



Responding to Migration from Complex Humanitarian Emergencies: Lessons Learned from Libya

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Summary points

- At its peak during the Libyan conflict, migration to Tunisia and Egypt was massive, even in the context of a region where large-scale migration has become the norm.
- In the case of Libya, at least five categories of migration can be distinguished: evacuating migrant workers, Libyan nationals moving into Egypt and Tunisia, 'boat people' arriving in the EU, internally displaced persons (IDPs), and asylum-seekers and refugees.
- The international policy response in Libya was hampered by restricted access. IDPs therefore received limited assistance and protection, and migrant workers, especially from sub-Saharan Africa, experienced harassment and abuse.
- The policy response in neighbouring states, especially Egypt and Tunisia, was far more robust.
- The political response in the EU to the relatively small proportion of migrants who reached Europe is considered by many commentators to have been disproportionate.
- The crisis has highlighted a gap in the international regime for protecting IDPs, and in particular migrant workers. It has also called into question the relevance to modern humanitarian crises of a dated refugee definition. More positively, the response has demonstrated how international agencies can cooperate, and there has been unprecedented cooperation between IOM and UNHCR to respond to 'mixed flows' from Libya.
- Responsibility for managing migration now falls to the new government in Libya.

Introduction

At its peak during the Libyan conflict in late February and early March 2011, migration from Libya to neighbouring Tunisia and Egypt was massive, even in the context of a region where large-scale migration has become the norm.¹ During the last ten days of February, 77,000 people crossed the border into Egypt, while during the first week of March around 1,000 people per hour were reported to be crossing the border into Tunisia.² Some 25,000 Tunisians also left their country around this time, mainly heading for Europe. In total, well over one million people across Libya and Tunisia – including nationals, migrant workers, refugees and asylum-seekers – have been displaced internally as well as across international borders. These movements have placed significant strains on the delivery of basic services including health, food and shelter. They have left at least some migrants increasingly vulnerable, often with their lives at risk. And they have highlighted the challenge to neighbouring countries and the international community to provide prompt and adequate protection and assistance to migrants during humanitarian emergencies.

At the time of writing, migration from Libya into Egypt and Tunisia has returned to the rate of usual cross-border traffic; many of the Libyans who fled have now returned to their country; and some of the migrant workers who left Libya are already returning or planning to do so. That is not to underestimate the challenges that remain. In particular there are an estimated 150,000 people still displaced internally within Libya, many of them sub-Saharan Africans, whose safety and prospects are still of concern. Nevertheless it is appropriate at this stage to assess the local and international responses to the Libyan migration crisis, now that it has largely subsided.

Such an assessment has wider implications. International migration and refugee flows have been predicted to increase significantly over the next decade or so, in part as a result of the effects of environmental change, and it is expected that most of this movement will occur in poorer countries. Developing the capacity to provide at least a basic level of health and other public services is an important priority for governments and local authorities facing increasing migration pressures, as well as for international agencies.³ Humanitarian emergencies are increasingly resulting in complex migration outcomes, where different categories of migrants move together, thus challenging the ability of the international community to distinguish those who are entitled to special protection or assistance in international humanitarian and refugee law.⁴ There may also be a need to plan more strategically for the unintended humanitarian consequences, including migration, of military intervention, if UN Security Council Resolution 1973, which authorized the international intervention in Libya, has set a precedent.

This Briefing Paper begins with an overview of the 2011 migration crisis in Libya including its scale and impact. The second part of the paper describes and assesses the policy responses by neighbouring states, by and within the European Union (EU), and by international organizations. The paper concludes by considering some of the lessons learned for responding to future migration crises.

The migration crisis in Libya

The population proportionately most affected in terms of migration by the 2011 conflict in Libya has comprised foreign nationals living and working there. At the beginning of 2011 there were an estimated 2.5 million migrant workers in Libya, including a workforce associated with the oil industry drawn from all over the world, as well as

1 Philippe Fargues, 'Voice after Exit: Revolution and Migration in the Arab World, Migration Information', 11 May 2011, <http://www.migrationinformation.org/Feature/print.cfm?ID=839>.

