

The influence of EU policy on migrants in Libya.



Image 1: Migrants detained in Zintan detention centre (MSF, 2019).

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Summary

There have been waves of migrants trying to enter Europe for several years. The European Union has had strong deterring border practices to ensure that these migrants are stopped at the external borders of the EU. This has not stopped migrants from trying though, it has only ensured that the way they go about trying to enter Europe is more dangerous than ever. The central mediterranean route is the most dangerous route that migrants take to get from africa to europe. Most of the departures on this route are in Libya, a country that is actively working together with EU member states to combat migration through the mediterranean sea. This, whilst simultaneously severely mistreating the migrants in Libya.

The goal of this research is to gain insight into how the policies that the European Union has in place are affecting the migrants in Libya. The main question posited in this thesis is as follows: *Do EU policies on migration contribute to the violation of migrants' rights in Libya?*

To answer this question, and the 4 sub questions this question was divided into, a policy analysis was performed to find out what exactly the policies that dictate the EU migration practices say. Secondly, multiple media sources were used to categorise to what extent the rights of migrants are being violated in Libya and on part of the Mediterranean sea. Lastly, a critical reflection on the relationship between the European Union and Libya was performed, to gain insight into how this situation originated and could be resolved.

The policy analysis concluded that the EU does acknowledge that there are problems with the way migration is handled in the Mediterranean. The EU does promise certain plans and cooperation strategies, but they lack any governing body really checking if these plans are effective and implemented well. There is also room in the policies for any experiment with inviting migration and streamlining the process, which could help shelter migrants from dangers. The media analysis concluded that the stories that migrants tell are not only shocking, but undeniably inhumane. Migrants are in constant danger whilst staying in Libya, and when they leave, they are often sent back unrightfully. There are also multiple NGOs that come into contact with migrants staying in Libya, but direct contact with EU actors remains scarce.

With these conclusions, it's recommended that the EU has a more involved cooperation plan for within the borders of Libya, or fundamentally changes its strong border practices. Follow-up studies could focus more on how the EU policies have changed over time and how that has affected migrants.

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1. Introduction

When people think of migrants, it's easy to judge and dismiss them as fortune seeking invaders, who are only looking to get into Europe as a way of becoming more wealthy. It's easy to avoid any responsibility that the European Union may have by simply painting them in this bad light. This knee jerk reaction of 'Who cares what happens to them, it's not our fault or our business' is a very limited and bad faith way of looking at migrants. By listening to the real stories that migrants tell, we can learn much more about what extremely traumatising experiences migrants have been through. By analysing European history and the way the EU is now using its power, we can understand that there may be more to the migration crisis than just fortune seekers moving to a better land, and that the responsibility may be on European actors.. By doing so we may be able to understand the complexity of migrants' plights more, and create a better way of dealing with migration, and improve human lives of certain migrants in bad places.

1.1 Societal relevance

It seems like almost every month, there's a new report or news bulletin coming out showing the hardships that migrants have endured on their journey to Europe. Videos of migrants stuck at sea, photos of children washed ashore, reports of horrific violence in detention centres (Amnesty International, 2021; Het Parool, 2021, ECCHR, FIDH, LFJL, 2021); All these things are shocking, yet when they are seen by most European citizens, only a brief moment of empathy is felt. The average European citizen is only reminded of the ongoing tragedies by news outlets and the occasional NGO. The harsh reality is, however, that for many people these tragedies are a daily occurrence and have become their living hell. In this thesis, a more direct connection between EU policies and the tragedies going on in Libya will be illustrated. Doing this could help migrants by showing the EU as a main actor and main source of why these tragedies are still ongoing. Adding to this, this research shows that the actual policies may be failing, and their intended results are not being achieved. Therefore, it may show that the policies need updating, or the execution of the policies need changing. The central mediterranean route is the most used migration route into Europe. Arrivals into Italy have reached the highest figures since 2017, and the highest number of fatalities are also on this route. This, combined with the high amount of cooperation between Libya and Italy, makes the focus on Libya important, as most departures on the central route are from Libya, and the cooperation is causing many migrants to be intercepted and returned to Libya (Frontex, 2022).

1.2 Scientific relevance

A lot of research has been done to document the conditions that migrants have to endure in Libya. These studies focus mostly on the conditions of specific people, and what exactly caused them to get in that situation (Achtnich, 2021). There is a lack of focus on EU policies and the direct impact it has on the migrants in Libya. There is however, a lot of research that has been done that looks at the influence a multitude of actors have on this situation such as NGOs (Cuttitta, 2017), the European Union (Bialasiewicz, 2012; Cuttitta, 2017; Loschi & Russo, 2020), and groups in Libya (Capasso, Czerep, Dessì, & Sanchez, 2019). This thesis will attempt to connect the policies of the European union and the effect they have on migrants in Libya.

1.3 Research objectives

As described earlier, migrants in Libya are living in a constant state of danger and fear. This is because the conditions they find themselves in often are often violations of human rights. As these migrants are often not certain of their rights, they have nobody to turn to, and cannot trust the governments of the EU member states, and their bordering countries. The goal of this thesis is to gain an insight of the effects of EU policy on migration on the violations of the rights of migrants in Libya. With this goal the results will produce a clearer understanding of the direct effects of the EU's policies on migrants, a better understanding of the reality of the EU policies, and a recommendation of how policies could be changed in order to prevent human tragedies in Libya.

1.4 Research questions

This research is trying to gain insight into the effect of EU policy on migrants in Libya, the main question is formulated:

Do EU policies on migration contribute to the violation of migrants' rights in Libya?

To fully answer this question, four sub questions are put forward to divide the main question:

- What EU policies are in place that have affected migrants in Libya in a negative way?
- To what extent have the rights of migrants in Libya been violated?
- To what extent have the EU and its member states violated the rights of migrants coming through Libya?
- To what extent has Libya violated the rights of migrants within and outside its borders?

2. Theoretical framework.

2.1 Theories.

In this thesis, two theories will be used to look at the problem proposed earlier. One of these theories is postcolonial theory, the other is critical geopolitics. Both of these theories have roots in critical theory. To explain both theories, a short summary of critical theory is helpful. Critical theory is an umbrella term, used to describe theories that focus on critiquing and reflecting on society by looking at power structures. As critical theory found its origin in western academia, it's been mostly used to criticise western societal structures (Bohman, 2005).

2.1.1 Postcolonial theory.

Postcolonial theory is a theory that critiques and analyses power structures in society. There is a specific focus in postcolonial theory though. As the name suggests, the focus lies heavily on the colonial history of the world. This entails that using postcolonial theory means looking at the world by exposing power structures that are a result of colonialism. This does not mean, however, that it's simply a list of countries or peoples that were wronged in the past and the countries or peoples that profited off exploitation. Rather, it critiques the sometimes invisible assumptions and power dynamics that are still in the world today due to colonialism. It looks at, for example, the place you are born in, or the colour of your skin as a defining trait that will determine the role you will have in this world. This of course not being the result of individuals acting on a personal level, but rather the result of still felt remnants of colonialism on an institutional level (Raja, 2019; Lazarus, 2004).

One of the more important and foundational texts of postcolonialism is the 1978 book '*orientalism*' by Edward Saïd. In it, he proposes that western scholars had created a depiction of the Orient that was not rooted in true research, but rather in a more culturally influenced fabrication that has permeated through history since European explorers and academics started to describe the old Orient (Hamadi, 2014). Saïd describes how the created depiction was used as a discourse to justify the colonialism and power dynamic between the west and the Eastern colonies (Saïd, 1978). Saïd goes on to argue that these depictions, power dynamics, and accompanying tragedies did not come to an end when colonialism did. Instead, the consequences of colonialism persist in the colonised countries. Saïd goes on to describe how the powerful colonising countries pushed their culture and language on the colonised countries, whose culture, shared history, language, and values

got destroyed or dominated into obscurity. In his book, Said was describing mostly how this happened in the Orient, but these theories could be applied to any place where a group of peoples were colonised by other cultures, and as such an important aspect of postcolonial theory was put forward, the study of geographic areas that have historically and traditionally been under the control of hegemonic world powers. Much like Said did in his book, Postcolonial theory puts forward that these power imbalances could still very much be in place today, and the results of these power imbalances are still felt to this day (Said, 1978). It's important to note that the 'post' in postcolonial theory does not imply that colonialism is over. To this day there is still slavery and systemic exploitation in the world, and postcolonial theory doesn't ignore this. Postcolonial theory simply emphasises that not only is it still going on to some extent, the effects of colonialism are still very real today (Raja, 2019; Lazarus, 2004; Moore-Gilbert, 1997). Derek Gregory later built on this idea proposed by Said, and described how dividing practices were used to create a clear distinction between an 'us' and 'them'. Dividing practises, a term first described by Foucault, are practices that create distinctions between different groups of people. Said described this by showing how the western colonising countries represented their colonies in the Orient as different and deserving of being colonised by a greater power. Gregory went on to expand this and described how cultural practices produce the same divides of 'us' and 'them' on a global scale (Gregory, 2006; Gregory et al., 2009).

Since its rise in popularity, postcolonial theory has been used to criticise western history and the practices in the political landscape that western countries are engaging in now. Together with related theories and political philosophies like critical race theory and feminism, it has been used as a justification for the contemporary political activism focused on a more humanistic and justice based approach to political practices (Elam, 2019).

2.1.2 Critical geopolitics

Critical geopolitics looks at world politics much like critical theories look at the world. It investigates world politics by looking at the geographical assumptions and designations that make up that field of politics (Kuus, 2010). This means that this type of analysis looks at 'geographical facts' and how they function in contemporary political practices. This does not mean, however, that critical geopolitics is a neutral analysis of these geographical assumptions, but rather, it's an ideologically and politically influenced form of analysis. By uncovering these geographical assumptions, power structures can also be revealed: for example, European political practices will often have very European-centred assumptions. These practices of hegemonial states influence large parts of the world, which means that the geographical assumptions are being used to keep those power dynamics in place. By

using critical geopolitics, the 'politics of the geographical specification of politics (Dalby 1991)' is uncovered. Another important aspect of critical geopolitics is the increasing of the quality of the democratic process and politics. According to critical geopolitics, this is achieved by striving to expose the underlying power to criticism and public debate. This analysis and openness of the practices and politics of the geopolitics field should increase the quality of the politics (Tuathail, 1999; Jones & Sage, 2010).

2.1.3 Poststructuralism

Poststructuralism will be used to support the postcolonial analysis of the power relationship between the EU and Libya. Poststructuralism builds on the idea of structuralism that societies have an underlying structure that gives meaning. Post-structuralism argues that these structures are not rigid, but always changing in a dynamic way. Another important critique that poststructuralism poses is that the person studying the power dynamic in the underlying structures will always be influenced by the power dynamics and structures themselves (Harcourt, 2007). This is where a clear link between poststructuralism and the postcolonial work of Said and Gregory can be found. Said argued through a postcolonial lens that the western sciences described a disingenuous image of the Orient, and by doing so made the Orient and the colonies there out to be subordinate to the hegemonic European states. This image propagated by the scientific minds at the time was influenced by the culture that was pervasive in the European states. This means that Said's postcolonial theory fits very well into a poststructuralist worldview, as both argue that the Sciences are influenced by the underlying structure and power dynamics in a culture, and that the scientific inquiry supports itself in a positive feedback loop, which can lead to an depiction of for example a colony that is not based in reality.

