Aiding & Abetting: End Funding For Libya

By Emmanuel Huang & “Coach Vance” Trefethen

***Resolved: The European Union should substantially reform its immigration policy.***

Case Summary: The EU (and Italy’s national government individually) fund the Libyan coast guard to intercept boats of migrants trying to cross the Mediterranean Sea to get to Europe. They do this in order to avoid triggering EU laws and international treaties like the 1951 Refugee Convention that would require the EU to take in, feed, clothe, and shelter the migrants until an individual determination could be made about their claims for asylum status. If the migrants never touch European soil or a European boat, then the rules never apply and the EU’s hands are clean, so they believe. When the Libyans pick up the boats, they bring the migrants back to detainment camps, also funded by the EU, in which they are treated horribly. The EU pretends all of this is not their problem, but this case argues that it is the EU’s problem because they’re the ones paying for all this abuse. The Plan requires the EU (and has the EU order its member states) to stop funding Libyan migration coast guard and detainment policies until Libya starts respecting human rights. Key argument for the Affirmative: Even if not one person’s life improves in Libya from this plan, AFF still wins Advantages 1 and 3, because those pertain to making Europe better by not paying someone else to do bad things.

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Numerous migrants fleeing violence and hardship in Africa try to escape from the war-torn country of Libya by boat to Europe. The European Union, though representing itself as a world leader in protecting human rights, pays Libya to stop them, arrest them, and put them into camps where they are abused, tortured, and sometimes even sold as slaves. Please join us in gaining the comparative advantages of affirming that: The European Union should substantially reform its immigration policy.

OBSERVATION 1. DEFINITIONS

Substantial

Merriam Webster Online Dictionary copyright 2020. <https://www.merriam-webster.com/dictionary/substantially>

considerable in quantity:significantly great

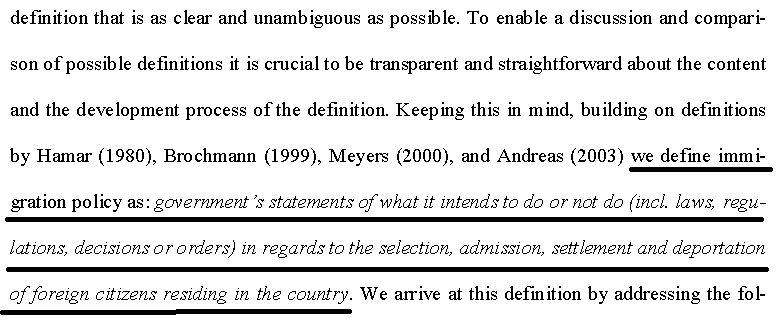
Reform

Merriam Webster Online Dictionary copyright 2020 <https://www.merriam-webster.com/dictionary/reform>

to put or change into an improved form or condition

Immigration Policy

Prof. Marc Helbling, Liv Bjerre, Friederike Römer and Malisa Zobel 2014 (Helbling - professor in political sociology at the Department of Political Science at the University of Bamberg. Bjerre – PhD student, WZD Berlin Social Science Center. Romer - doctoral researcher at the Berlin Social Science Center. Zobel - research assistant at Berlin Social Science Center) April 2014 Conceptualizing and Measuring Immigration Policies. A Comparative Perspective <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2423075>



OBSERVATION 1. INHERENCY, the structure of the Status Quo. Several key facts about the Status Quo:

FACT 1. Libyan coast guard funding

The EU funds the Libyan coast guard to prevent migration to Europe

Sally Hayden, 2019 (freelance journalist focused on migration, human rights, and humanitarian crises. She has written for Al Jazeera, the Irish Times, Time, the Washington Post, Newsweek.)“The U.N. Is Leaving Migrants to Die in Libya”, Foreign Policy, October 10, 2019, <https://foreignpolicy.com/2019/10/10/libya-migrants-un-iom-refugees-die-detention-center-civil-war/>

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FACT 2. Libyan refugee camps. After the EU-funded Libyan coast guard picks them up at sea, migrants are sent to Libyan camps.

Tens of thousands processed through Libyan camps

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

Since the beginning of the cooperation (2016) over 50,000 people have been disembarked in Libya, usually to be taken to detention centres. There were at least 9,225 maritime returnees to Libya in 2019, most of whom we can assume had spent time in Libyan detention, some of whom may still be there, while others may have been retrafficked and others released. Between 2,500 and 3000 migrants, most of which are maritime returnees, are currently being held in detention centres. This number was between 5,000 and 6,000 (and by some estimates even higher) during much of the period of cooperation, since 2016. The precise number of detainees is unknown since there is no proper registration system for migrants, only some of which are registered at disembarkation by international agencies, while many go missing from detention centres. These figures do not include individuals held in unofficial centres, which may include individuals intercepted at sea, and where the situation of such individuals cannot be monitored. The total number of detention camps, official and unofficial, is also unknown; available sources give figures for the number of official centres that vary from 15 to 37.