2 The statistics in this paper are mainly drawn from Office of the United Nations High Commissioner for Refugees (UNHCR) updates on the humanitarian situation in Libya and neighbouring countries. At the time of writing the most recent was dated 22 June 2011. See 'Update No. 30 on the Humanitarian Situation in Libya and Neighbouring Countries, 22 June 2011', <http://www.unhcr.org/4e0201a09.html>; 'Update No. 1 on the Humanitarian Situation in Libya and Neighbouring Countries', 2 March 2011, <http://www.unhcr.org/4d7788729.html>; and 'Update No. 30 on the Humanitarian Situation in Libya and Neighbouring Countries', 22 June 2011, <http://www.unhcr.org/4e0201a09.html>.

3 International Organization for Migration, *World Migration Report 2010: The Future of International Migration: Building Capacities for Change* (Geneva: IOM, 2010).

4 Khalid Koser and Susan Martin, 'Introduction', in Khalid Koser and Susan Martin (eds), *The Migration-Displacement Nexus* (New York: Berghahn, 2011), pp. 1–14.

significant numbers of sub-Saharan Africans often working in the informal sector and Asian migrants working in construction. It has been estimated by the International Organization for Migration (IOM) that up to 1.5 million of these migrant workers did not have legal status.⁵

By 22 June 2011, around half a million migrant workers had left Libya. According to IOM statistics, 253,957 migrant workers had crossed the border into Tunisia, comprising 60,942 Tunisians and 193,015 third-country nationals (i.e. nationals of neither Libya nor Tunisia).⁶ A further 183,334 had entered Egypt, comprising 105,821 Egyptians and 77,513 third-country nationals. Of the 73,618 who had entered Niger, 69,859 were nationals of Niger, but 3,759 were third-country nationals. There are no disaggregated data for entries into Libya's other neighbouring countries, but it is estimated by the IOM that the majority of those entering Algeria (24,050), Chad (43,795) and Sudan (2,800) have been nationals of those countries.

Some 60,000 evacuated third-country migrant workers have subsequently been flown home, on around 300 flights, arranged by their home governments, their employers or the international community.⁷ Significant numbers have returned to Bosnia-Herzegovina, Canada, China, Croatia, Greece, India, Jordan, Lebanon, Macedonia, Morocco, the Netherlands, Nigeria, South Korea, Syria, Turkey, the United Kingdom, the United States and Vietnam, with the largest number – an estimated 35,000 – to China.

There are reports from the Egyptian and Tunisian borders that significant numbers of migrant workers have now crossed back into Libya. They are rejoining the majority of migrant workers who did not leave the country in the first place and in most cases are reported to have continued to work during the conflict. That is not to underestimate the hardships some of them are facing. In particular there are reports that migrants from sub-Saharan Africa have suffered abuse at the hands both of the rebels and of Gaddafi loyalists, under the accusation of being 'foreign mercenaries'.

Although there are no accurate numbers available, it has also been suggested by IOM sources that some migrant workers who wanted to leave the country were unable to do so. At various stages during the last few months there have been fears that Gaddafi's troops might prevent migrants from leaving the country, or that Egypt or Tunisia might close their border with Libya, but neither scenario materialized. Nevertheless there have been reports that it has been difficult to cross Libya's borders with Chad and Niger, and that significant numbers of migrants from those countries have found themselves stranded in southern Libya.

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A second category of migrants consists of Libyans who have left the country to escape violence, although in most cases they have not formally claimed refugee status. While there has been no detailed census of Libyans who have left the country, it is reported that many belonged to tribes allied with the anti-Gaddafi forces. As of 22 June 321,830 Libyans had entered Tunisia, and a further 172,873 Egypt. Of those entering Egypt, 144,000 have now returned to Libya, and a significant number – although there are no published estimates – have also returned from Tunisia. It is unclear what has happened to the tens of thousands of Libyans who remain in Egypt and Tunisia. A few are in camps on border crossings, but most are reported to have moved to local towns and in some cases to have found shelter among the local population. Mainly these are reported to be people affiliated with anti-Gaddafi forces,

⁵ UNHCR, 2 March 2011.