As discussed earlier, Gregory built on the work of Said by describing how dividing practices are used to create a divide on a global scale (Gregory, 2006). Foucault describes how the agency of any given subject is controlled by the state, or other entities with power. He refers to this process as objectification, as he sees the way the subjects are controlled changes them into an object (Foucault, 1982). In this process, Foucault described how dividing practices are used to exclude people from a certain society or community. By creating this divide, it creates an immediate power imbalance between those excluded and those included. His example used in *'Madness and civilisation'* was that of lepers being excluded from cities and being forced to live outside of the normal community. This immediately creates an unjust power imbalance, as lepers would have no real way of contesting this decision, and as a result would live outside of the city walls, with multiple

consequences, like no access to certain services and protection, to deal with (Foucault, 2003). These dividing practices are a more direct way of creating a divide, and a way of describing how creating a divide in a society or between societies will lead to a power imbalance. These divides are now, according to Derek Gregory and Said, propagated through scientific inquiry and everyday actions, and create an idea of differences between spaces on a global scale (Gregory, 2006; Said, 1978).

Critical geopolitics also fits nicely into postcolonial theory and poststructuralism. Critical geopolitics analyses and critiques the underlying assumptions in the world of geopolitics (Kuus, 2010). This can be seen as a parallel to the way postcolonial theory looks at assumptions and depictions made by scholars that are now still influencing the world to this day. Concretely, critical geopolitics looks at the facts and assumptions and sees them as having an intrinsic power dynamic that is influencing the field of geopolitics today (Kuus, 2010; Dalby, 1991). Postcolonial theory goes further and argues that these assumptions and power dynamics were created earlier in history during the times of colonialism, and are still influencing the power dynamics between hegemonic countries and 'other' countries to this day (Said 1978; Elam, 2019). Poststructuralism provides the foundation to support these theories by suggesting that all societies have an underlying structure that gives meaning, and that these structures are influenced by the people that make up the societies, especially by those who have power or are influential in that society (Harcourt, 2007). Using Michel Foucault's theories on discourses, the underlying power structures between Europe and Libya will be analysed, and his foundations used in postcolonial theory will be used to support the postcolonial analysis.

2.1.4 Neoliberalism

One of the most important ideologies in contemporary political discourses is neoliberalism. Neoliberalism has two meanings in political theory; a neoliberal theory on international relations and neoliberalism as an ideology. Both will be analysed in this thesis. Neoliberalism as a theory of international relations, also known as liberal institutionalism, describes how cooperation between states can reduce conflict and competition, which is good for both parties. Liberal institutionalism is a logical continuation of capitalism and democracy. The idea is that democracy leads to peace, as the ones that decide to go to war, would also be the ones who fight the wars. This means that all democratic countries would be in favour of remaining peaceful. Capitalism as a system celebrates the efficiency and productivity of states and its citizens. Therefore, a political theory on international relations that stimulates cooperation between democracy to benefit both parties is a direct result of the rise of

democracy and capitalism in the world (Keohane, & Martin, 1995). In this theory on international relations it's not only the states themselves that are important, international institutions play a critical role by reducing transaction costs, providing information and providing credibility.

The other form of neoliberalism is usually used to describe a focus on free-market capitalism. It has become the term most used to describe contemporary economic (re)structuring. Generally, neoliberalism is said to have led to an increase in privatisation, deregulation, and marketisation. More critical analyses argue that neoliberalism is also one of the main causes for increased socio-economic polarisation (Larner, 2003 & Ganti, 2014). The EU, an organisation that facilitates free trade, freedom of movement, and more universal regulations can be considered a neoliberal organisation (Jacotine, 2017). For the purposes of this thesis, the focus will be on the privatisation and free market promoting aspects of neoliberalism. In his 1998 book '*profits over people: neoliberalism and global order*.' Noam Chomsky argues that any activity that interferes with the working of the free market is immediately under attack by neoliberals. He describes how neoliberalism has created an almost religious faith in the free market, and to have faith in it, requires it to be unregulated. When confronted with the result of the rise of neoliberalism, that being the increase in social and economic inequality, the worsening of the environment and an increasingly unstable global economy, neoliberals' only solution is to have faith in the free market system and keep it as unregulated as possible. This as a result of their required faith in the free market, and the believed absence of any alternative (Chomsky, 1998). What is undeniable however, is that neoliberalism has been a great influence in the way we look at and shape our world. Therefore, it is important to analyse how the neoliberal ideas and principles have influenced and shaped the migration issues in our society today.

3. Methodology

In this thesis, two methods of gathering data were used. Firstly, a policy analysis was performed to gain insight into what exactly the relevant EU policies consist of. Secondly, online accounts of migrants, or secondary accounts of people visiting Libya were used to gain insight into the violations happening in Libya. As a result, the data consists of written text and video interviews. Both of these methods of gathering data are qualitative in nature. After this data was collected, the results were interpreted by the author, using a combination of postcolonial theory and critical geopolitics as a lens to look at the connections between the two sets of data. Because of the nature of this interpretation, a bias was difficult to avoid in the conclusion to this research. This bias is accounted for as much as possible, but a completely objective analysis is simply not achievable (Vennix, 2006).

3.1 Policy analysis

When governments or indeed international organisations are facing a problem, the complexity of those problems cannot be overstated. Problems on that scale are often incredibly multifaceted and include a great number of actors. As a result of this, any analysis of policy is often performed as bare-bones as possible, which in turn results in the analytical approach becoming more of a mathematical problem to be solved, rather than an intricate problem existing in the context it needs to be surrounded by. As the context is incredibly important to be able to analyse the policies the EU has in place, the analysis must be built from the ground up (Patton, & Sawicki, 1993). This means that a short review of what exactly the sources of the problem are must be performed. This also means that the international organisations, in this case the EU, must be analysed to gain insight into what theories and philosophies have had an influence in shaping the organisations itself. Therefore, to make sure the context and influences are clear, the relevant philosophical influences on the EU are mentioned, as well as the values the EU promises to uphold to this day. After the addition of that context, more concrete promises in the form of policy documents were analysed and mentioned more clearly, so that they may be used to compare the theoretical values of the EU and the promises the EU has made, to the experiences of migrants in Libya. Finally, Frontex regulations are analysed to explore if Frontex, being the main actor between migrants, the EU, and Libya, has any articles in place that are not being followed, or are fundamentally questionable.

3.2 Migrant experiences

To identify to what extent the rights migrants in Libya have been violated, multiple sources will be used. Firstly, written testimonies and secondary accounts are used. Using multiple sources of actual migrants who have lived in these conditions ensures an accurate and realistic perspective is given. Using different sources ensures that different people and different places will all be researched, so a broader perspective on the situation in Libya is achieved. These testimonies and secondary sources are coded to categorise and quantify what types of rights violations are prevalent. Secondly, a multitude of media sources are analysed. This is also done by coding using the Atlas.ti program. The codes will give a good overview of the violations of rights that migrants have had to endure in Libya. The codes that are most prevalent are summarised in an overview, whilst codes that are rarely noted will be excluded from the summary. This ensures that the focus remains on the violations that are most prevalent, and therefore have a broader impact on migrants.

The written testimonies used are mostly sourced from multiple NGOs and activist groups. The media sources consist of news outlets and NGOs. These sources are used, as the vast majority of relevant material is produced by those organisations. Although the EU does have reports made on the situation in Libya, these reports never go into detail as to the actual experiences of migrants. The official EU reports are usually a more analytical view on a broad situation. This type of reporting is not useful for categorising specific experiences of migrants in Libya. NGOs and activist groups are the ones that are actually going to Libya with the intention of letting migrants tell their stories, and showing the reality of the day to day life of migrants there. This means that NGOs and activist groups are the only ones that offer a clear view on the migrants' experiences. Migrants might also trust people working for NGOs more, as their contact with actors of the Libyan government and the EU may have been negative experiences.

Ideally, a more direct approach would be more desirable. This could be done by interviewing migrants directly. This however, turned out to be impossible. Coming into contact with migrants directly is a difficult thing, especially when looking to talk to them about a traumatising experience they may have had in the past. Many migrants would refuse to be interviewed in fear of dublin claims. Dublin claims are the principle that a migrant has to seek asylum in the country they first arrive in. If a migrant does not do this, and travels to a different country first, to seek asylum there, they may later be forced to return to another country. Migrants that have made their way to Europe through Libya most likely didn't arrive in the Netherlands first, so talking about their experiences in Libya could put them at risk of a

Dublin-claim. This, in combination with the traumatic factor is why interviewing migrants directly proved to be incredibly difficult, and ultimately not the best way to gather data on migrant experiences.

4. Research

4.1 Policy analysis

4.1.1 Historical account

The European Union currently consists of 27 member states (see image 2) and is a political and economic union that was founded after the second world war with the initial goal of increasing cooperation between the first six member states.

Although it began as a purely economic cooperation project, it has grown to become a powerful international hegemonic union, with cooperation on an increasing number of policy areas. The EU has not stopped growing, as there are still countries near the EU that want to join the union. The European union has made sure that for over 50 years there has been peace, increased stability and prosperity and increased living standards for the citizens of its member states (European Union, 2020).



Image 2: The European union and its member states (colored) and potential candidates (grey) (European Union, 2020).

This increase in peace and prosperity that the EU prides itself on might seem enticing to anybody from the outside, so it would be no surprise if people from all over the world would want to immigrate and live within the EU's borders. So how has the EU treated the immigrants that are looking to make their way here? Unfortunately, The European Union and its member states have repeatedly been investigated for violating the rights of people that are trying to enter the European Union to ask asylum there. Italy has been shown to work around the EU laws to try and prevent migrants from crossing into Europe over the Mediterranean Sea. They have also been fined for breaking the laws of non-refoulement (Bialasiewicz, 2012). In European laws, international refugee laws, and human rights laws, the principle of non-refoulement is an important cornerstone. Non-refoulement dictates that an individual may not be returned to a country if that would put them at risk of persecution, torture, or any other human rights violation (European Commission, n.d.). Specifically for refugees, the international refugee law dictates that refugees may not be returned to states where their lives or freedom could be threatened on account of their race, religion, nationality, membership of a particular social group or political opinion (European Commission, n.d.).

Italy, together with the EU, have invested heavily in Libya to protect the European borders. Italy has proven a key actor in the cooperation between the EU and Libya. They have provided Libya with Helicopters, surveillance aircraft and naval patrol vessels, also including the training for operators of these vehicles (Bialasiewicz, 2012). The European policies on migration have taken on a specific form: the focus relies most on deterring migrants, not giving them an adequate and safe way to try and seek asylum in Europe. This strategy puts in place a system that is unjustly hostile towards migrants (Savio Vammen, Cold-Ravnskilde, & Lucht, 2021).

The EU has given itself an identity that has been moving towards a normative and civil power in the geopolitical climate. Bordering practices have been evolving and changing for quite some time now. Borders have changed from a hard line that goods and people would have a hard time crossing, to a seemingly more sophisticated, but surely complicated way. Borders are now more similar to a broad zone that is meant to function more as a filter than a wall. The increase in bordering practices has also resulted in a change of technologies that are used. More military grade equipment is used at border crossings all over the world (Bialasiewicz, 2012).