OBSERVATION 2. HARMS

HARM 1. Torture in the camps. EU funding pays for Libyan migrant torture camps

Nermin Ismail, 2019 (journalist for Deutsche Welle — German international news agency) “Widespread torture and rape documented in Libya's refugee camps”, Deutsche Welle, 26 March 2019, <https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588>

 "These most serious human rights violations are taking place through partners of the European Union. This is what is now being expressed even more strongly," said Karl Kopp of the human rights organization Pro Asyl. He explained how the Libyan coast guard intercepts refugees and takes them back to torture camps. Since the traffickers' profits have fallen, they use torture to generate money. "We have seen a similar situation in Sinai, where families of women from Eritrea were blackmailed." The difference is that in Libya they are "our camps, recognized governments' European-funded camps, where the worst human rights violations are taking place," Kopp said, adding that this is being done in the name of Europe and is part of the agreement with [war-torn Libya](https://www.dw.com/en/libyan-women-lose-hope-in-the-revolution/a-46698358).

HARM 2. Death at sea.

Nermin Ismail, 2019 (journalist for Deutsche Welle — German international news agency) “Widespread torture and rape documented in Libya's refugee camps”, Deutsche Welle, 26 March 2019, <https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588> (Brackets added)

According to the UNHCR [United Nations High Commissioner for Refugees], the migrant death rate almost tripled in 2018 compared to the previous year. In the past five years, around 17,000 people have drowned. [Women’s Refugee Commission study author Sarah] Chynoweth believes there is a lack of political will to fix the situation: "The EU supports the Libyan coast guard, which does not attach any importance to migrants' safety. It also refuses to rescue drowning refugees. Another EU goal is to destroy the wooden boats so that they cannot be reused. But that only leads to smugglers using cheap rubber boats that are unsafe. All this contributes to more and more people dying. This could all be avoided."

OBSERVATION 3. We need a PLAN implemented by any necessary agencies of the European Union:

1. EU terminates all funding for Libyan naval immigration patrols.
2. EU suspends funding for migrant detention until and unless Libya complies with the human rights standards of the 1951 Refugee Convention and its 1967 Protocols, allows independent monitoring and accountability, and releases all detained migrants from the camps.
3. The EU requires its member states to individually follow the same conditions as in our Mandates.

4. Funding through existing budgets, which are suspended until compliance is achieved.  
5. Enforcement: any EU country not in compliance gets funding suspended and/or EU Article 7 sanctions.  
6. Timeline: Plan takes effect one day after an affirmative ballot.   
7. All Affirmative speeches may clarify

OBSERVATION 4. ADVANTAGES

ADVANTAGE 1. Stop EU complicity

Not funding Libyan migrant abuses would uphold the EU’s obligation to respect human rights

Dr. Philipp Dann, Dr. Michael Riegner, Lena Zagst 2020 (Dann and Riegner – professors at Humboldt University, Germany. Zagst – representative of Hamburg-Mitte in the local legislature in Germany) 12 Feb 2020 “Legal opinion on the legality of EU funding for the Libyan coastguard” <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf> (brackets added)

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ADVANTAGE 2. Best hope for reducing the suffering

A. EU has the obligation and the ability to improve conditions in Libya for suffering migrants

Omer Karasapan 2020 (Middle East and North Africa Region's Knowledge and Learning Coordinator at Brookings Institution; served for 30 years at the World Bank. ) 20 May 2020 “Libya and its migrants confront new threats” <https://www.brookings.edu/blog/future-development/2020/05/20/libya-and-its-migrants-confront-new-threats/>

As of May 13, 2020, there were only 64 COVID-19 cases in Libya but with deaths in three different regions underlining local/community transmissions, there are real fears of further expansion. Furthermore, food security is being compromised as most cities face shortages of basic food items amid rising prices and supply chain disruptions. [Water supply facilities](https://news.yahoo.com/massive-bombardment-hits-tripoli-water-172133911.html) have also been targeted in the fighting, with dire implications for all residents. These risks will impact migrants and refugees most immediately. [According to the Mixed Migration Center](https://reliefweb.int/report/libya/unhcr-steps-emergency-assistance-libya-continued-conflict-and-covid-19-create-more), 75 percent of migrants and refugees became unemployed in March and April; many cannot afford rent and eat one meal a day. With all ports and airports closed on both sides of the Mediterranean and an acute, multipronged crisis in Libya, this is a humanitarian disaster of major proportions. [UNHCR also notes that](https://www.unhcr.org/news/latest/2020/5/5eb503954/conflict-pandemic-drive-people-risk-deadly-sea-route-libya.html) “desperation will drive more refugees to risk their lives and embark on dangerous journeys by sea.” To return asylum-seekers to Libya under these conditions is an abomination. Italy and the EU have the clout to improve conditions within Libya, including in the detention centers. They should do so. They will only be upholding their own laws and principles.

