Contribution to the Report on the Externalization of Migration and its Impact on the Human Rights of Migrants

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Title: Between Securitization and Protection: Tunisia as a Case of Externalized Border Control

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1. Introduction

Tunisia has become a critical node in European migration governance, serving as both a buffer state and a gatekeeper through which EU migration control policies are externalized. While Tunisia presents itself as a democratic state committed to human rights, in practice it implements restrictive and securitized migration measures, often under European pressure and funding.

This submission draws on extensive research into Tunisia's fragmented migration governance. It highlights the tensions between Tunisia's stated human rights commitments and its complicity in implementing externalized migration controls. These measures often result in serious human rights violations against migrants, especially sub-Saharan Africans in transit or stranded in Tunisia.

Through a legal-political analysis, this paper explores how bilateral and informal agreements with European institutions compromise migrants' rights and reinforce discriminatory, security-centered responses that lack transparency, oversight, or accountability.

2. Examples of Externalization Practices in Tunisia

Tunisia's cooperation with the EU has included a broad array of externalization tools aimed at curbing irregular migration flows. Notable examples include:

- **Return platforms and disembarkation centers** near the Libyan border such as Choucha, funded under EU migration partnership instruments.
- **Joint patrols and maritime interdictions**, supported by Frontex, whereby Tunisian coast guards intercept migrants and return them to shore without due process.
- **Mobility Partnership Agreement (2014)** which reinforced EU-Tunisia cooperation around returns and readmissions, without ensuring rights-based migration pathways.
- **Criminalization of assistance** under Law 2004-6, used to prosecute individuals, including humanitarian workers, who support irregular migrants.
- **Informal readmission arrangements** with Italy, allowing for deportation of Tunisians without individual assessments.
- **LEMMA and Border Management programs**, financed through EU Trust Funds and Italian bilateral aid, enhancing surveillance, biometric registration, and physical border fortification.

Most of these arrangements were negotiated without parliamentary approval, democratic consultation, or judicial oversight, undermining the rule of law.

3. Transparency, Monitoring, and Accountability

Tunisia's externalization practices lack meaningful transparency. MOUs and return agreements are rarely made public, and when requested through access to information procedures, the Tunisian authorities either deny access or delay responses.

There are no publicly available human rights impact assessments associated with EU-funded migration projects. Monitoring mechanisms, when they exist, are often conducted by contracted third parties with no independence from the agencies implementing the externalization programs. The role of UNHCR, while formally present, is constrained by limited access to detainees and a lack of enforcement capacity.

Migrants held in detention—often in unofficial centers—have no access to legal aid or complaint mechanisms. The system lacks a national body with a mandate to monitor migration detention conditions. The few civil society actors active in this domain are systematically marginalized or surveilled.

4. Human Rights Impacts and Jurisdictional Gaps

Externalization directly contributes to violations of migrants' rights under international law. Tunisia does not have a national asylum law despite proposing one in 2014. As a result, asylum seekers cannot access official procedures, and those recognized by UNHCR often remain without residence permits or access to work.

Detention practices are widespread. Migrants intercepted at sea or within the country are held in facilities such as Ourdia, often in overcrowded, unsanitary conditions, with no legal recognition or oversight. Detainees are frequently denied access to lawyers, UNHCR, or even basic necessities. Migrants are arbitrarily detained and sometimes re-deported to countries where they face serious harm, in violation of the principle of non-refoulement.

Black migrants from sub-Saharan Africa are especially targeted. They face systematic racial profiling, physical violence from police and civilians, and exclusion from healthcare, education, and housing. Tunisia’s labor laws prohibit migrants from accessing employment unless specific quotas are met, which are rarely implemented. Even those with UNHCR status cannot work legally.

While Tunisia has ratified key human rights treaties, including the ICCPR and the Convention against Torture, it lacks domestic enforcement mechanisms and judicial willingness to hold perpetrators accountable. Meanwhile, EU institutions avoid responsibility by framing these violations as the domain of a sovereign partner.

5. Role of Non-State Actors and the EU

The EU's role in Tunisia’s migration governance is substantial. Through mechanisms like the EU Emergency Trust Fund for Africa and the European Neighbourhood Policy, it funds surveillance systems, biometric data collection, and training for border authorities. It also outsources much of the implementation to non-state actors, including:

- **International Organizations**: IOM and UNHCR are key players in executing EU-funded returns and protection programs, sometimes with limited transparency.
- **Private Contractors**: European security and technology firms supply surveillance equipment, drones, and software for biometric tracking.
- **NGOs**: While some local and international NGOs offer critical services and protection, others are embedded within the externalization logic, delivering services that

prioritize control over rights.

The lack of regulation over these non-state actors contributes to a diffusion of accountability. Victims of abuse have no clear avenues for redress. EU funding, instead of supporting rights-based reforms, has further empowered Tunisia's security forces while weakening the oversight role of civil society.

6. Recommendations

To address the risks and rights violations inherent in migration externalization, the following measures are recommended:

1. **Suspend informal migration control arrangements** that bypass human rights obligations.
2. **Ensure full transparency of migration agreements**, including publishing all MOUs and protocols.
3. **Pass and implement a national asylum law** that guarantees procedural safeguards and aligns with Tunisia's international obligations.
4. **Repeal or amend criminal laws** that penalize humanitarian assistance to migrants and asylum seekers.
5. **Establish independent monitoring bodies** with access to all places of migrant detention and the authority to investigate abuses.
6. **Guarantee access to legal aid, healthcare, and work permits** for all persons with protection status.
7. **Condition EU funding** on measurable human rights benchmarks and inclusive civil society participation in policy formulation.
8. **Strengthen Tunisia's judiciary** and civil society through capacity-building aimed at improving rights-based governance.

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