The border practices of the European Union do not stop at her external borders. The EU's politics and normative power reach far beyond the EU itself, and stretches to states outside its borders. It is in this translation of the EU's ideals that her influence notably shapes the political landscape in her direct surroundings. This is also notable in the actions

of the institutions that the EU has in place in relation to borders. Frontex, the most important agency for external borders, is mostly responsible for the exchange of information and facilitating cooperation between EU member states. The agency mostly gathers intelligence and performs risk analyses. Most of the policies or border-works that have been implemented are negotiated between member states and countries outside the EU, often without the direct involvement of EU agencies. The EU's border policies don't just relate to migration control. The European Neighbourhood Policy (ENP) is evidence of the EU's wishes to change Europe's surroundings to a safe nest of friends and change the surrounding states into a likeness of itself (Smith, 2005). Any state that is near the EU is approached and negotiated with, to better the relationships between the member states and other countries. The ENP mostly tries to create connections with other countries, but by doing so automatically transfers some form of EU norm and politics unto the neighbouring states; either by accident, as a result of repeated and prolonged cooperation, or more intentionally, by pushing sanctions of promising good things when a state becomes more like a, EU member state. Since the founding of the ENP in 2003 though, the goal has shifted from a stability and security based approach, to a focus on safety and security of borders. This has shaped the neighbouring countries into a big buffer that is meant to protect the EU from other states, and people from those states (Bialasiewicz, 2012).

Europe has created a world in which it sees itself as a shining beacon of humanitarianism and human rights, set to lead the world by example (O'Dwyer, 2018). The question that has to be asked, however, is how Europe, and the EU got in this situation in the first place. To better understand how the relations between Europe and the rest of the world emerged, it is important to remember Europe's history. Postcolonial theory suggests that due to the colonial history of Europe, there are underlying factors, biases, and systems in place that combine into a global system. This system makes it difficult for European policymakers to combat poverty and inequality, for example. If any form of policy is made, it is always plagued with eurocentrism and to a point a form of elitism (O'Dwyer, 2018). So when looking at the ongoing relations between the EU and its neighbours, it's imperative that the source of the relations and biases that are present are kept in mind. The colonial history of Europe is where the foundation of the idea of other, or lesser countries is laid. This idea still greatly influences the discussions surrounding the treatment of migrants, and solutions to the migration 'problem'. It is in that word 'problem' that another fundamental bias can be found: the question that needs asking is why migration is seen as a problem to be solved in the first place. Most of the main discussions on migrations already assume the preconceived notions that borders are a well defined line between countries where special rules apply, and people can be stopped for no clear violation of rules.

Another problem that has been rising in the EU is the change from a cosmopolitan, united union, to a more fractured union. The Eu has been shifting from a singular entity with mostly the same values shared among its member states, to a cooperation between many mini-blocks of member states. An example of this is the response to the start of the refugee crisis, with Merkel famously stating that Germany would be willing and able to receive a lot of migrants, whilst simultaneously more eastern European countries were sharpening their bordering practices to prevent too many refugees from entering (O'Dwyer, 2018).

4.1.2 Concrete policies and promises.

On June 28 and 29th 2018, the European council had a meeting to discuss the ongoing matters relating to the migration flow in the mediterranean. During these meetings, the council discussed changes that needed to be made to the policies surrounding the different migration routes. The EU has split up the Mediterranean area in three parts. The western African route refers to immigrants leaving from Morocco, the WEstern Sahara, Mauritania, Senegal and the Gambia. This route usually leads immigrants to the Canary Islands, and serves as the primary passageway to Spain. The Western Mediterranean route leads immigrants from the same departure spots as the African route, but leads them directly to Spain and Spanish enclaves in Northern Africa. The Eastern Mediterranean route refers to immigrants fleeing the war in Syria, arriving in Greece, Cyprus and Bulgaria. Due to increased cooperation between the EU and Turkey, this route has seen a great decline in the number of arrivals. The Central Mediterranean route refers to all immigrants arriving in Italy and Malta. These migrants usually depart from either Tunisia or Libya. This route was the most used route between 2015-2017. Starting in 2020, a new resurgence of immigrants has been using this route to cross into Europe, as seen on image 3. As a result, the EU has been taking more measures to tackle the migration situation in Libya.

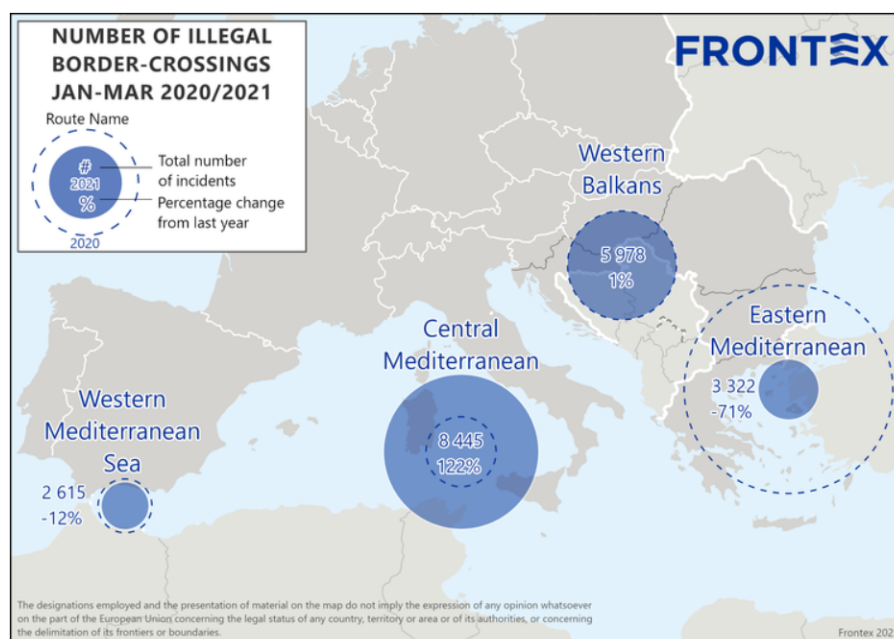


Image 3: number of illegal crossings between the western, central, and eastern mediterranean routes (Frontex, 2019).

Before the meetings in June 2018, the European council made a statement in the 'Malta Declaration'. This statement was made in 2017, and made small promises regarding the European policies on cooperation between the member states and Libya. It is important to note, however, that this declaration is not legally binding, but mostly a symbolic gesture

and an illustration of the way the EU wants to handle the migration crisis (European Council, 2017). The declaration describes this in 9 points. Only the points relevant to the cooperation between the EU and Libya will be discussed. The first point made describes the general philosophy behind the actions taken by the EU: *“We reaffirm our determination to act in full respect of human rights, international law and European values, and in conjunction with UNHCR and IOM.”* (European council, 2017, para. 1).

The third point specifically outlines the actions the EU wants to take to combat the increase of arrivals and deaths at sea. The EU council specifies they want to combat the migration flow, disrupt the business model of smugglers, and remain vigilant about other Mediterranean routes. They suggest the plan is to *“[...] step up our work with Libya as the main country of departure as well as with its North African and Sub-Saharan neighbours.”* (European council, 2017, para. 3). In the fifth and sixth paragraph the EU council shifts her focus on Libya. It's stated that the stabilisation of Libya has grown to be more important than ever, and promises that the EU will do all she can to contribute to that objective. The EU council states that the EU will keep working together with Libya. The cooperation between the EU, its member states and Libya is described to pertain to the following elements (European council, 2017):

“Training, equipment and support to the Libyan national coast guard and other relevant agencies. Complementary EU training programmes must be rapidly stepped up, both in intensity and numbers, starting with those already undertaken by Operation SOPHIA and building on its experience. Funding and planning for these activities needs to be made sustainable and predictable, including through the Seahorse Mediterranean Network;

More efforts to disrupt the business model of smugglers through enhanced operational action. within an integrated approach involving Libya and other countries on the route and relevant international partners, engaged Member States, CSDP missions and operations, Europol and the European Border and Coast Guard;

Supporting local communities in Libya, especially in coastal areas and at Libyan land borders on the migratory routes, to improve their socio-economic situation and enhance their resilience as host communities.

Seeking to ensure adequate reception capacities and conditions in Libya for migrants, together with the UNHCR and IOM.

Supporting IOM (International Organisation for Migration) in significantly stepping up assisted voluntary return activities.

Enhancing information campaigns and outreach addressed at migrants in Libya and countries of origin and transit, in cooperation with local actors and international organisations, particularly to counter the smugglers' business model.

Helping to reduce the pressure on Libya's land borders, working both with the Libyan authorities and all neighbours of Libya, including by supporting projects enhancing their border management capacity.

Keeping track of alternative routes and possible diversion of smugglers' activities, through cooperative efforts with Libya's neighbours and the countries under the Partnership Framework, with the support of Member States and all relevant EU agencies and by making available all necessary surveillance instruments.

Continuing support to efforts and initiatives from individual Member States directly engaged with Libya; in this respect, the EU welcomes and is ready to support Italy in its implementation of the Memorandum of Understanding signed on 2 February 2017 by the Italian Authorities and Chairman of the Presidential Council al-Serraj.

Deepening dialogue and cooperation on migration with all countries neighbouring Libya, including better operational cooperation with Member States and the European Border and Coast Guard on preventing departures and managing returns.” (European council, 2017).

This is the first time in the statement that the EU council describes concretely how the EU should be expected to handle the flow of migration in the Mediterranean.

The following point illustrates and promises the resources that would be allocated to achieve these goals, stating that the plans will be financed through the Official Development Assistance for Africa, which would amount to a total of 31 billion euros per financial period. It should be noted that this sum of money won't just be used for migration control, but is divided, and has multiple purposes. It is explicitly stated, however, that an extra 200 million Euros is to be mobilised to the North Africa window and given priority to any migration-related project concerning Libya (European council, 2017). Furthermore the EU council looks inwards to the migration policies of the EU itself and states that they are to be developed and made resilient for future possible crises. Another important statement is that this will be done whilst respecting international law.

After the meetings on jun 27th and 28th, the conclusions of said meetings were publicised. In these files, the European council again made promises regarding the actions the EU would take regarding the migration crisis going on in the mediterranean area. The meeting did not only describe EU policy on migration, but also other specific problems that might need attention in the EU. These other problems will be largely disregarded in this

analysis. In their conclusion, the European council reiterates that EU policies rely on a combination of more effective control of the external borders of the EU, and an increase in internal and external action. The policies and cooperation have already brought down the migration by 95% from the peak in October 2015. It is important to note this only looks at the decrease in detected migration to Europe. This does not automatically mean that the actual migration to North African countries has decreased. There has also been a natural decrease in migration due to the amount of migrants resulting from the Syrian conflict decreasing as the conflict settles. The EU council specifies that the Efforts to stop the smugglers in Libya has to be intensified. Italy and other member states on the external borders of the EU can count on the continuation of support from the EU in this regard. The EU will increase the support for the Libyan coastguard, the Libyan government and humanitarian NGOs (European Council. (2018). The European council describes a change in approach to break the business model of smugglers operating out of Libya and other northern African countries. The European council wants to eliminate the incentive to embark the journeys, to try and dissuade migrants from making use of smugglers to cross the mediterranean. The concept of “regional disembarkation platforms” are to be explored to see if they could work to allow migrants a more safe way of seeking asylum in Europe. Regional disembarkation platforms are used by disembarking migrants in Non-European countries to sort them into migrants that have international protection and those who don’t. Note that these platforms will not be taking migrants to European countries as that would automatically give immigrants a chance to seek asylum there (Lemberg-Pedersen, 2019). The European council also repeats the need for EU member states to secure the external borders of the Eu, both financially and materially. The need for support of Frontex is also repeated, as well as the need for cooperation with other countries outside of Europe.