B. Evacuating the camps is the answer

Doctors Without Borders 2019 (known in French as Médecins Sans Frontières (MSF), an international medical aid organization founded in 1971 in France by a group of doctors and journalists.)“Trading in suffering: detention, exploitation and abuse in Libya”, 23 December 2019, <https://www.msf.org/libya’s-cycle-detention-exploitation-and-abuse-against-migrants-and-refugees>

On 3 July, an airstrike on the Tajoura detention centre in the eastern suburbs of Tripoli killed 53 people trapped inside and injured 130. This tragedy was entirely preventable and occurred after numerous MSF calls for immediate evacuation of refugees and migrants caught up in the conflict.

ADVANTAGE 3. Uphold democracy

Ending EU funding for Libya would end violations of EU democratic principles and constitutional order

Dr. Philipp Dann, Dr. Michael Riegner, Lena Zagst 2020 (Dann and Riegner – professors at Humboldt University, Germany. Zagst – representative of Hamburg-Mitte in the local legislature in Germany) 12 Feb 2020 “Legal opinion on the legality of EU funding for the Libyan coastguard” <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

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2A Evidence: End Funding for Libya

DEFINITIONS / TOPICALITY

A/T “Italy, not the EU” – Some of it is EU is working through Italy

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf> (brackets added)

Inappropriate Reliance on Italian-Libyan Cooperation 37. This controversial decision to approve the second phase of the IBM [Integrated Border & Migration Management] programme in December 2018 was made on the basis of the erroneous presumption that EU funds were being managed and used in accordance with EU constitutional and financial laws by the Italian authorities. 73 The EU’s reliance on Italy to this end has, however, been inappropriate, given the lack of safeguards in Italy’s cooperation with Libyan authorities.

A/T “Italy, not EU” – EU is working through Italy on the Libya migration issue

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf> (brackets added)

The EU’s deferential reliance on its Italian implementing partners may also be seen in the EU’s choice to forego a financing agreement with the Italian authorities responsible for implementing the IBM [Integrated Border & Migration Management] programme. The Commission confirmed, in its 26 July 2019 answer to the undersigned organisations, that “there is no MOU [Memorandum of Understanding] in place between the EU and Libyan authorities that would form the basis for and govern the disbursement of funds,” but also that it is “not in a position to reply whether there is any MOU in place between any of the EU MS and Libyan authorities”. In the absence of any other cooperation instrument relevant to migration between Italy and Libya, the EU-funded programme in question is appears to be relying, at least informally, on the Italy-Libya Memorandum of Understanding on Cooperation on Development, Combating Illegal Immigration, Human Trafficking and Smuggling, and on Strengthening Border Security (MoU), for its implementation by Italy.

A/T “Italy, not EU” – But Italy is violating EU regulations, so EU can tell ‘em to stop

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf> (brackets added)

ASGI and its partners have also launched a judicial challenge before Italian courts against Decree 4110/47, which allocated €2.5 (of the 200) million from Italy’s Africa Fund for “technical support by the Italian Ministry of Interior to the competent Libyan authorities to improve border and migration management, including combating migrant smuggling and search and rescue activities”. The challenge had two grounds: a) the ultra vires use of the funds outside the mandated development of the Italian “Africa Fund,” per Article 1(621) of Law 232/2016 to restore coast guard vessels and improve their capacity to carry out maritime border control; and b) the contribution made by such funds to breaches of international law, including human rights law, and the 2016 EU Council regulation banning provision of equipment that could fuel the conflict.

MINOR REPAIR RESPONSES

Tweaking won’t solve. Must insist on closing the camps

Human Rights Watch, 2020 “Italy: Halt Abusive Migration Cooperation with Libya”, (international human rights advocacy organization, founded in 1978 as “Helsinki Watch,” investigating rights abuses in countries that signed the Helsinki Accords; made up of roughly 450 people of 70-plus nationalities who are country experts, lawyers, journalists, and others) February 12, 2020, <https://www.hrw.org/news/2020/02/12/italy-halt-abusive-migration-cooperation-libya#> (Brackets added)

“Instead of tweaking the Memorandum of Understanding,” Sunderland [Judith Sunderland, associate Europe and Central Asia division at Human Rights Watch] said, “the Italian authorities should insist on the closure of detention centers, direct its resources to supporting safe alternatives to detention, increase evacuations from Libya, including directly to Italy, and resume a leadership role in saving lives at sea.”

A/T “Better training” – Already tried and failed.

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

Not only has the EU failed to condition the receipt of EU funds on Libyan authorities’ commitments and concrete steps to end abuses, it has instead adopted a host of political demarches to encourage Libyan actors to respect human rights. These include training sessions provided to the Libyan General Administration for Coastal Security by Frontex and EUBAM that are each only several-weeks long. In the absence of reliable control measures that restrict and condition Italy’s use of EU funds, EU-run training programmes do not correct the contribution made by the EU and Member States to the serious human rights abuses committed by Libyan actors.