⁶ UNHCR, 22 June 2011.

⁷ Alexander Betts, 'Lessons from North Africa for Global Migration Governance', paper presented to the Transatlantic Council on Migration, Lisbon, 1–2 June 2011.

who by now may feel it is safe to return. Until they can, however, they are in an increasingly vulnerable situation as their savings run out but they do not have the legal right to work. Some Libyans in Tunisia presumably may try to move further afield towards Europe.

A relatively small proportion of Libyans and Tunisians who have left their country have tried to enter Europe, mainly by boat, and these so-called boat people are worth distinguishing as a separate category, given the political attention they have attracted in Europe. In total, 42,788 people have been recorded as having crossed the Mediterranean, mainly to the Italian island of Lampedusa, although 1,555 also arrived in Malta. Of those recorded in Lampedusa, 24,241 were Tunisian, and 18,647 of other nationalities, mainly from Nigeria, Ghana, Mali and the Ivory Coast. The majority of those arriving in Malta have been Libyans, but there have also been some Somalis and Ethiopians. The fact that a significant proportion of 'boat people' are not Libyan or Tunisian is significant in that several commentators have suggested that these boats are part of the annual springtime seasonal and circular migration between sub-Saharan Africa and Europe, and while they may be carrying more Libyans and Tunisians than usual, this may not necessarily have been generated by recent events in North Africa.⁸

Two boats have been reported to have capsized. On 6 April 48 people were rescued from an estimated total of 200 people on board the first. On 2 June 570 from the second were rescued, but some 270 were unaccounted for and are assumed to have drowned.

There are two final migrant categories worth distinguishing. One consists of internally displaced persons (IDPs), i.e. people who have been forced to move within their own country. As is often the case with IDPs, estimates in Libya vary widely. The Internal Displacement Monitoring Centre (IDMC) records no data for IDPs there, but it has been estimated by UNHCR sources that there are around 150,000 in Libya, some 58,000 of them in IDP settlements

and camps. Significant internal displacement has been reported in Ajdabiya, Derna and Tubruk.⁹ These movements have placed special strains on healthcare services already struggling to cope during the uprising. A proportion of IDPs in Libya may be migrant workers. For example, not all of those migrant workers evacuated by boat from Misrata to Benghazi were subsequently evacuated from the country and some remained stranded in Benghazi.¹⁰

Another category causing concern consists of around 3,500 asylum-seekers and 8,000 refugees registered by UNHCR in Libya before the uprising, the majority from Iraq, Eritrea, Ethiopia, Palestine, Somalia and Sudan.¹¹ It remains unclear what has happened to these people. At least some appear to have escaped Libya: the Office of the United Nations High Commissioner for Refugees (UNHCR) reported on 22 June that there were 920 people of concern to the agency at the Saloum border crossing with Egypt and more than 2,000 refugees and asylum-seekers in Choucha camp on the Tunisian border.¹² But the origin of these people is unclear. Some may be asylum-seekers and refugees who were registered in Libya before the uprising, but others may be migrant workers – and in particular irregular migrants – who have crossed the border and claimed asylum. What is clear is that the full case-load of asylum-seekers and refugees registered in Libya remains unaccounted for.

Policy responses

Unsurprisingly the weakest policy response to the migration crisis in Libya, and correspondingly the greatest vulnerability, has been within the country's borders. During the uprising against the Gaddafi regime, there was very limited access for international organizations in areas held by government forces, and in particular in Tripoli. There was no international presence on the borders with Chad or Niger, where some migrant workers are thought to have been stranded on the Libyan side, and obtaining security clearance was not easy for agencies working in

⁸ <http://heindehaas.blogspot.com/2011/04/europes-tiny-refugee-burden-putting.html>.

⁹ Betts, 'Lessons from North Africa'.

¹⁰ 'Libya IDP crisis escalates', Press TV, 25 May 2011, <http://edition.presstv.ir/detail/181600.html>.

