Human rights violations of migrants in the Libyan and Tunisian contexts: the consequences of the externalisation of European migration policies

The European Union's externalisation of migration control through bilateral agreements with third countries has led to serious and systematic violations of migrants' fundamental rights. Presented as instruments of development cooperation and shared management of flows, these agreements have instead transferred legal and political responsibilities to unstable contexts lacking minimum guarantees in terms of the rule of law and the protection of human rights. In Libya, the cooperation between Italy and the Government of National Accord, formalised in the 2017 Memorandum of Understanding[1] and tacitly renewed in 2020[2] and 2023[3], has mainly resulted in the strengthening of the so-called Libyan Coast Guard (LCG), which is responsible for intercepting thousands of people fleeing by sea. Thanks to European technical, logistical and financial support, the LCG has expanded its patrol capacity to international waters, carrying out collective refoulement operations in a country where there are no functioning asylum systems and where the risk of inhuman and degrading treatment is systemic[4].

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[1]Governo della Repubblica Italiana e Governo di Accordo Nazionale dello Stato di Libia, *Memorandum d'intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere*, 2 February 2017

[2]Amnesty International, *Libya: Renewal of Migration Deal Confirms Italy's Complicity in Torture of Migrants and Refugees,* 30 January 2020, available at: https://www.amnesty.org/en/latest/news/2020/01/libya-renewal-of-migration-deal-confirms-italys-complicity-in-torture-of-migrants-and-refugees/.

[3]Marsi, F.*, Italy 'Complicit' in Crimes for Renewing Pact with Libya: NGOs*, Al Jazeera*,* 2 February 2023, available at: https://www.aljazeera.com/news/2023/2/2/italy-complicit-in-crimes-for-renewing-pact-with-libya-ngos.

[4]This vicious cycle has been extensively documented by various international bodies and non-governmental organisations. The following are some sample reports:

a. Breen, D., *"In questo viaggio a nessuno importa se muori"*, UNHCR and MMC, July 2020
b. ECCHR, FIDH and LFJL, *No way out: Migrants and Refugees Trapped in Libya Face Crimes against Humanity*, 2021.
c. Amnesty International, *Libya's Dark Web of Collusion, Abuses Against Europe-bound Refugees and Migrants*, Amnesty International, 2017
d. Amnesty International, *Between Life and Death: Refugees and Migrants Trapped in Libya's Cycle of Abuse*. Amnesty International, 2020
e. Amnesty International, *No One Will Look for You: Forcibly Returned from Sea to Abusive Detention in Libya*. Amnesty International, 2021
f. Barbieri, A., Calò, F., Cannella, G., Carriero, A., Cavallone, S., Chiacchella, G. and Deotti, L. (2020). *La Fabbrica della Tortura: Rapporto sulle gravi violazioni dei diritti umani dei migranti e dei rifugiati in Libia (2014-2020)*. Medici Per I Diritti Umani (MEDU).
g. Euro-Mediterranean Human Rights Monitor (2021). *Complemented system of oppression and exploitation of migrants and asylum seekers in Libya.* Euro-Mediterranean Human Rights Monitor.
h. Global Detention Project (2018). *Immigration Detention in Libya: 'A Human Rights Crisis'*. Global Detention Project.

Intercepted persons are detained in official and unofficial centres where they are subjected to torture[5], sexual violence and rape[6], labour exploitation[7], extortion[8] and denied medical care[9], in violation of the absolute prohibition of torture under international law. Organisations such as Médecins Sans Frontières, Amnesty International and the UN have documented in detail the existence of a structured system of violence and abuse that constitutes a cycle of arbitrary and systematic detention, fuelled in part by armed groups and human traffickers linked to local authorities. These violations do not occur in a legal vacuum, but in the context of bilateral cooperation that implies joint responsibility on the part of EU Member States, which continue to finance and support actors responsible for these abuses, despite numerous reports by NGOs and international monitoring mechanisms. The detention system in Libya is not an exception, but a predictable and documented consequence of the European containment strategy.