INHERENCY

A/T “Training programs to make Libya better” – Not working, not adequate

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

According to these instruments, human rights training programmes are not a mitigating measure for the contribution that development aid may in fact be making to serious abuses, as is the case at hand. Nor can such training programmes function as a benchmark that could be used to hold Libyan beneficiaries to account for implementing reforms. Such secondary measures are insufficient to guarantee that the Libyan authorities end certain practices and institute others, including by annulling and enacting laws. As the Council of Europe Human Rights Commissioner’s report has maintained: “the fact that human rights training has been provided to the Libyan Coast Guard, and support provided to international organisations working in Libya, is not an adequate answer to this crucial question.” Training does not suffice to constitute a rights-based approach as required by the EDF-regulation, and is far outweighed by the principal objectives and activities of the Libya action.

A/T “Refugees being evacuated from Libya” – Not working, many still stuck

Doctors Without Borders 2019 (known in French as Médecins Sans Frontières (MSF), an international medical aid organization founded in 1971 in France by a group of doctors and journalists.)“Trading in suffering: detention, exploitation and abuse in Libya”, 23 December 2019, <https://www.msf.org/libya’s-cycle-detention-exploitation-and-abuse-against-migrants-and-refugees>

Those able to return to their country of origin resign themselves to do so with the help of the IOM. This has been the case for nearly 48,000 migrants since 2017. But those that cannot return to their country of origin find themselves stuck in danger. The mechanism for evacuating refugees from Libya to transit countries is currently working at a snail's pace due to lengthy procedures using restrictive criteria and the overall lack of places provided by safe countries. Each stage of the journey becomes a bottleneck quickly clogged with survivors, while the priority of the European states remains to welcome as few as possible.

A/T “EU donating $ to improve camps” – Turn: Doesn’t help ($ get diverted) and makes it worse by masking the problem

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

Other EU funds, outside the IBM, support humanitarian actors who work to ameliorate conditions in detention centres. These humanitarian organisations report that they are regularly subject to access restrictions to certain facilities and individuals. They cannot guarantee that the food, clothing and other goods they provide are actually given to detainees as opposed to being confiscated by DCIM officials. Representatives of humanitarian organisations who have worked in Libya told the undersigned groups that their and other agencies’ work is highly limited in terms of the difference they are able to make in the conditions of detention. They face concerns that their operations risk inadvertently assisting members of Libyan militias who are not GNA civil servants, and that they are being “used” to legitimise EU activities and funds by making their consequences, such as abusive conditions of detention, fractionally more bearable.

A/T “EU has human rights standards for Libya program” – Not enough, not working. Just verbiage, doesn’t make it legal

Dr. Philipp Dann, Dr. Michael Riegner, Lena Zagst 2020 (Dann and Riegner – professors at Humboldt University, Germany. Zagst – representative of Hamburg-Mitte in the local legislature in Germany) 12 Feb 2020 “Legal opinion on the legality of EU funding for the Libyan coastguard” <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

A close up of a newspaper

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Italy supporting Libya through LIMUM, in violation of EU laws and human rights standards

Omer Karasapan, 2020 (Middle East and North Africa Region's Knowledge and Learning Coordinator. Previously worked in the World Bank's Private Sector Development Department; formerly worked for Human Rights Watch as a consultant)“Libya and its Migrants Confront New Threats”, May 20, 2020 <https://www.brookings.edu/blog/future-development/2020/05/20/libya-and-its-migrants-confront-new-threats/>

In February 2020, the Libya-Italy Memorandum of Understanding on Migration (LIMUM) was extended for another three years. LIMUM provides Italian support to Libyan maritime authorities to stop vessels and return asylum-seekers to detention camps in Libya—a flagrant violation of European Union and international norms and legislation. The support has been about $100 million in training, ships, and equipment from Italy and the EU’s Trust Fund for Africa—the latter ostensibly established for development in migrants’ home countries. Though the migration route to Italy did shut down, some 40,000 people, including thousands of children, have been brought back to Libya to face horrific ordeals. Furthermore, while EU navies and private trawlers hired by Malta act as spotters for the Libyan coast guard, the last two NGO rescue ships were impounded by Italy in May 2020. In 2017, there had been 10.

EU taxpayers are funding the bad detainment camps

Doctors Without Borders 2019 (known in French as Médecins Sans Frontières (MSF), an international medical aid organization founded in 1971 in France by a group of doctors and journalists.)“Trading in suffering: detention, exploitation and abuse in Libya”, 23 December 2019, <https://www.msf.org/libya’s-cycle-detention-exploitation-and-abuse-against-migrants-and-refugees>

European taxpayers' money is being used to contain people in inhumane conditions to prevent them from exercising in Europe their fundamental right to seek asylum. They are held indefinitely in squalid prisons without judicial review.