¹¹ UNHCR, 2 March 2011.

¹² UNHCR, 22 June 2011.

eastern Libya. As a result humanitarian assistance inside the country has been sporadic and geographically limited. The IOM evacuated migrant workers from Misrata to Benghazi by boat, and then onwards to the Tunisian border by bus. UNHCR has been working with the UN World Food Programme (WFP) and local non-governmental organizations, including the Libyan Committee for Humanitarian Aid and Relief, to provide shelter, food and non-food items to IDPs in and around Benghazi.

The response of neighbouring states to the displacement of Libyans and third-country nationals across borders was far more robust. The UN High Commissioner for Refugees, António Guterres, publicly praised the governments of Egypt and Tunisia for keeping their borders open, despite the massive influx of migrants – more than half a million in Tunisia in just three months. Their sudden arrival placed considerable pressure on public services in Egypt and Tunisia. The health sector in Tunisia, for example, was already under strain, compounded by the harassment of physicians by government officials for treating protesters during the country's own uprising earlier in the year.¹³ There have been serious fuel, milk and water shortages in Tunisia as a result of increased demand from the migrant population, compounded by an increase in cross-border smuggling into Libya.

To an extent the pressures on Tunisia and Egypt have been mitigated through significant international assistance in supporting migrants from Libya. The United Kingdom has been one of several states that has made a significant contribution to protecting and assisting migrants and displaced people within and from Libya. Mainly through the Department for International Development (DFID) it has provided funding to the International Committee of the Red Cross (ICRC), which is supplying humanitarian assistance to people within Libya affected by the conflict, including IDPs and migrant workers. The United Kingdom has provided emergency shelter to border camps and IDP camps. It has evacuated about 5,000 migrant workers along with injured civilians from Misrata, and

paid for flights home for over 12,000 evacuated migrant workers. It is also engaged in other assistance that does not specifically target migrants or displaced persons, for example mine clearance and the provision of medicine and emergency food within Libya.¹⁴

International media and political attention on the migration outcomes of the Arab Spring to date has mainly focused on the relatively small number of migrants who have arrived in Europe, mainly via Lampedusa or Malta – almost 43,000 people in total. In the case of Lampedusa, some remain on the island, but most have been relocated to the mainland in Italy in order to overcome the crowded conditions that initially occurred there. A few Tunisians have also been deported. Most of those who have arrived in Malta remain there for further processing.

There has been a range of responses to these 'boat people'. First, maritime operations and surveillance have been stepped up, through the EU's FRONTEX border agency. Second, financial assistance and training have been provided to border patrols and the coastguard service in Tunisia as part of ongoing bilateral relations on migration management between the EU and North African countries. Third, the influx has sparked a debate about internal borders within the EU. Italy granted temporary Schengen travel permits to migrants who had arrived in Lampedusa, many of whom subsequently attempted to enter France where Tunisians in particular have family and friends. As a result France increased border security, and some Tunisians were expelled back to Italy. The dispute has been resolved through an agreement that Italy has the right to issue temporary permits while France has the right to check whether Tunisians have a proper passport and funds to support themselves. France and Italy have also agreed to conduct more joint patrols in the Mediterranean.¹⁵

Probably the largest gap in terms of understanding policy responses has been in how states have coped with receiving back sometimes large numbers of migrant workers. Not only has their arrival been sudden and unplanned, but they are in many cases returning to countries where

13 'The Arab Uprisings and Health', *The Lancet*, Vol. 378, Issue 9796, p. 1050, 17 September 2011.

14 'Situation in Libya: latest Updates', 23 October 2011, <http://www.dfid.gov.uk/Media-Room/News-Stories/2011/Situation-in-Libya/>.

15 Betts, 'Lessons from North Africa'.

unemployment rates are already high. Their return also represents a significant loss in overseas income via remittances, which can be expected to affect certain households directly.

