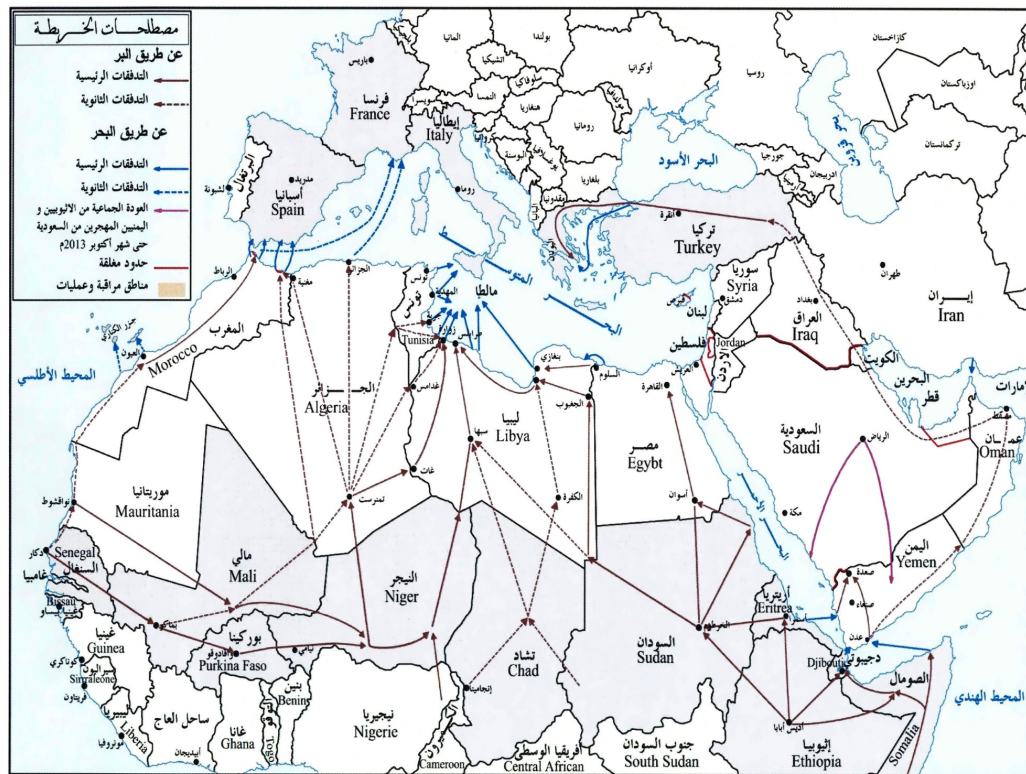
Libyan Realities of Illegal Immigration

The daily rate of migration of up to one thousand people and yearly approaching half a million represents a serious security threat especially if they centralize in the south of Libya. Current national estimates in April 2016 puts the figure to almost double the number, which indicates an increased inflow possibly on account of the fact that the Turkish and Balkan routes to the EU have been blocked somewhat. People-smugglers ferrying refugees and migrants are quite ingenuous and are already seeking alternate routs through Libya especially during a calmer Mediterranean beginning in Spring and going on till Autumn.

Apart from these recent developments there is the risk of very significant increases in rates of illegal immigration to Libya (more than expected yearly rates) for the following reasons:

- Possibility of sudden and dramatic collapse of governance and economic structures in neighboring countries to the south of Libya.
- Emergence of starvation, famine, malnutrition and rampant disease as a result of drought affecting arable land and decimating livestock, lack of potable clean water, desertification, climate change, and political and economic crises.
- Locusts and other pests and diseases destroying crops impacting negatively on the economies of these countries.
- Rebel groups, armed groups, warring factions causing of conflicts, civil wars, extra-judicial killings, crimes against humanity, and even genocide.
- Increasing crime rates in neighboring countries especially to the south.
- Encroachment of large numbers of Chadian Tebu tribes into southwestern Libya, dwarfing indigenous Libyan Tebu tribes and fueling conflict with Libyan Tuareg in this region.

Human Trafficking Routes



Negative Effects of Illegal Immigration:

- Rise of extreme right-wing “fascist” or “neo-Nazi” political parties to power as a result of the increasing and exceptional numbers of refugees and migrants moving to EU countries. Such “blow back” can have a long-term negative affect on global geopolitical stability.
- The increasing rate of illegal immigration to Libya has a significant adverse effect on the country’s economic outlook along with the inability to cope in providing basic needs to such huge numbers of often quite desperate people at a time of national instability and upheaval.
- The presence of large numbers of illegal immigrants indirectly affects the general budget and services provided by the Libyan state – e.g. population congestion and increased demand for rationed goods and supplies.