Italy’s support for Libya’s abuse extended 3 more years in Feb 2020

Omer Karasapan, 2020 (Middle East and North Africa Region's Knowledge and Learning Coordinator. Previously worked in the World Bank's Private Sector Development Department, as well as in the Private Participation in Infrastructure Division; worked for Human Rights Watch as a consultant)“Libya and its Migrants Confront New Threats”, May 20, 2020 <https://www.brookings.edu/blog/future-development/2020/05/20/libya-and-its-migrants-confront-new-threats/>

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EU pours more than £110m [one hundred ten million pounds] in support of Libya

The Guardian, 2019 (British daily newspaper)“Torture, rape and murder: inside Tripoli’s refugee detention camps”, November 3, 2019, <https://www.theguardian.com/world/2019/nov/03/libya-migrants-tripoli-refugees-detention-camps> (“pound” is the British currency; as of 13 Sept 2020 it was worth $1.28)

It wasn’t supposed to be this way. After reports of torture and abuse in detention centres, and wanting to stop the flow of people across the Mediterranean, the European Union has since 2016 poured more than £110m into improving conditions for migrants in Libya. But things are now worse than before.

EU has large funding to pay Libyan Coast Guard to intercept migrants

Sally Hayden, 2019 (freelance journalist focused on migration, human rights, and humanitarian crises. She has written for Al Jazeera, the Irish Times, Time, the Washington Post, Newsweek, and others)“The U.N. Is Leaving Migrants to Die in Libya”, Foreign Policy, October 10, 2019, <https://foreignpolicy.com/2019/10/10/libya-migrants-un-iom-refugees-die-detention-center-civil-war/>

Tens of thousands of refugees and migrants have been locked up indefinitely in Libyan detention centers over the past two and a half years, after they were intercepted by the Libyan coast guard trying to reach Italy across the Mediterranean Sea. Since 2017, the Libyan coast guard has been supported with equipment and training worth tens of millions of dollars by the European Union. This money comes from the Trust Fund for Africa—a multibillion-dollar fund created at the height of the so-called migration crisis, with the aim of preventing migration to Europe by increasing border controls and funding projects in 26 African countries.

EU sends more than 327.9 million euros to Libya

Al Jazeera, 2019 (Al Jazeera is an independent news organization funded in part by the Qatari government)“Libya militias rake in millions in European migration funds: AP”, 31 Dec 2019, <https://www.aljazeera.com/news/2019/12/libya-militias-rake-millions-european-migration-funds-ap-191231134806918.html> (the euro was worth $1.18 as of 13 Sept 2020)

The EU has sent more than 327.9 million euros to Libya, with an additional 41 million approved in early December, largely funnelled through UN agencies. The AP found that in a country without a functioning government, huge sums of European money have been diverted to intertwined networks of militiamen, traffickers and coast guard members who exploit migrants.

HARMS / SIGNIFICANCE

6,000 people held in Libya’s camps

Nermin Ismail, 2019 (journalist for Deutsche Welle.— Germany’s international news broadcaster) “Widespread torture and rape documented in Libya's refugee camps”, Deutsche Welle, 26.03.2019, <https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588>

It is a cycle of captivity and exploitation, violence and abuse from which there seems to be no escape. That's according to the latest study on refugees in Libya by the Women's Refugee Commission, an international nongovernmental organization. The United Nations High Commissioner for Refugees (UNHCR) estimates that there are around 670,000 migrants in the North African country. It is believed that between 5,000 to 6,000 people are being held in camps there.

Libya has over 43, 000 migrants registered with UNHCR

UNHCR 2017 (UNHCR, the UN Refugee Agency, is a global organization dedicated to saving lives, protecting rights and building a better future for refugees, forcibly displaced communities and stateless people.)“Libya”, UN Refugee Agency, Numbers updated 23 October 2017, <https://www.unhcr.org/libya.html> (Brackets added)

Libya also hosts 43,113 refugees and asylum-seekers who are registered with UNHCR [United Nations High Commissioner for Refugees]. Refugees are travelling alongside migrants through dangerous routes towards Europe. Up to 90 per cent of people crossing the Mediterranean Sea to Europe depart from Libya.

5,000 people crowded into 16 to 23 detention centers at any given time

Al Jazeera, 2019 (independent news organization funded in part by the Qatari government)“Libya militias rake in millions in European migration funds: AP”, 31 Dec 2019, <https://www.aljazeera.com/news/2019/12/libya-militias-rake-millions-european-migration-funds-ap-191231134806918.html>

About 5,000 migrants in Libya are crowded into between 16 and 23 detention centres at any given time, depending on who is counting and when. Most are concentrated in the west, where the militias are more powerful than the weak UN-backed government.