As the uprising in Libya draws to a conclusion and a new regime is established, the humanitarian crisis has largely receded and international organizations now have access throughout the country. But a number of challenges remain. One is the ongoing protection needs of IDPs in Libya, in response to which UNHCR has recently announced a series of training workshops for the Department of Justice of the Transitional National Council in Libya, and in collaboration with Mercy Corps for the Libyan Red Crescent Society, on the rights of IDPs.¹⁶ UNHCR also continues to provide support to the asylum-seekers, refugees and others of concern to UNHCR in camps on the borders, although the agency has warned of a funding shortfall of some \$30m that may affect these operations.¹⁷ Most of the refugees on the border are from countries such as Eritrea, Somalia and Sudan to which they cannot easily be returned, and so UNHCR is focusing its efforts on finding resettlement places for them in third countries. Of the 920 on the Saloum border crossing in Egypt, 395 have so far been registered for resettlement. Of the 2,100 people registered by UNHCR in Choucha camp in Tunisia, 911 are currently in resettlement procedures.¹⁸ Evacuating the relatively few remaining migrant workers on the Egyptian and Tunisian borders is considered a priority in order to avoid the development of a humanitarian crisis there, and also to free up space for potential new arrivals.¹⁹

Looking to the future, it will be necessary to prepare for the return of IDPs within Libya. Problems commonly experienced in such situations include ensuring IDPs regain access to their property, reissuing lost personal documentation, reuniting families that may have become divided during displacement, and in some cases providing for reconciliation between those who were displaced and those who were not. Assuming a fairly rapid resolution in Libya, many of the evacuated

migrant workers can be expected to try to return, raising logistical challenges concerning entry visas, work permits and access to jobs.

Lessons learned

A number of lessons can be learned from the migration crisis in Libya and responses to it. They concern gaps in the legal and normative framework, cooperation between international agencies and EU responses to international migration.

‘Reinvigorating Libya’s economy and making the country attractive to foreign investment will rely in part on attracting back migrant workers who left the country during the conflict, and establishing conditions that are conducive to new migrant workers’

The crisis has highlighted a glaring gap in the international regime for protecting IDPs. There is no legal or normative framework pertaining specifically to their protection, and they are not included in the mandate of any UN agency. The evolving framework for protecting IDPs has relied on governments adopting in national laws and policies elements of the Guiding Principles on Internal Displacement, a non-binding set of principles that draw on human rights law, international humanitarian law, and refugee law by analogy. Libya has developed neither a national law nor a policy on IDPs. Through the so-called ‘cluster’ approach, international agencies cooperate to try to provide a coordinated response to IDP situations, but

¹⁶ UNHCR, 22 June 2011.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ ‘Situation in Libya: Latest Updates’, 23 October 2011, <http://www.dfid.gov.uk/Media-Room/News-Stories/2011/Situation-in-Libya/>.

their range of operations is limited.²⁰ This matters not just for the remaining IDPs in Libya, or the estimated 28 million IDPs worldwide, but also because internal displacement is predicted to increase very significantly around the world as a result of the effects of climate change and environmental change.

Migrant workers who are displaced internally within the country where they are working fall into a particular gap, as it is not clear from the Guiding Principles on Internal Displacement whether they should also be defined as IDPs. A similar debate occurred around the displacement by xenophobic violence of mainly Zimbabwean migrant workers in South Africa in 2008,²¹ and earlier over the protection of migrant workers during the conflict in Lebanon in 2006. In practice the international community attempts to protect and assist displaced migrant workers, whatever their legal status, although in Libya access has been very limited.

On the 60th anniversary of UNHCR and the 1951 Convention relating to the Status of Refugees, the Libyan crisis has also called into question the relevance to modern humanitarian crises of a refugee definition that focuses on individual persecution by a state, and was devised in a specific historical and geographical context.²² An inflexible refugee definition combines with a poorly developed international framework for protecting migrants. While they have rights, it is often hard for them to access these rights, and unlike for refugees there is no UN agency with overall responsibility for migrant protection.²³ This leaves migrants who may be in need of protection and assistance but do not qualify as refugees vulnerable, as was the case for many Libyans who fled to Tunisia.