Even Tunisia, which has been an EU partner since 2023 through a new Memorandum of Understanding[10], has adopted the same paradigm. Although the agreement formally focuses on economic development, regional stability and the fight against irregular migration, in practice it has encouraged a policy of systematic and violent repression of departures and marginalisation of sub-Saharan migrants living on the territory. Numerous testimonies and investigative reports (Human Rights Watch, Al Jazeera, Watch The Med Alarm Phone) have denounced forced interceptions at sea[11]illegal collective expulsions, abandonment in the desert[12] on the border with Libya or Algeria, as well as beatings and arbitrary arrests, often accompanied by xenophobic rhetoric from local authorities. Detention conditions in Tunisia, although less structured than in Libya, have proved equally inhumane: lack of basic services, overcrowding, police violence and no access to a functioning asylum system[13]. Following the signing of the Memorandum, Tunisian authorities have stepped up controls along the coast and in urban areas, making life increasingly precarious for

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[5]Amnesty International, *No One Will Look for You: Forcibly Returned from Sea to Abusive Detention in Libya*, 2021, p. 38

[6]United Nations Support Mission in Libya, United Nations Office of the High Commissioner for Human Rights (OHCHR), *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, 2018, pp. 31–34

[7]Amnesty International, *No One Will Look for You: Forcibly Returned from Sea to Abusive Detention in Libya*, July 2021, pp.36-37

[8] Ibid.

[9] Ibid., p.42

[10]European Union and Tunisian Republic, *Mémorandum d'entente sur un partenariat stratégique et global*, 16 July 2023

[11]Watch the Med Alarm Phone and Tunisian civil society actors (2024), *Interrupted sea: the illegal and violent practices of the Tunisian National Guard in the central Mediterranean,* Watch the Med Alarm Phone, June 2024

[12]Lighthouse Reports, *Desert Dumps*, available at: https://www.lighthousereports.com/investigation/desert-dumps/.

[13]See the report: Ricercatrici/Ricercatori X, *State Trafficking*, 2025

migrants[14]. “Desert dumpings”, widely documented throughout 2023, is emblematic of a security-based approach that considers people on the move as threats to be repelled rather than as rights holders.

The overall picture that emerges from these cases is that of a European policy based on the transfer of responsibility and the delegation of containment to third countries, in exchange for financial incentives and promises of economic cooperation. The result is an outsourced control system that systematically violates human rights: from the right to life to the prohibition of torture, from the right to personal freedom to the right to seek asylum. The European Union's use of these practices represents a clear regression from its human rights obligations. Outsourcing, as currently implemented, is not compatible with the fundamental principles of international law or with respect for the dignity of migrants. Against this backdrop, it is essential to analyse who is involved in implementing and supporting externalisation policies, as well as the role (often weak or complicit) of the bodies responsible for monitoring and protecting human rights.

State, non-state and international actors: shared responsibility, complicity and opacity

The systematic violations of migrants' rights documented in Libya and Tunisia cannot be attributed solely to North African states. On the contrary, they emerge from a complex network of state and non-state actors, both European and international, operating in close synergy. Primarily, there is direct responsibility on the part of EU Member States, which, through government funds, have financed the operational strengthening of the Libyan and Tunisian Coast Guards[15], the construction or renovation of detention centres and the provision of technical equipment and military training. Although formally intended for humanitarian and stabilisation purposes, this funding has in practice served to strengthen interception and containment capabilities, often exercised in a violent and illegal manner. Alongside state actors, European agencies play a prominent role, in particular Frontex, which has carried out

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[14]United Nations Human Rights Office of the High Commissioner, *Tunisie: les experts de l'ONU s'inquiètent de la sécurité des migrants, des réfugiés et des victimes de la traite des êtres humains*, 14 October 2024, available at: https://www.ohchr.org/fr/press-releases/2024/10/tunisia-un-experts-concerned-over-safety-migrants-refugees-and-victims.