- The inflow of huge numbers of illegal immigrants can result in increased rate of inflation, unemployment and crime in Libya.
- Contribution to spread of organized crime and growing people-smuggling networks of all kinds – i.e. leading to break down in law and order (e.g. kidnapping, extortion, robberies, murder and societal malaise).
- Falsification of documents to show “Libyan nationality” has enabled some illegal immigrants to infiltrate security and military institutions, which represents a serious threat to national security.
- Infiltration of wanted terrorists (e.g. members of the takfiri Islamic State or “Daesh”), criminals and convicts posing as “refugees”, and the breakout of violent anti-social elements from Libyan prisons.
- Infiltration of individuals from neighboring countries working in favor of the deposed Libyan dictatorship in order to create chaos, fear and instability in the country.
- Outbreaks of communicable diseases and problems caused by congested settlement in unsafe, unsanitary and at times appalling conditions.
- Adverse effect on the social fabric of Libya:
 - Growing illicit-trade in drug trafficking, counterfeit currency and goods (including wines and spirits), and the spread of prostitution, alcoholism/drug abuse, black magic, sorcery and superstition.
 - Infiltration by certain Evangelical Christian proselytizers have caused unrest in Libya – e.g. events of March, 2013 in Benghazi where there was an assault on a Coptic church and an attack on the Egyptian consulate, which worsened relations between the two countries.
 - Infiltration by certain Shiite advocates to spread Shia doctrine and the risks of this leading to sedition between members of Libyan community.



Convoys of trucks loaded with illegal migrants with their belongings heading to Libya under the protection of the Nigerian army members called "Alkanafa" in return for royalties to be paid at the gates and camps that crosses, and there is two trips weekly on Monday and Thursday



Figure 1 Correction: Niger army



Looking for Solutions in Libya

Libya seeks to address this issue within the framework of multilateral cooperation and in accordance with international law with support primarily from leading EU nations such as Germany. The objective being to design and implement a practicable strategic action plan in order to “close the open door” to people smuggling by criminal networks and to terrorist infiltrators using Libya as a launching platform.

Bilateral and Multilateral cooperation is envisaged in terms of goodwill and noble principles in accordance with international law governing all parties including refugees/migrants, source, transit and border countries to Libya, the nation-state of Libya, the supra-nation-state of the EU and their allies – e.g. the United States of America. Libya does not want to harken back to the dark days of the Gaddafi dictatorship where mass migration was used as “political blackmail” and resulted in financial corruption where European governments paid Gaddafi to keep migrants away from the shores of northern Mediterranean countries.

Addressing the Phenomenon of Illegal Migration:

- This phenomenon has exceeded beyond the local nation-state dimension of Libya to encompass the Mediterranean/MENA region and Europe in particular. The Libyan nation-state should therefore participate with trusted bilateral and multilateral partners to develop a clear policy and strategic action plan. This can only be achieved only through concerted efforts locally (between institutions and ministries concerned of the Libyan nation-state), regionally (source, transit and border countries to Libya) and internationally with relevant bilateral partners such as Germany, supranational partners such as the EU and multilateral organizations – though it must be said that the United Nations (UN) has been making heavy going and have not won the “hearts and minds” of the Libyan peoples by expressly ignoring their inalienable sovereign rights to elect their own government.
- No nation-state irrespective of size, geopolitical strength and economy can address these issues to tackle the multibillion-dollar criminal enterprises of illegal immigration alone. There has to be cooperation, coordination, exchange of information, and general goodwill between nation-states, as well as regionally and internationally. For this to happen **trust and respect** must be fostered and strengthened.
- Countering illegal immigration and terrorist infiltration requires a carefully designed strategic and tactical action plan that covers many dimensions – e.g. security, intelligence, law and human rights, sustainable development, economics, social policy, politics and the media.
- Such an action plan from a purely law and order perspective must aim to secure land borders and the seacoast of the Mediterranean basin. All participating border security (e.g. FRONTEX the European Agency for the Management of Operational Cooperation at the External Borders of EU member states), intelligence, police and military agencies need good communication and coordination with each other – which has not been the case thus far.
- EU nation-states and their American allies must accept the criticism that their overemphasis on a “counter-terrorism” strategy is a narrow focus that will not succeed, unless and until **adequate attention is**

paid in practice to resolving short-term and long-term pull and push factors noted above in source, transit and border countries to Libya and other similar “hubs” (e.g. Turkey, Greece and the Balkans).

- Government policies of nation-states and a supra-nation-states like the EU must be redesigned to reconcile **immediate needs** to interdict the flow of refugees, migrants and terrorists to Europe with long-term holistic measures aimed at source, transit and border countries to the nation-state of Libya and regionally.

Policy Recommendations – “Combating Human Trafficking” through strictly legal means:

- Implementation of strict laws that severely punish the criminals involved in human trafficking and the smuggling networks, and their collaborators in source and transit countries.
- New laws and regulations must be designed as a deterrence to reduce and counter organized people smuggling, which puts vulnerable people at high risk.
- Laws and penalties must be enhanced for visa fraud and all actions related to the transport of illicit workers.
- Real time alterations to previous laws in force in accordance with situation specific need and necessities – as opposed to taking years.
- Amendment of certain laws relating to nationality, naturalization and the freedom of movement, work, property ownership and residence.
- Modifying illegal immigration laws and regulations for arranging labor importation.
- Creating a suitable work environment for the qualified individuals that benefit the national economy as in Germany.
- Amend Law No.6 of 1987 on the regulation of entry and residence of foreigners in Libya, and existing laws in other countries that

criminalize non-illegal immigration, where the first article stipulates the following:

- I. Article 01/ "Entry to Libyan territory through specific places of entry or exit with permission from the competent authorities and be based on a visa issued on the passport or the substitute document”.
- II. Article 12/ “Foreigners may enter Libyan territory, to stay in or out of it upon receipt of a valid visa and in accordance with the provisions of this law upon a valid passport issued by the recognized entity or a legitimate alternative document that allows the holder the right to travel from another country to another.
- III. Article 19/ also states “Without prejudice to any more severe penalty provided by any other law punishable by imprisonment and a fine of not less than one thousand Libyan dinars, or one of these penalties.”
 - Each offense made in front of the competent authorities by false statements or providing incorrect data or documents with knowledge or to give individual or others entering the country or staying in or departing in violation of the provisions of this law.
 - Each entrant to the country or who stays in or goes out without a valid visa issued by the competent authorities in accordance with the provisions of this law.
 - Whoever violates the conditions that been imposed for the granting of a visa or duration or renewal.
 - Whoever remains in the country after being told to leave by the competent authorities in accordance with the provisions of this law.
 - Anyone who hires a foreigner without taking into consideration the provisions set forth in Article 9 of this law.

- IV. Article 19 bis/ “Without prejudice to any more severe penalty in any other law shall be punished by imprisonment for a period of not less than one year and a fine not less than one thousand Libyan dinars each for intentionally obtaining a financial benefit or non-financial benefit by directly committing the following acts”:
- Smuggling of Migrants by any means.
 - Preparing and falsifying travel documents and identities and possession of such.
 - Directing and organizing others to do any of the acts that been provided for in this Article.
 - In all cases it is judged to confiscate funds that have been obtained from the crime and the financial amounts and the instruments that were used during the preparation and the committing of such acts.

With all these laws, there are still those who are tempted to prejudice Libyan security by committing and breaching not only national laws but across the Mediterranean basin region. Illegal immigration has become a heavy burden on Libyan security because of the widening of the southern border and the porous nature of the desert region, especially considering that the solution to this issue is to identify the sources of illegal immigration, and by setting up developmentally and environmentally sustainable projects that enable people in source countries to settle and stay within their own national borders.

Applying a system that codifies the terms of entry and residence, and determines its legal measures that are aimed at combating illegal immigration and terrorist infiltration, and imposition of strict sanctions against criminal gangs and networks that are active and operate human trafficking enterprises and who deceive vulnerable people who dream for “economic paradise” beyond the impoverished borders of their own countries.

Policy Recommendations – Legal and security procedures:

- Developing a legislative system to criminalize people-smuggling and illegal immigration practices requires the consideration of the possibilities of making the punishment of gangsters more punitive and stringent in order to deter and scale back their operations.
- Tightening and intensifying the monitoring of agencies and travel companies that are involved in the ingress and egress (including deportation) of illegal immigrants.
- Dealing with the victims of illegal immigration as victims in a codified an appropriate manner – i.e. that they are accused of involvement in the crime and their knowledge of travelling illegally using legitimate documents – besides being victims of circumstances and considering what they have suffered physical, psychologically and morally.
- Collaboration between concerned authorities regarding security aspects – e.g. Ministry of Interior (e.g. Libya), border guards, coast guards, and other institutions engaged in countering people-smugglers.
- Cooperate and coordinate security internationally to deal with any kind of violations to national laws that stipulate on rights, duties and interests.
- Implementation of international conventions on countering non-national (transnational) organized crime and illegal migration within these conventions and the need to act effectively.
- Intensify investigations in zones related to illegal migration and arrest individuals who are active in arranging, gathering and smuggling of migrants, particularly from seaports, fishing villages and beach areas.
- Communicate and coordinate with the International Police (Interpol) and Europol to take the necessary law enforcement and other legal procedures to prosecute Individuals living abroad who work actively in people smuggling activities and terrorist infiltration, including from the Gulf Cooperation Council (GCC) countries.

- Effectively countering illegal migration requires genuine cooperation and coordination between the “exporting” (source), “transit” and “receiving countries”.
- Working within a well funded framework of exchanging the necessary information, intelligence and data (e.g. face recognition) in real time vis-à-vis those organized criminal gangs and networks involved in people smuggling.
- Launching campaigns in “launching areas” of people smugglers in Libya, especially in Zuwarah, Alzawia, Tripoli, Tajura, Qarapoly, Khoums, Zliten, Misratah, Tobruk and Benghazi.

This paper is derived from detailed research conducted inside Libya and across sub-Saharan Africa (i.e. covering West Africa, Central Africa and the Horn of Africa) and the Middle East and North Africa on people smuggling criminal networks and terrorist organizations that **ingress and egress** Libya. The research is ongoing, continuously being updated by an “army” of volunteer field researchers deep in source, transit and border countries to Libya. It is imperative that for the policy recommendations contained herein to be successful for peace and stability to rein in the nation-state of Libya and thereby have a positive regional impact.