4.1.3 Frontex regulation

Frontex, the European agency responsible for the border management and migration management of the EU (Frontex, n.d.), refused to be interviewed to provide insight into how the agency operated. They were willing, however, to answer certain questions in writing, which provided some claims, as well as the regulation that Frontex follows to this day. Firstly, Frontex was asked if they had had any direct contact with Libyan authorities, which they denied stating *“The Agency has never engaged in direct cooperation with Libyan authorities and does not cooperate with the Libyan Coast Guard”*. This is in line with the previously looked at EU policy, which offers mostly material support to the Libyan coast guard.

When asked about the protocol that is in place for when a Frontex vessel encounters people in distress on the mediterranean, they first referred to international law. International maritime dictates that all vessels are to provide assistance to any persons found in distress. The way Frontex goes about doing this is simple: [...] *Any time a Frontex plane spots a boat in distress, it immediately alerts the relevant Maritime Rescue Coordination Centres (MRCC) in the region.*“. They go on to state that this is usually, in the Central Mediterranean region, Italy, Malta, Libya and Tunisia. In more detail: the coordination of these search and rescue missions is delegated to the MRCCs, who then order the closest or most capable vessel to support the persons in distress. These can range from commercial, private, military, and national vessels (Frontex, n.d.). Due to the importance of time in operations like these, it is not always Frontex officers that reach the migrants first. Note that this answer provided by Frontex only pertains to boats in distress. The question that Frontex avoided answering was how they determine when a boat is in distress; or rather: how does Frontex determine that a boat must be stopped due to there being migrants on board that are illegally trying to enter Europe. When pressed for answers, Frontex clarified that the Agency is only responsible for contacting national authorities of Member states. This is in line with the Agency’s mandate, but as will be seen in migrants’ testimonies later, Frontex does assist with operational assistance and does indeed come into contact directly with migrants, When Frontex vessels are the ones to reach the persons in distress first, they provide medical assistance, and give them food and water. Once the operation is completed, the migrants are handed over to national authorities, where, if the country they are taken to is in Europe, Frontex officers assist in registration and identification of migrants arriving in hotspots.

The following information has all been extracted from the EU regulation (EU) 2019/1896, which is now the determining rulebook for Frontex. This has replaced Regulation 1052/2013 and is now the main regulation determining the operations of Frontex in the mediterranean. It is this regulation that turned Frontex into the European Border and coast

guard Agency it is known as today, whilst also giving the European parliament a more direct way of influencing the agency's activities (Del Monte, & Luyten, 2021). In the following analysis, the relevant articles of the document will be put forward, and clarified, to make later comparison with migrant experiences easier. Only the articles that can have a direct or indirect effect on the lives of migrants will be detailed. The article number will be mentioned whenever a new article is discussed.

The first article (1) is a very principled article. It describes what exactly the EU wants to accomplish by creating Frontex: integrated border management is a key condition to better migration management. The goal is to control the crossing of external borders to combat cross-border criminal activity and create a high level of internal safety in the Union. Note that this first article only specifies that Frontex is designed to combat the criminal aspect of migration; there is no mention of refugees that are in a situation that they have to escape. Either this necessary form of migration is not considered in the design of the regulation, or this has preemptively been classified as criminal activity. Both of these reasons are not good for the idea of migration as a whole, as it implies that no matter what, migrants are to be designated as criminals. The article does finish by noting that any action taken is to have respect for human rights, but immediately pivots to only mentioning the freedom of movement in the EU, and no other fundamental rights. This, again, moves the focus away from migrants, and supports a very European-centric world view.

In article 8, the conclusions of the meeting of the European council on the 28th of June 2018: it is specified, very briefly, that Frontex is to work more closely together with non-member states, as well as the increase of material support for those non-member states. This article is also the first article to directly refer to irregular migrants, meaning migrants who entered Europe illegally, by specifying that the increased cooperation and material support are to ensure that irregular migrants are actually returned to the non-member states from which they came. This last measure is repeated in article 13.

Article 9 is the first article to mention proactive migration management, which includes measures taken in non-member states. The article only specifies that the mandate of the Agency has to be expanded to include these measures, but not what those measures might entail. This sentiment is again repeated in article 87, stating that the cooperation with non-member states is important. The same measures that are mentioned in the previous articles are repeated here.

Article 38 describes how the usage of smaller, often non-seaworthy vessels has increased the number of deaths occurring in the southern part of the mediterranean sea. Eurosur, the European border surveillance system, is to support Frontex in detecting these smaller vessels to prevent the loss of human lives. This is the first time migrants and Frontex

are mentioned in a context of saving lives. All articles before article 38 only mentioned the protection of the European Union and its internal safety. Directly following this, article 39 mentions that this whole regulation, and by its extension also the EU, does recognise that the migration routes used on the mediterranean are also used by persons in need of international protection. This means that they have a right to migrate to Europe to seek asylum there, under the protection of the principle of non-refoulement.

An important note added in this regulation is in article 100. Here it's acknowledged that many migrants do not have their identification papers in order when they arrive in Europe or are stopped on the way there. The Union desires the return procedures to be done quickly, which means Frontex must have the right to detain migrants to more efficiently investigate what exactly they are to do with them. The danger is that migrants know that they are in risk of being sent back to where they came from, which encourages them to give the authorities misleading or wrong information, to try to sway them into not returning them. On the other hand, unclear information due to not having proper identification can also lead to migrants being sent back when they shouldn't have. This increases the risk of a violation of the right of non-refoulement, which can result in a migrant going back to a situation in which their life is at risk.

In chapter 2, part 1, article 10, the regulation provides a concrete, brief list of all the duties that Frontex has. In these short bullet points it becomes explicitly clear what exactly agents working at Frontex could be doing on a day-to-day basis. Apart from work in the field, like stopping and assisting vessels, Frontex has a responsibility to perform analysis, exchange information with relevant parties, and support other actors on the sea as necessary. These duties that do not directly influence the lives of migrants on a daily basis will not be included in this policy analysis. Many of the duties put forward in this part of the regulation also focus heavily on the supporting role that Frontex has to EU member states. For example: Frontex monitors the operational needs of member states to see when and how much help they might need in dealing with return procedures of migrants. Many of the other duties put forward were already discussed in earlier articles of the regulation document, and do not need repeating. There are, however, some clarifications and new additions that need to be noted. Frontex itself monitors the respect for fundamental rights in her own activities. This means that there should be constant scrutiny coming from within Frontex itself. This part of the regulation first mentions explicitly that Frontex can indeed deploy teams to perform border patrol missions, supporting missions, and assist in return procedures. It's also here that it's repeated that when Frontex takes on a supportive role in returning procedures, they do so purely from an operational standpoint. This means that Frontex or its agents do not interfere with the legality or morality of these returns. They are

simply a resource that can be used to ease the returning procedures for the member state. This is in direct conflict with the earlier mentioned duty of performing self-scrutiny. If Frontex is never involved with the legal procedures of return processes, then the analysis of the violation of fundamental rights is not a necessity, as they are not responsible for those decisions.

In the following part of this chapter, the regulation dives into more detail about the day-to-day operations and rules that apply to Frontex when they are actively performing an operation. In chapter 8, article 48, the regulations dives deep into the activities of Frontex regarding returnal procedures. The first thing that is repeated is that Frontex does not involve itself with the validity of the return procedure. This will always be the responsibility of the relevant member state. Frontex does, however, lend technical and operational support, collect information and evidence needed for return procedures, identifying migrants, and gathering travel documents. This creates a system in which Frontex can be the engine behind the return procedures, without ever having to take responsibility for it.

In early 2022, Fabrice Leggeri quit his job as the CEO of Frontex. He came to this decision as there was an increase in media coverage on Frontex regarding illegal pushbacks (De Volkskrant, 2022). Here we can see the Frontex is indeed still sensitive to bad press, and cares a great deal about public relations. This makes sense in a neoliberal system, as a free unregulated market would mean that alternatives to Frontex could coexist with Frontex and be absorbed into a governmental body as a replacement for Frontex. This is also a good indicator of bodies of government acting more and more like regular companies. Regular companies care a great deal about the consumer's opinion, as consumers are more likely to choose a brand or store that has a better public image (Shamsher, 2016). What is noticeable, however, is that the public relation of an organisation like Frontex has seemed to take on a more important role than the actual work they do. What is important is that the CEO is fired, or even prosecuted, whilst the actual underlying issues at hand are largely ignored. What's important is steering the media attention away from the actual problems of illegal pushbacks and migrants dying at sea by saying loudly that the responsible CEO has been removed from his position of power. Neoliberalism has caused government agencies to adapt to become more and more like companies (Chomsky, 1998; Jacotine, 2017). This also means that profits, good public relations, and a continuous existence of the agency have taken precedence over the actual goals of the agency.

4.1.4 Politics of concealment

One of the clearer outcomes of the policy analysis and the answers the Frontex provided was that there is a strategy of concealment. In the answers to the questions, as seen in attachment 1, the Frontex spokesperson would not clearly answer any specific question. What they did instead was referencing the specific duties they had, and regulation they needed to follow. Any question that dove deeper into specifics or examples would not be answered. The policies in turn, were not really clear on very specific actions that Frontex might undertake. What was described were more general guidelines, duties, and rules. The language the policies are written in is also not very accessible. What's the point of all of this? Traditionally, states or governments have had to keep at least a minor level of security in some areas, like defence or intelligence, but more recently there has been an ongoing shift to more and more concealment of even the most mundane policies (Lindsey, 2013). This shift in concealment has given the European member states another tactic to ensure their own responsibilities are not questioned. By having minimal clear concrete promises in their policies, the EU can always reference their policies and simply claim that a certain problem, or area of the world, is not their responsibility. For example when asked about the contact and wellbeing of migrants Frontex simply answered: *'These questions go beyond Frontex's areas of responsibilities.'* (Attachment 1). When asked about Frontex agents ensuring the principle of non-refoulement was not violated they answered: *'Frontex ensures and promotes the respect of fundamental rights in all its border management activities. Frontex is fully committed to uphold the highest standards of border control within our operations and our officers are bound by a Code of conduct. This is the standard we bring to every one of our operations. Fundamental rights, including the respect for the principle of non-refoulement, are at the core of all the Agency's activities.'* (Attachment 1). The first answer is quite clearly a case of simply stating it's not their responsibility, therefore they can't answer the question. This may be true, but it very clearly just pivots the question away from the agency. The answer to the second question is a lot more devious. Although it sounds great, respecting fundamental rights and having a code of conduct, it absolutely does not answer the question. The answer in essence says 'we know about the fundamental rights and we respect them' but gives no information as to how these rights are actually respected and checked in an actual operation. This vague and general answer ensures they do not state anything concrete, and ensures that they still don't have to take responsibility if anything ever goes wrong.

Looping back to postcolonial theory, we can understand the relation between the EU and Libya as having an unfair power dynamic (Raja, 2019; Lazarus, 2004; Moore-Gilbert, 1997). How does this concealment in policies fit into a postcolonial world view? The vagueness of the wording and the focus on avoiding responsibilities are clearly more of a positive for one side. By using vague, hard to decipher wording the EU protects itself from

scrutiny and criticism. By doing so the EU has taken away a powerful tool for people to use as a way of criticising the EU and its practices (Lindsey, 2013). By doing so the EU can continue to keep the power dynamic currently between the EU and outside states the same, and remain a hegemonic power, whilst suppressing any form of pushback from the start. It can also be argued that this strategy of concealment is a direct counter to any critical geopolitical analysis. Critical geopolitics tries to expose the underlying power structures to scrutiny and public debate. By doing so the quality of the politics and practices should increase (Tuathail, 1999; Jones & Sage, 2010). This vagueness therefore not only combats the legitimate complaints of outside states, but also criticism from scholarly criticism as well. If the policies are vague and confusing, the criticism won't be able to substantiate legitimate complaints.