Filthy detention camps

The Guardian, 2019 (British daily newspaper) “Torture, rape and murder: inside Tripoli’s refugee detention camps”, November 3, 2019, <https://www.theguardian.com/world/2019/nov/03/libya-migrants-tripoli-refugees-detention-camps>

Men press anxious faces against the chicken-wire fence of Triq-al-Sikka migrant detention camp in downtown Tripoli as I enter. “Welcome to hell,” says a Moroccan man, without a smile. Triq-al-Sikka is home to 300 men penned into nightmare conditions. Several who are sick lie motionless on dirty mattresses in the yard, left to die or recover in their own time. Three of the six toilets are blocked with sewage, and for many detainees, escape is out of the question as they have no shoes.

Torture and slavery in the camps

Jonathan Fenton-Harvey, 2017, (journalist and researcher, who focuses on political issues and humanitarian crises in the Middle East and North Africa.) “Migrants Continue to Suffer in Libya’s ‘Concentration Camps’” , November 24, 2017, <https://theglobepost.com/2017/11/24/migrants-libya-concentration-camps/>

Burns, lashes, electric shocks and skinning – torture scenes that are usually seen in horror movies, are actually the reality for refugees trying to reach Europe through Libya. While some of them face harsh realities of detention centers, others get auctioned off as slaves.

Migrants sold as slaves

Sally Hayden, 2019 (freelance journalist focused on migration, human rights, and humanitarian crises. She has written for Al Jazeera, the Irish Times, Time, the Washington Post, Newsweek, and others.) “The U.N. Is Leaving Migrants to Die in Libya”, Foreign Policy, October 10, 2019, <https://foreignpolicy.com/2019/10/10/libya-migrants-un-iom-refugees-die-detention-center-civil-war/>

In January, dozens of migrants and refugees were sold directly to human traffickers from the Souq al-Khamis detention center in Khoms, soon after they were delivered there by the Libyan coast guard.

Indefinite detention. Tens of thousands of migrants held indefinitely in Libya

Sally Hayden, 2019 (freelance journalist focused on migration, human rights, and humanitarian crises. She has written for Al Jazeera, the Irish Times, Time, the Washington Post, Newsweek.)“The U.N. Is Leaving Migrants to Die in Libya”, Foreign Policy, October 10, 2019, <https://foreignpolicy.com/2019/10/10/libya-migrants-un-iom-refugees-die-detention-center-civil-war/>

Tens of thousands of refugees and migrants have been locked up indefinitely in Libyan detention centers over the past two and a half years, after they were intercepted by the Libyan coast guard trying to reach Italy across the Mediterranean Sea.

20 refugees and migrants tortured for protesting

Matteo de Bellis, 2019 (researcher on asylum and migration at Amnesty International.)“Europe’s shameful failure to end the torture and abuse of refugees and migrants in Libya”, 7 March 2019, <https://www.amnesty.org/en/latest/news/2019/03/europes-shameful-failure-to-end-the-torture-and-abuse-of-refugees-and-migrants-in-libya/>

This weekend fresh accounts emerged of people being tortured in Tripoli’s Triq al-Sikka detention centre. According to reports, over 20 refugees and migrants, including children, were brought to an underground cell and then tortured at turns, one-by one, for days, in punishment for protesting against their arbitrary detention in squalid conditions and the lack of solutions. In response to the protest, over a hundred other detainees were transferred to other detention centres, including Ain Zara – the same detention where Sagal died.

Bad Camps: Sexual attacks, beating, starved and shot. EU needs to stop it

Nermin Ismail, 2019 (journalist for Deutsche Welle.— German international news agency) “Widespread torture and rape documented in Libya's refugee camps”, Deutsche Welle, 26 March 2019, <https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588> (Brackets added)

The sexual violence in Libyan detention camps is only the tip of the iceberg. The camps' living conditions are dismal. Kopp [Karl Kopp of the human rights organization Pro Asyl] described how they are overcrowded, people are starving and almost every woman is a victim of sexual attacks. "There have also been shootings during protests. The EU must do everything it can to put an end to this," Kopp said. "What this means is that the EU is supporting these human rights violations because it is only focused on one issue: As few people as possible should come to Europe via the Mediterranean."

EU responsibility: Funding Libyan coast guard violates European Convention of Human Rights

Dr. Philipp Dann, Dr. Michael Riegner, Lena Zagst 2020 (Dann and Riegner – professors at Humboldt University, Germany. Zagst – representative of Hamburg-Mitte in the local legislature in Germany) 12 Feb 2020 “Legal opinion on the legality of EU funding for the Libyan coastguard” <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

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SOLVENCY / ADVOCACY / ADVANTAGES

Plan ends complicity in the abuse: EU must demand closure of camps

Matteo de Bellis, 2019 (researcher on asylum and migration at Amnesty International.)“Europe’s shameful failure to end the torture and abuse of refugees and migrants in Libya”, 7 March 2019, <https://www.amnesty.org/en/latest/news/2019/03/europes-shameful-failure-to-end-the-torture-and-abuse-of-refugees-and-migrants-in-libya/>

If EU states want to stop being complicit in the beatings, rape and exploitation of women, men and children, they must demand the closure of all immigration detention centres in Libya and the release of the about 5,000 people currently detained there.