[15]a. International Centre for Migration Policy Development (ICMPD), *Strengthening the Tunisian Coast Guard Training Pillar*, available at: https://www.icmpd.org/our-work/projects/strengthening-the-tunisian-coast-guard-training-pillar.

b. International Centre for Migration Policy Development (ICMPD), *EU Training Support to Libya's Border Security and Management Institutions*, available at: https://www.icmpd.org/our-work/projects/eu-training-support-to-libya-s-border-security-and-management-institutions-bmt-libya.

c. European External Action Service (EEAS), *EU Border Assistance Mission in Libya (EUBAM)*, available at: https://www.eeas.europa.eu/eubam-libya_en?s=327.

maritime surveillance operations (such as Triton, Themis, and the now suspended Sophia) often in indirect collaboration with the Libyan and Tunisian authorities. Although it does not formally operate in Libya, Frontex has facilitated the identification and communication of vessels to Libyan coordination centres, contributing de facto to pushbacks in violation of the principle of non-refoulement[16].

To further complicate the picture, non-state actors such as local militias and criminal networks involved in human trafficking often control unofficial detention centres and act with the tacit consent or direct cooperation of the recognised authorities[17]. The line between state institutions and armed groups is often blurred, particularly in contexts such as Libya, where the rule of law is almost non-existent. According to several reports, there is systematic collusion between government officials and militias, with documented cases of migrants being sold to human trafficking networks[18]. One of several examples is the detention camp in Bani Walid, run by human traffickers, where detainees are subjected to torture and abuse in order to extort money from their families[19], and in case of non-payment, killed, and then subject to organ removal to be sold in the black market. In addition, militias such as the Stability Support Apparatus (SSA), with its leader, Abdel Ghani al-Kikli, known as "Gheniwa"[20] (recently killed in Libya), formally integrated into state structures, has been accused by numerous migrants of serious human rights violations, including torture and extrajudicial killings[21]. In Tunisia, although state control is more established, there are concerns about the involvement of non-state groups in violations of migrants' rights. Civil society organisations have reported arbitrary arrests and illegal detention of migrants, often in collaboration with local authorities[22]. The same

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[16]See a case reconstruction against Frontex:
Reder G., Isles J., Lavrenchuk S., Heller C., Michel S., Obertüfer L., Padaletti R., Santer K. (Border Forensics); Tranchina G., Link J., Marciniak M., Choi G., Emerson J. (Human Rights Watch); Freudenthal E., Carpentier A., Scandura S., Mann I., Streufert D., Izuzquiza L., Monroy M., Gettinger D.; with support from the University of Chicago Global Human Rights Clinic and the European Research Council (Pezzani L.), *Airborne Complicity: Frontex Aerial Surveillance Enables Abuse*, Human Rights Watch, 8 December 2022, available at: https://www.hrw.org/video-photos/interactive/2022/12/08/airborne-complicity-frontex-aerial-surveillance-enables-abuse.

[17]Lacher, W., *Libya's Militias Have Become the State,* SWP Comment NO.44 (Berlin: Stiftung Wissenschaft und Politik, July 2023)

[18]Us Department of State, *2024 Trafficking in Persons Report: Libya*, USDOS, 2024, available at: https://www.state.gov/reports/2024-trafficking-in-persons-report/libya/

[19]Lambruschi, P., *Torture nei campi di detenzione*, Avvenire, 2020, available at: https://www.avvenire.it/attualita/pagine/torture-libia

[20]Tondo, L., *Six killed in Tripoli clashes after killing of militia leader*, The Guardian, 2025, available at: https://www.theguardian.com/world/2025/may/13/tripoli-clashes-after-killing-of-militia-leader-abdel-ghani-al-kikli

[21]Amnesty International, *Libya: Government of National Unity must ensure militia leaders are held to account after outbreak of violence in Tripoli*, Amnesty International, 2025, available at: https://www.amnesty.org/en/latest/news/2025/05/libya-government-of-national-unity-must-ensure-militia-leaders-are-held-to-account-after-outbreak-of-violence-in-tripoli/

[22] Human Rights Watch, *Tunisia: Crisis as Black Africans Expelled to Libya Border,* 6 July 2023, available at: https://www.hrw.org/news/2023/07/06/tunisia-crisis-black-africans-expelled-libya-border.

authorities are involved in acts of collective expulsions and abandonment in the desert on the border with Libya, as mentioned above.