4.2 Migrant experiences

In the following chapter, multiple sources will be used to find out what human rights violations are happening in Libya. First, written testimonies of migrants, rapports, and other literature will be used to categorise the different violations that are taking place in Libya. After that, different media sources will be analysed to categorise the extent to which each violation is happening.

4.2.1 Surviving in Libya.

To illustrate the amount of trauma an individual migrant may go through, first let's take a look at the story of a migrant that was stuck in Libya for an extended period of time. In an interview with human rights watch, a migrant, using the pseudonym Abdi, describes his journey from Somalia to Europe, and all the hardships he's had to endure. For relevancy's sake, only the parts in Libya will be discussed here. Abdi describes how smugglers handed him and a group of other migrants over to a group of hired gunmen. These gunmen were to serve as protection as they crossed the border into Libya. He described how they were malnourished, dehydrated, and tired. On the last day of the escort, some women from within the group were separated from the rest, and taken into the desert, from which Abdi could hear cries for help. The women later admitted they were raped by the hired gunmen. It's important to know that these smugglers are only taking migrants through the Sahara desert into Libya. Once there, Abdi was handed over to a local smuggler, the man who was supposed to help the migrants make the crossing into Europe. This smuggler was in an incredible position of power. The migrants can't go to any Authorities, nor can they count on much legal help if they get attacked, mugged, extorted, or otherwise abused. Abdi was told he had to somehow come up with the money the smuggler demanded, or he would simply not be allowed to leave. To illustrate just how powerless Abdi was, the smuggler and his guards used wires to give electric shocks to two migrants in the group, and beat the others with plastic tubes. Abdi goes on to describe the 2 month long imprisonment, where these physical assaults were a daily occurrence. These beatings are a regular thing, and a way to put pressure on the migrants, in order to force the migrants to contact their families and ask for more money. After a while, the smuggler's patience had run out; he delivered the group of migrants to another smuggler, who locked them up as well. When Abdi's family yet again wired money to the smugglers, he was finally sent north. The circumstances they found themselves in were not any different from before; yet again they were the victims of forced labour, physical assault, inhuman detention, and verbal abuse. Finally though, they got away. The smugglers took them to the shore, put them in an inflatable boat, and sent them across the sea during the night. Unfortunately, the boat didn't make it, and began to deflate.

When they saw a boat in the distance, all they could do was pray it was a European vessel, so they might be treated better and taken to Europe. Unfortunately, it was a vessel of the Libyan coast guard, which meant they were back where they started.

The detention centres in Libya are notorious, and the one Abdi was taken to was not an exception. One slimmer of hope, however, were the UN officials that were there to register all migrants. What was unexpected was that these officials, after meeting with the centre's director, would only register a handful of migrants, and move on. The food was simple and barely enough, bread for breakfast, and pasta for lunch and dinner. You could be sent to a random place outside the city to work, you could be chosen to work the kitchen, and you could be beaten. The latter was most common. It was only after unrest by militias in Libya, and the chaos they inspired, that Abdi was able to make an escape.

It's important to remember that these types of stories are not one of a kind, or unique. Abdi's experiences in Libya are not special. This is the journey many, many migrants go through when they are waiting in Libya. It's also important to remember that all of the following violations of human rights do not exist in a vacuum. Most migrants experience a multitude of abuses, often for an extended period of time, and have to endure, only to be brought back to the same horrible situation when they've finally found a way to escape (Human rights watch, 2019a).

Scholarly sources paint a picture of Libya as a hell for migrants; migrants in Libya are trapped. They are never certain of actually completing the journey into Europe. They may be apprehended by Libyan law enforcement before even making it onto the boat. When they are on the seas, they may be apprehended by Libyan, as well as European coast guards or border patrols. Even while in Europe, they have no guarantee of being allowed to stay in the country where they landed. So these migrants live in a constant state of risk and fear. Whilst in Libya, they rely on money being sent from their families to sustain themselves, and pay the smugglers to take them into Europe. The law enforcement agencies in Libya are rife with corruption, so when migrants are apprehended, they usually have to pay a bribe to get out of any form of detention centre. As these migrants receive no help from the Libyan government or law enforcement, they are stuck in an informal economy, with only one way of getting out: crossing into Europe. In Libya, they are the targets of criminals, corrupt officials, and for example landlords, all trying to make as much of a profit as possible from the migrants that have nowhere to turn to (Bialasiewicz, 2012; Human rights watch, 2019a; Achtnich, 2021). Another important note is that the migrants that are waiting in Libya have no way back. Many migrants have made their journey from sub saharan africa, and to go back would mean to cross the dangerous Sahara desert again (Frontex, 2019). What also needs to be

remembered is that a lot of the migrants are in fact refugees that are running away from their home country simply because they don't have a choice. Libyan authorities are not actively seeking out which migrants are refugees, who should be under protection from international refugee law. This means that migrants and refugees are treated alike. This creates a system in which refugees who are in legitimate danger in their home country, who would have the right to seek asylum in any European country, are still being stopped at the Libya border, within Libya, and on the Mediterranean sea.

4.2.2 Violations of human rights

Physical assault.

The most common violation of rights that migrants report is physical assault (VICE News, 2015; Livesay & Pavone, 2018; Carretero, 2021; Ansa, 2021; Panara, 2021; MacGregor, 2021; Boitiaux & Carretero, 2019; Amnesty international, 2020). Physical assault is defined as an attack by an individual or person on another person physically, with or without the use of a weapon. One of the most common types of physical assault that migrants report are beatings (Ghani, 2019). Migrants have described being beaten at random, as a punishment, or as amusement (Human rights watch, 2019b). The beatings are often carried out using sticks or rubber hoses (Human rights watch, 2019). Usually they are used to get people in line, respecting the authority of a smuggler or a guard. They are usually given out on an individual level, but group beatings are not rare (Amnesty International, 2016). When migrants enter a new detention centre, or a smuggler's farm, they are usually beaten to ensure the migrants know how to behave. Article 5 of the universal declarations of human rights read: "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*" (United nations, 1948). The physical mistreatment that goes on in Libya, as migrants have described, is a clear violation of article 5.



Image 4: A person in a Libyan detention centre shows scars and wounds that were inflicted when in captivity by smugglers (MSF, 2019).

Lack of access to human necessities

In all the migrants' testimonies, one thing kept coming up repeatedly: a clear lack of access to human necessities (VICE News, 2015; Carretero, 2021; Abumais & Alalem, 2021; Amnesty international, 2020; Ghani, 2019). Migrants are usually kept detained in one place, either by smugglers or by Libyan authorities. When migrants are kept in place by smugglers, they are essentially a product to the smugglers. They want to keep them alive, so they can make money off the migrants, but the smugglers have a profit margin they want to maintain. This means that the smugglers have an active interest in keeping costs down. This means that expensive expenses are very unattractive to the smugglers. Things like healthcare are not an option for the migrants, as smugglers would be more incentives to just let sick migrants die than to actually help them. This means that migrants have no access to healthcare (Panara, 2021). Another problem is food and water (TVC News Nigeria, 2021). For the smugglers, the migrants are a source of money, so the nutritional value of food is low. The smugglers only need the migrants to be alive to put them on a boat heading to Europe, so the quality of food is not a concern for them (Human rights watch, 2019b). This is of course assuming that migrants are getting food and water at all. Most migrants indicate that under the care of smugglers, there were multiple occasions where food and water simply wasn't made available to them (Human rights watch, 2019a; Amnesty International, 2016). A severe lack of water and important nutrients is a danger and can lead to death.

Migrants also are detained by the Libyan authorities (Human rights at sea, 2021).. When they are held in the detention centres, created specifically for migrants, migrants have complained about the quality of food many times (Amnesty international, 2020; Ghani, 2019). They are usually only fed bread, and pasta in a watery tomato sauce (Human rights watch, 2019a). They have water to drink, but it's often not enough to actually quench any thirst. There's definitely a difference in the treatment of migrants between smugglers and the Libyan authorities; the smugglers being the worst. The standards that the Libyan authorities keep, however, are still not sufficient for creating a healthy environment for the migrants. Article 25.1 of the declaration of human rights is *'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.'* (United nations, 1948). Both the clear lack of access to healthcare that migrants have to endure whilst under the control of migrants and the lack of nutritious food and water whilst at the mercy of the smugglers and the Libyan authorities are a violation of this article.

Exposure to misc. Criminal activity

When migrants enter Libya, they immediately make themselves vulnerable to exploitation (VICE News, 2015). In Libya, migrants are not citizens. They do not enjoy the regular protections that the law provides for Libyan citizens. This means that they are a particularly easy prey for criminals. When a criminal takes advantage of a migrant, the migrant won't be able to go to the police, which means the criminals have a much lower chance of getting arrested. This outlawed status of migrants means they are often the victims and targets of crimes (Human rights at sea, 2021).. Many migrants have told stories in which they were constantly being extorted for more money. This money had to come from family, as they could not get any form of job in Libya. They were also often the target of robberies and scams (Human rights watch, 2019a; Human rights watch, 2019b). Fake promises of a faster trip to Europe, or simply a man with a gun robbing them for all they had. The migrants are in constant danger of being taken advantage of, and with no one to turn to, the migrants have no way of defending themselves.

Article 7 of the declaration of human rights read: *'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.'* (United nations, 1948). The migrants have no way of contacting law support to protect them from the constant barrage of criminals trying to take

advantage of them, as when they do they would immediately be detained for being a migrant. When migrants don't have protection from the law, because the law would not serve them, but fight them, they are being discriminated against, which is an immediate indirect threat to their safety.

Inhumane detention circumstances

During many visits to detention centres in Libya, the HRW described the detention centres as having problems such as: “[...] *severe overcrowding, malnutrition, lack of adequate healthcare, and disturbing accounts of violence by guards, including beatings, whippings, and use of electric shocks.*” (human rights watch, 2019a). The most prevalent complaint about the detention centres was overcrowding (VICE News, 2015; Abumais & Alalem, 2021). Often, the detention centre would be filled at 150% capacity, making living there difficult (Human rights watch, 2019b). This overcrowding can lead to tension among migrants. This tension could lead to violent outbursts (MSF, 2021). Article 25.1 of the declaration of human rights is ‘*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing [...]*’ (United nations, 1948). These circumstances in the detention centres are a clear violation of this right, as the overcrowding in these centres are a detriment to the health of the migrants living there.

Detention

As mentioned before, migrants are constantly at risk of being detained (Boitiaux & Carretero, 2019). They are either kept in safehouses by smugglers, or in Libyan detention centres, an example of which can be seen in image 5. During their stays, they are often not allowed to leave for any reason, or have contact with the outside world (Human rights watch, 2019a). In the smugglers' safehouses they are kept under threat of violence and are outside of the law. In Libyan detention centres they are often thrown in without any real form of due process. This means that the migrants don't know for how long they have to stay in the detention centre, if they would even be granted their freedom in the first place. The most common way that migrants have of being released is to bribe the guards (Human rights watch, 2019b). This is obviously a very big problem, as the detainees are not able to make any money working. This results in them having to contact family, in order to ask them to send them more money. The migrants are restricted in their freedom of movement which is secured in Article 13 of the declaration of human rights (United nations, 1948).



Image 5: Detention centre for illegal migrants in Tripoli (Johnson, 2021).