EU needs to stop supporting Libyan rights abuses

Nermin Ismail, 2019 (journalist for Deutsche Welle. Germany’s international broadcaster) “Widespread torture and rape documented in Libya's refugee camps”, Deutsche Welle, 26 March 2019, <https://www.dw.com/en/widespread-torture-and-rape-documented-in-libyas-refugee-camps/a-48070588> (Brackets added)

The sexual violence in Libyan detention camps is only the tip of the iceberg. The camps' living conditions are dismal. Kopp [Karl Kopp of the human rights organization Pro Asyl] described how they are overcrowded, people are starving and almost every woman is a victim of sexual attacks. "There have also been shootings during protests. The EU must do everything it can to put an end to this," Kopp [Karl Kopp of the human rights organization Pro Asyl] said. "What this means is that the EU is supporting these human rights violations because it is only focused on one issue: As few people as possible should come to Europe via the Mediterranean."

Italy must suspend support for Libyan’s Coast Guard until Libya fully respect safety and rights

Human Rights Watch, 2020 “Italy: Halt Abusive Migration Cooperation with Libya” (founded in 1978 as “Helsinki Watch,” investigating rights abuses in countries that signed the Helsinki Accords; roughly 450 people of 70-plus nationalities who are country experts, lawyers, journalists) February 12, 2020, <https://www.hrw.org/news/2020/02/12/italy-halt-abusive-migration-cooperation-libya#>

(Milan) – The Italian government should suspend all support to the Libyan Coast Guard until Libya commits to a clear plan to fully respect migrants’ safety and rights, Human Rights Watch said today. The plan should include closing abusive migrant detention centers and, in particular, a guarantee to protect migrants against arbitrary detention and inhuman and degrading treatment.

Specific advocacy for: EU should stop its own Libya programs and make Italy stop until human rights are respected

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

In addition to making funding conditional on the Libyan authorities’ acceptance of these positions and the commitment to undertake concrete steps towards their implementation, the EU must also ensure that Italy, as implementing partner, adopts the necessary control measures to effectively restrict and monitor the use of EU funds by the Libyan authorities.

EU aid/cooperation with Libya should be suspended until they uphold human rights and allow independent monitoring

Global Legal Action Network, Association for Juridical Studies on Immigration, and Italian Recreational and Cultural Association 2020 (NGO’s involved in international human rights advocacy) Complaint to the European Court of Auditors Concerning the Mismanagement of EU Funds by the EU Trust Fund for Africa’s ‘Support to Integrated Border and Migration Management in Libya’ (IBM) Programme (this part of the article is undated but refers to events as of 1 April 2020) <https://c5e65ece-003b-4d73-aa76-854664da4e33.filesusr.com/ugd/14ee1a_ae6a20e6b5ea4b00b0aa0e77ece91241.pdf>

We submit that to comply with its obligations under EU laws on financial regulation and external action, the EU must condition its funding of Italian-Libyan cooperation on ensuring Libyan actors respect human rights and international law (Section 3). Specifically, EU institutions and Member State governments must condition any funding and cooperation with the Libyan authorities on concrete and verifiable steps towards: a. The prompt release of all refugees and migrants being arbitrarily detained in Libya, and the end of the system of automatic, indefinite detention. b. Guaranteeing the UNHCR’s full access to people of concern across the country and its possibility to carry out its full mandate, irrespective of the nationality of beneficiaries. c. The signing and ratification of the 1951 Refugee Convention and its 1967 Protocol and adoption and enactment of new legislation, policies and procedures on migration and asylum, providing for the decriminalization of irregular entry, stay and exit; an end to automatic detention; and the creation of an asylum system that complies with international standards. d. The establishment of independent, impartial, and transparent monitoring of human rights violations against refugees and migrants in Libya, with the aim to ensure accountability for state and non-state actors. In the current circumstances, and until such revisions are in effect, the programme should be suspended.

EU must reassess its policies with Libya

Human Rights Watch, 2020 “Italy: Halt Abusive Migration Cooperation with Libya”, (international human rights advocacy organization, founded in 1978 as “Helsinki Watch,” investigating rights abuses in countries that signed the Helsinki Accords; made up of roughly 450 people of 70-plus nationalities who are country experts, lawyers, journalists, and others) February 12, 2020, <https://www.hrw.org/news/2020/02/12/italy-halt-abusive-migration-cooperation-libya#>

In a mid-January report on the activities of the UN Support Mission in Libya (UNSMIL), the UN Secretary-General reiterated that Libya is not a safe port and urged all member countries to “revisit policies that support the return of refugees and migrants.” The Council of Europe Commissioner for Human Rights called on Italy to “urgently suspend” cooperation with the Libyan Coast Guard “until clear guarantees of human rights compliance are in place.”