To an extent institutional cooperation is working around these limitations in the legal and normative framework. Cross-border movements out of Libya to neighbouring countries and to the EU have been a good example of the growing phenomenon of 'mixed flows', where movements of people between the same origin and destination combine those fleeing persecution with those moving for broadly economic reasons. The humanitarian challenge

is to distinguish these different categories in order to identify who is entitled to what level of international assistance and protection, and in particular who qualifies for refugee status. In these contexts, and in the absence of a single international agency charged with managing both economic and political migration, it makes sense for the UN agency responsible for protecting refugees to cooperate with the largest international organization working with migrants. The evacuation of third-country nationals from the Egyptian and Tunisian borders has heralded probably unprecedented cooperation between UNHCR and IOM, and the two agencies have also cooperated in processing 'boat arrivals' in Lampedusa and Malta, and in supporting migrants and refugees at border camps. In the absence of any political will to create a new UN agency with a comprehensive migration mandate, effective cooperation between existing agencies will be important.

A final set of lessons emerges from the EU response to arrivals in Europe, whose political significance is clearly disproportional to their number. Many commentators have pointed out that they comprised quite a small number of people, relative to the total scale of migration from Libya over the last six months, to the scale of migration in the EU on an annual basis, and to the wealth of most EU countries compared with other countries that have been far more severely affected by migration and displacement in the region. How can this policy response be explained? First of all, it is important to acknowledge that the majority of those arriving in Lampedusa and Malta have been economic migrants and not refugees, especially those originating in Tunisia; in other words, EU states have not abrogated their responsibilities on refugee protection in trying to prevent their arrival. Second, many EU governments were concerned that these arrivals might be the harbinger for much larger numbers of migrants, had the conflict in Libya escalated. Third, even with no deterioration of conditions in Libya, there were concerns that arrivals might be joined by family members, either legally through family reunion procedures were they to be granted legal status, or illegally

20 Khalid Koser, 'Internally Displaced Persons', in Alexander Betts (ed.), *Global Migration Governance* (Oxford: OUP, 2011), pp. 210–23.

21 Khalid Koser, 'Protecting Displaced Migrants in South Africa' (2008), www.brookings.edu/opinions/2008/0617_south_africa__koser.aspx.

22 Louise Arimatsu and Marika Giles Samson, *The UN Refugee Convention at 60: The Challenge for Europe*, Chatham House Briefing Paper, ILBP 2011/01, March 2011.

23 Betts, 'Lessons from North Africa'.

through migrant smuggling. Finally, some governments also drew parallels with the much larger influx of migrants as a result of the Balkan Wars during the early and mid-1990s, the majority of whom ended up staying permanently in Europe. And the backdrop for these concerns is the political calculus of a rising anti-immigration sentiment across many EU states, in part as a result of the recent global economic and financial crisis.

The EU has probably signalled its intent for the future through its response to the Libyan crisis. There may well be legitimate reasons for safeguarding EU borders against large-scale influxes, through enhanced surveillance, maritime operations and border controls. But the *quid pro quo* is to support the capacity of those countries that are affected by influxes to process asylum applications, protect refugees, and maintain health and other basic services at a level sufficient to support migrants and refugees.

Conclusions

The National Transitional Council of Libya faces numerous challenges over the next few months and years; among these some of the most immediate priorities relate to migrants and migration. Reinvigorating Libya's economy and making the country attractive to foreign investment will rely in part on attracting back migrant workers who left the country during the conflict, and establishing conditions that are conducive to new migrant workers. An early test for the rule of law in Libya will be how sub-Saharan African migrants are treated, especially those accused of cooperating with Gaddafi. IDPs returning to their home areas will require assistance, for example in regaining personal documentation and access to their property and jobs, and compensation or restitution. A significant policy challenge will be how to resolve the situation of the large population of irregular migrants in Libya, and equally how to reduce new irregular migration. In the longer term, Libya, like other North African states, will need to cooperate with the EU to reduce migration across the Mediterranean. While the response of neighbouring countries and the international community to Libya's migration crisis was a qualified success, responsibility for managing migration now falls to the new government.

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