Sexual assault

Many migrants have stated being sexually abused by smugglers and guards of Libyan detention centres (Human rights watch, 2019b; Panara, 2021; MacGregor, 2021; Boitiaux & Carretero, 2019; Amnesty International, 2016). This sexual assault is focused on female migrants. Sexual assault is defined as a physical assault of a sexual nature directed towards another person without their consent (Cameron, Jelinek, Kelly, Murray, & Brown, 2015). These assaults can range from any unwanted touching to penetration without consent, though the testimonies of migrants almost always referred to rape. This can be explained by rape having a more concrete definition, whilst other forms of sexual assault are less clear (Araujo, Souza, Proença, Bastos, Trajman, & Faerstein, 2019). Sexual assault is not as prevalent as physical assault. This is possibly because an overwhelming majority of migrants moving through Libya are male (Di Maio, Leone Sciabolazza, Molini, 2020). The results of sexual assault can be very serious. Victims of sexual assault have been known to develop mental disorder, and there is an increased risk for sexually transmitted disease (Araujo, Souza, Proença, Bastos, Trajman, & Faerstein, 2019). Due to the extreme effect sexual assault can have, the UN human rights council recognises sexual assault as *'[...] a human rights violation and a manifestation of gender-based violence against women and girls that could amount to rape.'* (United Nation Human rights council).

Death

As generally speaking, dead people can't tell their stories, to provide some insight into how many people die whilst detained in Libya, secondary accounts have to be used. Though migrants are constantly in danger of dying or physical trauma, not many reports of deaths in detention camps have been noted. It should be noted, however, that migrants that die whilst under control of smugglers aren't likely to be reported, as the smugglers would just dump the bodies (Human rights watch, 2019a).. As for detention centres, there were almost no mentions of migrants dying whilst they were detained there. The biggest source of deaths is the journey from Libya to Europe (VICE News, 2015). Most migrants that die do so while they are at sea (Livesay, & Pavone, 2018).. This happens because the smugglers often don't supply the migrants with properly functioning boats.

Forced labour

During their stay in Libya, many migrants are victims of forced labour. During their stay with smugglers, they are often forced to work on farms for no wage. Migrants are not able to protest these practices as they have no control over themselves or hold any power in those situations (Human rights watch, 2019b). The smugglers themselves hold so much power over the migrants that forcing them to work is financially a very attractive option to them. In detention centres, migrants are sometimes sent to places in Libya to work for a very low wage. They are also forced to do the chores around the detention centre (Human rights watch, 2019a). Article 4 of the declaration of human rights reads: '*No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.*' (United nations, 1948).

Mental trauma

One of the effects that the previous traumatic experiences might have on migrants, is mental trauma. In all the testimonies of migrants, mental trauma was not mentioned that often. This is quite understandable, as migrants are more likely to focus their story on what gave them their mental trauma, rather than the long term effects it may have had on their lives.

Non-refoulement

One of the most important principles for a migrant is the principle of non-refoulement. In many interviews with migrants and reports one thing kept coming up. When migrants finally made it onto a boat, and were crossing the Mediterranean sea, they hoped that they would not run into any other vessels. If this was the case, it would mean they had an open

path to Europe. The reason why this is preferable to them is that when they are intercepted by any other boats, or are in need of assistance from other boats, there could be a very real chance that the boat belongs to the Libyan coastguard. This would mean that the migrants would be returning to Libya. In multiple interviews, with multiple different migrants, they described how they would pray any time another ship came close to their own ship (Human rights at sea, 2021). Evidently, from the migrants testimonies, they would often encounter the Libyan coastguard (Human rights watch, 2019b). The Libyan coast guard were always feared for their more brutal way of dealing with migrants on the ships, though the main problem remained that contact with them meant a return to Libya, and detainment (Human rights watch, 2019a).



Image 5: Libyan coast guard standing over migrants on a boat returning to Libya, June 2017 (TRTworld, 2017).

Contact with Non-EU organisations

Many migrants mentioned how representatives from the UN would visit detainment camps to register how many migrants were detained there (Human rights watch, 2019a). This is important to note, as this means that the UN, and other NGOs know what is going on in Libya, and to some extent, how many people are affected (Livesay, & Pavone, 2018; MacGregor, 2021).. There is a catch though; the UN representatives that came to the detention centres often met with the wardens beforehand, and only registered a handful of migrants. This means that it's very plausible that the number of migrants currently in detention camps is severely underestimated. This doesn't mean that it's certainly many more though, as sometimes the UN officials did register every migrant present.

Contact with EU actors.

Other than being intercepted by Frontex, no migrants ever described a situation in which they had any contact with EU officials (Human rights watch, 2019a). This already poses a big problem. If the EU is outsourcing and interfering with migration policy on the external border of the EU, it should be imperative that they look at what exactly the results are of those policies. If they are not in contact with migrants, but only with Libyan authorities, the EU will get a very one-sided, highly opinionated view of migration through Libya. This would mean that the EU is implementing policies without any care of what is really happening in Libya.

4.3 The EU - Libya - migrant relationship

There appears to be a strong relationship and cooperation between the EU and Libya, but there's also an unfair power dynamic at play. It's very difficult to talk about migration without first discussing borders, and to talk about borders and Europe, it's imperative to include the colonial history of Europe. The discourse surrounding Europe itself and 'other' countries has been loaded with nationalism, self-exceptionalism, and bigotry. When colonialism is mentioned nowadays, it's usually in reference to colonialism happening overseas. It refers to the subjugation and exploitation of non-european peoples and lands. During these times, nationalism, racism, and exceptionalism were a normal part of society (Yazzie, 2000).

French philosopher Michel Foucault described the concept of discourse as a complex system of thoughts, ideas, attitudes, courses of action, beliefs and practices that construct the subject and the world they speak in (Lessa, 2006). Foucault described how the roles of discourse legitimises a society's powers and values, and constructs additional truths. A discourse also serves to sustain the power and values in a society. This means that the discourse in a society dictates the power dynamic between the people in a society and between societies (Strega, 2005). One of the main discourses in political Europe is neoliberalism. Europe has had a long standing tradition of a focus on trade. From the first treat onward, there was a focus on facilitating and stimulating trade between states. It's no surprise then, that the policies the EU puts in place to combat migration would fundamentally be policies that simulate a market economy. The EU stimulates her member states by funding them, and giving the member states freedom to choose how to spend this money to combat migration. This is meant to stimulate companies and create a system in which a state engages in the free market, to find subsidiaries of itself or external companies, and engage in negotiations.

One remarkable aspect of the EU policies is that they are in direct conflict with a liberal institutional international relations strategy. As discussed earlier, a state in a liberal institutional strategy should reduce transaction costs, provide information and credibility. By ensuring closed external borders transactions costs between EU member states and external states go up. So what is being fed by having strong anti-immigration policies? This circles back to post-colonialism. The strong migrations policies create a strong hegemonic european-centric block, that is designed to uphold power structures that have been there since the earlier ages of colonisation. This hegemonic 'fortress' ensures that the EU will remain a strong power in geopolitics and ensures that tertiary states will stay in their role, so as to not upset the current geopolitical climate.

But how has this fortified Europe come to be? Why is it that many people in European countries are in favour of hard anti-migration policies? Migration has been an important core concept of the EU for quite a few decades. When the Schengen treaty was signed back in 1985, the idea of a block of countries with free travel between them was born. This privilege of free travel was expanded to more and more countries in Europe, resulting in a big group of EU member states forming the Schengen Area (European Union, 1985). One important side note is that the Schengen Area is not exclusive to EU member states, as other countries, for example Norway, are part of the Schengen Area, but are not member states. In recent years, this Schengen area has stopped expanding. So at a certain point, EU citizens, or the member states, decided that they had had enough of encouraging free travel, and stopped rapidly expanding the Schengen Area. At some point the European Union decided the rapid diplomatic expansionism had had its course. What caused this shift in strategy? There's multiple ways of looking at this problem. There could simply be no desire to increase the Schengen area, because the perceived positives were no longer deemed to outweigh any negatives. This is very much a possibility, but is beyond the scope of this thesis. Another possibility is that there has been a steady rise of anti immigration sentiment in Europe.

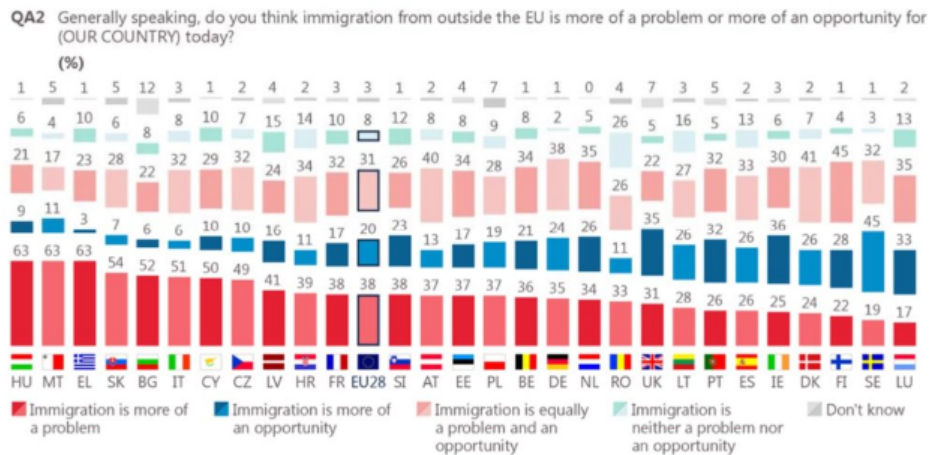


Image 6: outcome of a survey performed by the special Eurobarometer eyes on citizens in Europe on their stance of the positive influence of migration on their country (European Commission, 2018).

In the 2017 survey performed by the Special Eurobarometer, it was shown that 38 percent of Europeans view immigration from non EU member states as more of a problem than an opportunity (European Commission, 2018). As seen in image 6, this percentage varies between member states. This clearly shows that in some European countries, a negative perception of migration is quite prevalent. Anti-immigration sentiment is often found to be rooted in misconceptions (European commission, 2019). It is possible that providing information regarding those misconceptions can affect the negative perception of migration and push it toward a more positive and supportive view. Both the size and characteristics of the immigrant group are sources of a perceived threat that causes a strong negative reaction to pro-immigration policy (Grigorieff, Roth, & Ubfal, 2020). However, correcting information on the size of the group of immigrants has not been shown to have much effect on the negative perception of migrants. Providing correct information on the characteristics has been more influential though (Grigorieff, Roth, & Ubfal, 2020). In this day and age of misinformation and 'fake news' on the internet, that is so easily available and designed to cater to easily influenced people, it's not strange that there is a strong movement going on that supports closed border practices. If this sentiment were to die down, however, the possibility of more open borders could arise. If this negative perception of immigrants was to turn into a more positive, optimistic outlook on migration, maybe the policies that are in place would reflect that, and a more open external European border could be put in place, similar in heart to the borders that are now in place within Europe.