The presence and actions of these non-state actors, often in collaboration with state authorities or with their tacit consent, contribute to creating a structured system of abuse that is difficult to monitor. The lack of transparency and the difficulty of assigning precise responsibility make it even more complex to protect the rights of migrants in these contexts.

Monitoring mechanisms: structural limitations and practical ineffectiveness

The analysis of outsourcing policies cannot ignore an assessment of international and regional mechanisms for monitoring human rights, which have proven to be largely ineffective, marginalised or intentionally excluded. Neither the Italy-Libya Memorandum nor the EU-Tunisia Memorandum provide for independent monitoring systems or transparent tools for assessing the impact on migrants' fundamental rights. In particular, there are no impact indicators, binding reporting obligations or guaranteed access to detention facilities by independent actors. While upholding the importance of human rights in its external relations, the European Commission has systematically prioritised efficiency criteria and "reducing arrivals" over the legal protection of individuals. Internal evaluation mechanisms are based on technical reports that are often inaccessible to the public, lack genuine independent verification and are based on a logic of "performance management" rather than compliance with international law[23]. At the international level, human rights protection instruments, such as the special mechanisms of the United Nations or the European Court of Human Rights, are structurally limited in their ability to intervene in extraterritorial or informal contexts, partly because of their dependence on member states, whose actions should themselves be subject to monitoring. Memoranda of Understanding, for example, are often drafted as non-binding acts with no direct legal force, which makes any attempt at litigation or attribution of responsibility extremely difficult. Even when there are important legal precedents, such as in the case of Hirsi Jamaa v. Italy (ECtHR, 2012), the way in which agreements are currently constructed aims to bypass legal rules through the use of flexible and politically opaque instruments.

Civil society itself, NGOs, independent media and legal aid associations play a fundamental role in documenting abuses and giving a voice to victims, but they are often prevented from accessing key locations (ports, detention centres, desert areas)[24] or criminalised by the same governments that

[23]Ressese, P., *Accordo Ue-Tunisia, per il Mediatore europeo la Commissione non è stata trasparente sulla sua analisi sul rispetto dei diritti umani*, EuNews, 2024, available at: https://www.eunews.it/2024/10/23/ue-tunisia-accordo-ombudsman-diritti/
[24]Camilli, A., *Cronache dai centri di detenzione libici*, Internazionale, 2018, available at: https://www.internazionale.it/bloc-notes/annalisa-camilli/2018/06/28/libia-centri-di-detenzione-msf.

promote cooperation. In Italy, for example, Decree Law No. 53 of 14 June 2019[25] severely restricted NGO rescue operations at sea, imposing financial penalties and punitive administrative measures.

Finally, even where human rights clauses are formally included in agreements, they remain largely unenforceable or symbolic. For example, Article 2 of the EURO-MEDITERRANEAN AGREEMENT (1998)[26], establishes that respect for human rights is an 'essential element' of cooperation, but this provision has never led to suspensions, even in the face of serious abuses, such as collective expulsions and abandonment in the desert documented in recent years. In Memoranda of Understanding (such as the 2017 Italy-Libya agreement), references to "international standards" remain vague and lack binding enforcement mechanisms or independent monitoring. Despite numerous reports by Amnesty International and the Council of Europe denouncing European involvement in systematic violations, funding and cooperation have continued without any real conditions. The principle of conditionality, which should make aid conditional on respect for fundamental rights, has been rendered ineffective: it remains formally stated, but without any practical consequences. As it stands, it risks legitimising practices that are in clear violation of international law and the obligations assumed by the EU.

[25] *DECRETO-LEGGE 14 giugno 2019, n. 53, Disposizioni urgenti in materia di ordine e sicurezza pubblica.,* available at: https://archiviodpc.dirittopenaleuomo.org/upload/1063--atto-completo-.pdf

[26] *EURO-MEDITERRANEAN AGREEMENT: establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part,* available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01998A0330%2801%29-20250122