Human rights organizations condemn EU/Libya deal

Sally Hayden, 2019 (freelance journalist focused on migration, human rights, and humanitarian crises. She has written for Al Jazeera, the Irish Times, Time, the Washington Post, Newsweek, and others.)“The U.N. Is Leaving Migrants to Die in Libya”, Foreign Policy, October 10, 2019, <https://foreignpolicy.com/2019/10/10/libya-migrants-un-iom-refugees-die-detention-center-civil-war/>

The EU’s deal with Libya—a country without a stable government where conflict is raging—has been repeatedly condemned by human rights organizations. They say the EU is supporting the coast guard with the aim of circumventing the international law principle of non-refoulement, which would prohibit European ships from returning asylum-seekers and refugees to a country where they could face persecution.

Cease arbitrary detention

Doctors Without Borders 2019 (known in French as Médecins Sans Frontières (MSF), an international medical aid organization founded in 1971 in France by a group of doctors and journalists.)“Trading in suffering: detention, exploitation and abuse in Libya”, 23 December 2019, <https://www.msf.org/libya’s-cycle-detention-exploitation-and-abuse-against-migrants-and-refugees>

There is an urgent need for humanitarian aid to be deployed more widely and transparently to migrants and refugees in Libya. The arbitrary detention of migrants and refugees must stop immediately. Shelters where they can be assured of security and assistance must be set up as a matter of urgency, while their evacuation can be organised. This can only work if Europe stops sending back those who escape by sea and if safe countries provide more places to welcome survivors.

How Article 7 disciplines a member country in the EU

European Parliament 2019. “ESTABLISHING A EU MECHANISM ON DEMOCRACY, THE RULE OF LAW AND FUNDAMENTAL RIGHTS” 20 Nov 2019 <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-eu-mechanism-on-democracy-the-rule-of-law-and-fundamental-rights> (brackets added)

Under Article 2 TEU [Treaty of the European Union], the EU is founded on the shared values of democracy, the rule of law and respect for fundamental rights (DRF). Article 7 TEU establishes two mechanisms (preventive and sanctions) to enforce EU values in cases of systemic violations and to sanction Member States departing from them. The sanctions mechanism empowers the Council to suspend certain membership rights of a Member State, including voting rights in the Council in cases of a 'serious and persistent breach' of EU values (Article 7(2) TFEU).

Article 7 can strip voting rights from an offending member nation

BBC News 2018. “What sanctions can the EU impose on Hungary?” 12 Sept 2018 <https://www.bbc.com/news/world-45485994>

Under the sanctions mechanism enshrined in Article 7, only the council or the commission can trigger the process. The council then has to decide unanimously that "a serious and persistent breach of EU values has taken place". It has to also get the agreement of two-thirds of the parliament to this. Once that has been done, the council has the power to suspend some of the country's membership rights - such as voting rights in the council itself.

Article 7 is the “nuclear option” – but it should be used when it’s needed

[Maria Fletcher](https://theconversation.com/profiles/maria-fletcher-144150) 2017 (Senior Lecturer (Law), University of Glasgow) 28 July 2017 “**Article 7 sanctions: a legal expert explains the EU’s ‘nuclear option’”** <https://theconversation.com/article-7-sanctions-a-legal-expert-explains-the-eus-nuclear-option-81724>

Article 7 is considered by many to be the nuclear option for the EU, which is probably why it has never been triggered. Even if the significant hurdles for activating the procedures could be surmounted, it is thought that the the political fall-out would be incredibly toxic. For that reason, triggering Article 7 has long been regarded as politically unfeasible. EU law scholars have persistently pointed out, however, that this is little more than a politically convenient excuse for inaction. That excuse is not only intellectually dishonest, it undermines the letter and the spirit of the treaties and the EU’s commitment to upholding the [rule of law](http://cadmus.eui.eu/bitstream/handle/1814/46345/LAW_2017_10.pdf?sequence=1). Many people agree that it’s high time to end Article 7’s days as a political gesture. It is a tool in the EU’s box and should actually be used when it is needed.

EU can revoke funding as a sanction against an offending country

Joseph Bebel 2017. (Editorial Assistant at the European Institute) Aug 2017 <https://www.europeaninstitute.org/index.php/ei-blog/307-august-2017/2234-article-7-the-european-union-s-nuclear-option-8-11>

Other enforcement options open to the EU include diplomatic sanctions or revoking funding. In 2000, the EU first [considered](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/554167/EPRS_BRI(2015)554167_EN.pdf) sanctioning the far-right Austrian Freedom Party government of Jorg Haider in an effort to “diplomatically isolate” the nation. While official EU sanctions were never imposed, a number of the other 14 member states employed bilateral diplomatic sanctions that eventually pushed the government to comply with EU values. Revocation of EU funding has yet to be linked to preservation of the rule of law. However, European leaders have [backed](http://www.euronews.com/2017/03/24/view-poland-liberal-democracy-kaczynski) making all future funds “conditional on recipient countries’ adherence to the rule of law.”

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