Evidently, there is still a great desire to migrate to Europe, as people do it illegally, knowing this might cost them their lives. Two questions immediately come to mind; is it ethical to keep the borders closed, and what would happen if they weren't ? Classically, liberal states have been argued to be morally free to choose whether or not they want to

allow migration through their borders. Recently, more egalitarian philosophies have become more influential, and they have called into question the validity of closed border practices. Certainly, in the neoliberal framework that the EU and other western countries are based on, there is some friction between core ideas of the ideology and the border practices that are in place today. In neoliberalism, much like in classical liberalism, there is a focus on the right of the individual, mostly consisting of freedom and moral equality. An egalitarian reading of these core values would lead to the conclusion that the border practices go against these values. There are two types of liberty: positive and negative liberty. Positive liberty is when an individual has the resources and power to act upon their free will. Negative liberty is the freedom from restraints or interference by other people (Carter, 2003). These closed border practices are very clearly in direct conflict with the liberal value of negative liberty. Individuals are actively stopped, in other words restrained and interfered from moving across borders. The argument could also be made that the closed border practices are in conflict with positive liberty. For example, when a person is born in a country with an education system that is sub-par, they do not have the resources to have a life in which they live to their full potential. Therefore, if a person is born in such a place, to grant them full positive freedom, they would have to move to a place in which they do have these resources such as education available to them. So when immigrants are trying to enter Europe to gain access to the resources to help them reach their potential, they are only acting in accordance with the values that a neoliberal society holds in the highest regard. Is it so strange then, that in a world where the hegemonic powers are overwhelmingly capitalist neoliberal societies, most people act in accordance with the values that these hegemonic powers support? No, the actions of migrants are a logical result of the increasing power and influence of the neoliberal capitalist power in the world.

The problem that this poses is that to solve the problem by changing the border practices, the whole system and paradigm of the European Union would have to change. Although a neoliberal outlook on migration would support more free migration, the policies that have been put forward do not reflect this. Furthermore, although the negative perception of migration has been shown to be manageable, there is still a normative idea about migrants being 'other' people, and not to be allowed free travel into Europe. These two problems make a solution to the migrants' plights incredibly difficult. To change the underlying ideas and philosophies on which a society is based is near impossible. When looking at this problem from a critical geopolitical lense, the geographical concepts that make up the current political landscape in Europe need to be examined. One of the key concepts put forward is that Europe tends to see itself as a very special outsider that looks into the world. Europe sees itself as more of an entity that has a certain duty to the world,

rather than being part of it. This is a result of the inherent belief that Europe is a beacon of morality and progress. As a result of this, the role that Europe plays in geopolitics is a leading one, which has a normative and moral high ground (Bialasiewicz, 2011). This idealised view of Europe can internalise the idea that Europe simply has an edge over the rest of the world. This in turn reinforces the idea that Europe is this superior leader in the world, that every other country should look up to. Critical geopolitics suggest that ideas about places are constructed in a society, and that these ideas influence and reinforce the political landscape and policies. The relevant idea that is constructed here is the idea that Europe is a leader, that a moral superiority over other countries. It is in this belief that the EU policies start to make more sense. A superior international block will automatically think less of the countries that lie beyond its borders, and as a result will want to protect itself from those other countries. This is not the only reason why a political power would want to protect itself from other countries though, as another very important reason is to have good protection from rival hegemonic powerhouses. This can be seen in the policies on migration, but also in, for example, the Wider Europe policies, intended to strengthen Europe's geopolitical power in the Eastern external borders (Wesley Scott, J2005). This focus on security in turn helps to define Europe as a distinct geopolitical power, which further the idea that it should protect itself. This idea permeates all through society, and is a self fulfilling prophecy. Europe sees itself as a superior international power, and protects itself from others that want to enter. This makes it more difficult to those that want to enter, who will in turn resort to extreme measures to gain entry anyway. This will be shown in news media, and immediately and subconsciously the citizens of Europe see confirmation of their superiority. Whilst this confirmation is stirring, the terrifying idea arises that everybody must want to come to their superior country, and the horrors of allowing that to happen will immediately begin to be heated topics. After all, if everybody were to come here, the fragile systems and networks put in place could be destroyed, and the culture of those who were there first could be driven out, or morphed beyond recognition. This fear will result in the continuation and expansion of the security based policies. This positive feedback loop is a logical conclusion to the framework that the EU and the philosophies behind the political landscape have created.

This results in the most difficult aspect of trying to create solutions to this migration problem. To ensure that the EU will change its policies regarding the migration and free movement of people across its external borders, we would have to fundamentally change our interpretation of our role in the geopolitical landscape, and also accept that trying to be a moral leader will only lead to more migration and more polarisation. To change this outlook would require to 'start over' as it were, and reflect even more critically on what it is that the

EU wants to be, or even consider lowering the value and meaning that borders have, just like what was done when the Schengen treaty was implemented, only this time, applying it to a greater area, including the external borders of the EU.

4.4 Neoliberalism

Neoliberalism has been one of the biggest influences on contemporary political philosophy since the 1970s (Chomsky, 1998). It should be no surprise then, that neoliberal concepts have influenced the migration discourses a lot. Privatisation, one of the key ideas in neoliberalism, has been a growing trend over the past two decades (López-Sala & Godenau, 2022). A growing number of non-state actors have become involved in migration management. States have been outsourcing migration management to the private sector using contracts. They do this to gain access to, for example, technology and equipment that the private companies own. The states do not have the resources or the political support to develop or obtain these things themselves, so they have to outsource the activities that require the technology or equipment (Lemberg-Pedersen, Hansen, & Halpern, 2020). This cooperation between the private and public sector is presented as a cost saving method, but brings along a complex problem. In a neoliberalist society, private companies are motivated almost exclusively by profits. This type of motivation means they will care very little about the quality of care they provide for the migrants, just enough to not damage their public relations will be the goal, something also seen in Frontex in the previous chapters. This focus on making money and creating profits changes migrants from being people desperately in need of help, into a product that needs to be moved. This dehumanising practice of putting migrants in the hands of private corporations is dangerous. By focussing on profits and dehumanising migrants, the negative experiences migrants might have fall out of relevancy. Another problem that outsourcing migration management has is the lack of oversight. In a general sense, governments have systems or agencies in place that check if the governmental bodies and other agencies are functioning as expected. Privatisation results in the blurring of legal responsibility of states, and gives the states a scapegoat to point to if anything negative comes to light (López-Sala & Godenau, 2022; Menz, 2011). This extra layer of protection provided by private corporations is again an example of states doing everything they can to absolve themselves of any responsibility. Not only does it provide a scapegoat, the outsourcing also leads to a more complicated system, wherein due to the increased complexity of the migration management, a strategy of concealment is born.

This makes it more complicated and makes the practices less transparent, which leads to less scrutiny and public debate (López-Sala & Godenau, 2022).

The privatisation and outsourcing does also raise a more future oriented question. In the growing trend of neoliberal concepts, it may be worth considering what this endless privatisation and marketisation could mean for the EU in the long run. We can already see that the EU relies on private corporations for certain types of resources like technology (Lemberg-Pedersen, Hansen, & Halpern, 2020). This trend could become dangerous for states as they might fall behind to the point of dependency. This trend could create a situation in which the power dynamic between states and private companies changes, in favour of the private sector. This trend of outsourcing can result in a situation in which a state no longer provides any public services, and just relies on the free market to do its share. The results of this ongoing trend of neoliberal growth is beyond the scope of this thesis, but it has become clear that the outsourcing of migration management can have disastrous effects on the migrants caught in the system.

5. Conclusion

5.1 Conclusion

The main research question posed in this Thesis was: Do EU policies on migration contribute to the violation of migrants' rights in Libya? To answer this question, four sub questions were put forward to divide the main question. These sub questions will be answered first, after which a general answer and conclusion to the main question will be given.

The first sub question is: What EU policies are in place that have affected migrants in Libya in a negative way? Firstly, it was concluded that the EU acknowledged that there was a problem with migration on the Mediterranean sea. One of the clear results of the policy analyses is that the EU tends to be vague in their promises and goals when it comes to combating irregular migration. They will promise an increase in cooperation, or allowing member states to cooperate more, or even increasing the budget available for cooperation between the EU and actors beyond its external borders. Other notes, like the training of the Libyan coastguard by EU actors has been ineffective, and in some cases, not carried out. One of the major problems with the policies is that there is seemingly no real body of government that is actually checking how the border policies are affecting the countries beyond the external border of the EU. So the EU has a very closed border policy, some policies in place for cooperation between the EU and external countries, which leads to an incredibly difficult situation for migrants in Libya. With the borders of the EU so closed up, they have no choice but to illegally try to cross the Mediterranean sea. This way of transport, with its many perils, is a direct result of the border policies of the EU.

The second sub question is: To what extent have the rights of migrants in Libya been violated? In this thesis, the story of a single man and his imprisonment and his struggles in Libya was told, to illustrate just how horrible the situation in Libya can be for migrants. Furthermore, many types of human rights violations, the most prominent being physical assault, were categorised.

The third sub question is: To what extent have the EU and its member states violated the rights of migrants coming through Libya? As discussed earlier, the EU doesn't have a lot of actors actually in contact with migrants in Libya. The first line of 'defence' the EU has is Frontex. Frontex was asked to clarify some of their activities and the motivations behind them. What became clear throughout all contact with Frontex is that they were mostly concerned with making sure any form of responsibility did not fall on their shoulders. Also noted is that the EU is aware of the violations going on in Libya. The EU continues to have

very strict migration policy which ensures that migrants have a tough time making it to Europe. As a result, Frontex and the Libyan coast guard have no choice but to take migrants caught at sea and return them to Libya. This is an explicit violation of the principle of non-refoulement.

The fourth sub question is: To what extent has Libya violated the rights of migrants within and outside its borders? It is no question that the Libyan authorities are aware of what is going on in the many detention camps, smugglers dens, and forced labour farms. Many of the rights violations described happened in Libyan detention centres under the nose of Libyan actors. The unfortunate situation is that migrants in Libya are in a constant state of danger, with new threats always around the corner, and with no effective or clear way out. Their human rights are constantly being violated by both criminals, as well as Libyan actors. Libyan authorities not helping migrants and arresting them on sight is also a big contributor to the outlawed status of migrants, which increases the chance of their rights being violated, as there is no-one accounting for them. The Libyan coast guard is responsible for capturing many migrants trying to make the crossing to Europe, and sending them back to Libya, knowing full well that the detention centres are overpopulated and the migrants are not safe there.

Do EU policies on migration contribute to the violation of migrants' rights in Libya? The EU policies that protect the external border have created a situation where migrants are forced to make illegal crossings into Europe. The EU has become very protective of its external borders, and tries to protect itself by passing policies that strengthen the borders and increase its policing. The EU also cooperates with Libya and ensures that any migrants caught at sea are sent back to Libya. The EU is also aware of the potential dangers that migrants face while in Libya. In conclusion, the strict migration policies of the EU contribute to the violation of migrants' rights in Libya. The EU is aware of this, but there is no indication of this affecting the policies.

In conclusion, the policies that Europe has put in place are designed to avoid responsibility, and are forcing migrants to stay or be returned to Libya. Libya is beyond a shadow of a doubt a horrible place for migrants to be. Therefore, the actions and policies of the European Union are morally and legally wrong, and this crisis should be resolved as soon as possible.

5.2 Recommendations

The results of this research described how the EU policies are actively making sure that migrants are kept in a perpetual state of danger and fear. A seemingly easy solution would be to simply change the policies on a fundamental level. By legalising the migration progress, member states and the EU could streamline the process, and by doing so reduce the criminal activity involved. This would also ensure that migrants are registered and can be protected if need be. This solution does require extensive further research, as launching such a system on an international scale requires a lot of forethought and considerations. A simpler solution would be to increase cooperation with Libya, and by doing so, making sure that migrants in Libya are more protected by increasing the contact with EU actors. This could ensure that the safety of migrants is more guaranteed, and that the policies the EU has in place could be checked on their effectiveness and consequences more easily. Further research could also be done to gain insight into how the EU policies have changed over the years, and seeing how the difference in policies have affected migrants.

A more concrete action that the EU might take is the increase in oversight in Libya. One of the many noticeable aspects of the migrants' experiences in Libya has been that there was no real communication with the outside world. The EU could increase the amount of agents it sends to Libya to check up on the conditions that migrants have to live in, and report this back to the relevant EU agencies. This is more of a symptom relief than an actual solution that solves the complex problems surrounding migration, but when we're talking about human lives, doing everything possible to get them out of a horrible situation is imperative. More concrete actions have already been proposed and softly implemented, like the previously mentioned regional disembarkation platforms. These types of actions could be expanded upon to ensure more safety for migrants. The problem with this would of course be finding political support for the expansion of expenditures to migration policies. In recent years it has become clear that Europe can be quite divided in their beliefs on migration policy. Perhaps the increase in Agents sent to Libya to show and report the actual inhuman conditions migrants are enduring there can help swing the public opinion and as a result allow the EU to start taking more responsibility.

6. Reflection

The original plan for this thesis was to interview migrants directly in order to gain information on the circumstances of their journey through Libya. As a backup plan, I was contacting multiple NGOs, EU agencies, and people that worked closely with migrants. The first bump in the road was when migrants very often refused to talk to me about their journey. This had two main reasons: It's not a particularly fun story to tell and they didn't trust me. Obviously, when you're a migrant and you've been through hell in Libya, the last thing you would want to do is relive that time by talking to some student about it. The trust issue came about by the fear of Dublin claims. Dublin claims basically mean that a migrant has to seek asylum in the country they first arrive in. If they don't do this, and it's found out later, they could still be sent to a different country. Due to the proximity to Italy, most migrants that depart from Libya arrive there. With me being based in the Netherlands, the migrants that live here that travelled through Libya probably didn't arrive in the Netherlands first. This caused a very awkward position, as migrants often denied ever having been in Libya, and if they didn't deny it, would not go on record stating that they did. The anonymity wasn't good enough to convince their unstandable fear.

Another problem was the outbreak of the war in Ukraine, which caused everybody who worked in the migration field to be incredibly busy, and unavailable to be interviewed. From NGOs to agencies, everybody refused any request I made. Both of these factors combined made it very difficult to gather data, as I was now only able to collect data via texts and media. This meant I had to change the plan of my thesis in quite a big way, which meant I had lost quite a bit of valuable time.

A big asterix on this whole thesis is that it is written from the perspective of a white European man, who has never been a migrant. This of course means that I never actually experienced what it's actually like to travel through a strange country, whilst actually being in danger. This also meant that a European-centric worldview was difficult to avoid. Also, migration and migration policy tends to be a heated subject, with many polarising opinions in the political landscape. As a result, an objective conclusion to this thesis was not guaranteed. All in all, I do believe that my opinions on migration and the European Union and possible solutions did not affect the conclusion in a major way. I believe this thesis was not overtly unreasonably critical of the European Union and presented facts in a neutral way.

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Attachments.

Attachment 1: Correspondence with FRONTEX.

Frontex response:

1. **Does FRONTEX have a direct line of contact with migrants in Libya?**
2. **Does FRONTEX have representatives working in Libya to have a direct line of contact with migrants?**
3. **When FRONTEX concludes or hears any information on the violation of rights that might be happening in Libya from migrants, are there channels put in place to relay this information efficiently to the correct organizations?**
4. **Does FRONTEX have any active plans that are meant to disrupt the business model of smugglers in Libya?**
5. **Has FRONTEX been involved in the training of Libyan coastguards? If so, to what extent did they train the Libyan coastguard?**
6. **Does FRONTEX have any policies or plans in place that are meant to support migrants in countries usually used as departure points? What actions does FRONTEX take to ensure the safety of migrants in Libya does FRONTEX frequently engage in dialogue with migrants as to their:**
 - **Living spaces in Libya**
 - **Food and water supply in Libya**
 - **Danger in Libya**
 - **Criminality in Libya**
7. **If migrants are returned to Libya, what are the conditions that the migrants are left in like?**
 - **Are migrants taken to the Libyan authorities/detention centres?**

- **Are migrants helped with the information and resources that they might need to seek asylum legally?**

These questions go beyond Frontex's areas of responsibilities. The Agency has never engaged in direct cooperation with Libyan authorities and does not cooperate with the Libyan Coast Guard. For these specific issues we suggest you contact the Libyan authorities, as well as reach out to our sister organisation [EUAA](#) for asylum-related information.

8. When a migrant ship is stopped on the Mediterranean, what actions are taken?

- **Are migrants interviewed at sea?**
- **Are migrants taken back to the place of departure first?**
 - **Can the conditions that migrants have to endure there influence the decision of where they are taken?**
- **To what extent are migrants investigated on their:**
 - **Reasons for migration**
 - **Physical health**
 - **Physical trauma**
 - **Mental trauma**
 - **Possible criminal activity**
 - **Inflicted upon the migrants**
 - **By the migrants themselves**
 - **Possible dangers in the place of departure**
 - **Possibility for asylum**

9. How does FRONTEX treat the smugglers that are carrying the migrants across the seas?

International law obliges all vessels to provide assistance to any persons found in distress, making search and rescue (SAR) a priority for everyone operating at sea. In the Central Mediterranean region this means that any time a Frontex plane spots a boat in distress, it immediately alerts the relevant Maritime Rescue Coordination Centres in the region: Italy and Malta, as well as Libya and Tunisia if the boat in distress is in their search and rescue region. All four are internationally recognised MRCCs.

In an emergency, where lives are at stake, we try to deliver information about whereabouts of boats in distress in any way possible to the people involved in the rescue operation. This

includes emails but also phone calls, messages and, in extreme cases, mayday and radio calls in the blind. This emergency contact via other non-standard channels is especially important in cases where a language barrier exists. It allows the rescuers to communicate more quickly at a time where every second counts and lives are on the line.

Once Frontex vessels reach people in distress, they first provide immediate medical assistance and give them food and water. Once a rescue operation is completed, migrants are disembarked and handed over to the national authorities for identification and registration.

More information about SAR operations can be found [here](#).

10. When migrants are deemed unfit to return to the country of departure, what actions does FRONTEX take?

The issuing of return decisions is entirely in the remit of Member States, as per articles 48 (1) and 50 (1) of the [Frontex Regulation](#). Frontex doesn't enter into the merits of return decisions and doesn't record the reasons for return. We kindly suggest contacting local authorities about this.

Kind regards,
Frontex Press Team

Dear Luuk,

Here below the answers to your questions:

If Frontex is involved in a SAR operation, how is it determined to which country migrants are taken? Are they always taken to a European member state, or does the relevant MRCC dictate the destination.

If Frontex does not always take migrants to a European member state, what does Frontex do to ensure the principle of non-refoulement is not violated?

It is important to remember that Frontex does not coordinate search and rescue operations. Under international law, this is the job of the national Maritime Rescue Coordination Centres. They are the ones who decide which assets in the area are called upon to come to the rescue and they maintain operational contact with boats involved.

Frontex ensures and promotes the respect of fundamental rights in all its border management activities. Frontex is fully committed to uphold the highest standards of border control within our

operations and our officers are bound by a Code of conduct. This is the standard we bring to every one of our operations. Fundamental rights, including the respect for the principle of non-refoulement, are at the core of all the Agency's activities.

The Agency has taken on board and is implementing the recommendations issued by the Scrutiny Working Group many of which are already in place. Frontex has upgraded its Serious Incident reporting mechanism and reinforced its operational coordination centres to improve information exchange. It continues working towards an effective and transparent management of EU external borders in full respect of fundamental rights. In addition, over 20 fundamental rights monitors have started their work ensuring the Agency complies with fundamental rights in all its operational activities.

The previously provided answers pertained mostly to SAR operations; What happens if a Frontex plane spots a ship that is under suspicion of transporting illegal migrants?

If a ship is confirmed to have illegal migrants as passengers, does Frontex stop this ship or does this not fall under Frontex's responsibilities?

If a ship is stopped by a Frontex vessel, with illegal migrants as passengers, but the ship is not in distress, what does Frontex do?

Frontex is responsible for contacting national authorities of Member States when a vessel is suspected of being used for illegal migration or cross-border crime, in line with the Agency's mandate.

Kind regards,



















Frontex Press Team

Attachment 2: code book

Codes	Description
Detention	Instances of migrant(s) being held against their will.
Forced Labour	Instances of migrant(s) being forced to work; including for payment, and without payment
Inhumane Detention circumstances	Instances of migrant(s) living in spaces that are below any reasonable standard of living (e.g. overcrowding, no facilities)
Lack of human necessities	Instances of migrants(s) having no access to food, water or other necessities
Mental trauma	Instances of migrants(s) exhibiting signs of mental trauma

Non-refoulement	Instances of migrants(s) being forced to return to the departing country
Physical Trauma	Instances of migrants(s) experiencing physical trauma. (e.g. beatings, shockings)
Sexual Assault	Instances of migrants(s) experiencing any form of sexual assault.
Death	Instances of migrants(s) Dying
Knowledge to Eu	Proven instances in which the EU or any EU actors have knowledge of any injustices happening in Libya
Knowledge to other org.	Proven instances in which other international organisations have knowledge of any injustices happening in Libya
Misc. Criminal activity	Instances of migrants(s) being exposed to any other criminal activity.

Attachment 3: Atlas table quantifying the different violations

	 4: no escape 40	 5: Lost in Lib... 27	 6: Escaping... 3	 7: A brutal lif... 6	 8: Libyan pri... 6	 9: One teen... 1	 10: Raped 'e... 6	 11: Libya_ Te... 2
◆ Death  8	1		1	1			1	
◆ Detention  11	2	5						
◆ Forced Lab...  6	1	5						
◆ Inhumane...  12	5	3	1					
◆ Lack of hu...  20	5	4	1		2		1	
◆ Mental Tra...  5	2				1			
◆ Misc. Crimi...  14	4	3	1	1				
◆ Non-refoul...  5	1	1						
◆ Physical Tr...  42	15	8	1	3	2	1	1	1
◆ Sexual Ass...  11	2	2					2	1
Totals	38	31	5	5	5	1	5	2

	12: Migrants... 0	13: Raped, b... 1	14: NO_WAY... 4	15: UNHCR -... 4	16: Libya Ret... 1	17: 'Between... 4	18: Libya_ne... 7	19: Testimon... 0
◆ Death 8				1			2	
◆ Detention 11		1	1					
◆ Forced Lab... 6								
◆ Inhumane... 12			1	1				
◆ Lack of hu... 20			1	1		1	2	
◆ Mental Tra... 5				1		1		
◆ Misc. Crimi... 14						1	1	
◆ Non-refoul... 5			1					
◆ Physical Tr... 42		1	2			2	2	
◆ Sexual Ass... 11		1				1	2	
Totals	0	3	6	4	0	6	9	0

	20: A migran... 0	21: 7 Migran... 0	22: Refugee... 2	23: HRAS_In-... 9	24: Video Fr... 0	Totals
◆ Death 8				1		8
◆ Detention 11				2		11
◆ Forced Lab... 6						6
◆ Inhumane... 12			1			12
◆ Lack of hu... 20				2		20
◆ Mental Tra... 5						5
◆ Misc. Crimi... 14			1	2		14
◆ Non-refoul... 5				2		5
◆ Physical Tr... 42				3		42
◆ Sexual Ass... 11						11
Totals	0	0	2	12	0	134