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## **Views: Refugees, the Internally Displaced, and Conflict Resolution, the Case of Libya**

Ashraf Milad Roxy

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The aim of this article is to articulate a coherent vision of how to approach the issue of refugees and internally displaced persons (IDPs), whether during conflict-resolution negotiations or afterward, based on the reality of conflicts as well as international charters and law. The article seeks less to find a solution than to analyze the problem and its multiple dimensions and take stock of the situation. The article focuses on mass migrations resulting from major domestic conflicts and thus excludes from its scope economic migration motivated by poverty or work and individual immigration and asylum claims, whatever the motivation. As an introduction, we begin with a brief methodological outline for addressing the refugee issue, simplified to allow understanding without sacrificing clarity.

### **Scope of Research in Issues of Migration and Asylum**

Addressing migrant issues first requires an examination of objective reality and a basic knowledge of the fundamentals of the conflicts fueling migration: the warring parties, the methods of conflict, the areas of influence of the warring parties, the nature of the conflict (sectarian, ethnic, tribal, political, or social), secure areas in the conflict country and their capacity to absorb citizens under threat in conflict zones and provide the conditions for a suitable life, and the potential for neighboring states and the international community to support these safe zones.

Second, addressing migrant issues requires identifying possibilities and opportunities to absorb migrants in host countries, based on the ability or willingness of these states to accept migrants and offer the necessary assistance, directly or indirectly, starting with neighboring states and then looking at states outside the region.

Third, exploring the possibility of resolving conflicts given the existing international and local balance of power is vital for addressing migrant issues. This includes gauging a possible timeframe for an appropriate resolution of conflict issues, or a ceasefire agreement, and the start of negotiations to permit the repatriation of migrants or stem migration.

## Roots of the Conflict

The Gaddafi regime was the longest lasting regime in the Middle East, spanning 42 years absent any rotation of power. Gaddafi assumed power following the 1969 military coup and set up an unparalleled system of rule, rejecting parliaments and political parties and writing *The Green Book* to be the philosophical and constitutional basis of the state. Gaddafi replaced state institutions with formal entities known as “popular committees,” seeing his “state of committees” as a new kind of state that was neither capitalist nor socialist.

What this meant in practice was a state based on individual rule. There was no right to vote for president, and all institutions of authority were mobilized behind the individual ruler, precluding any sort of opposition opinions or the emergence or operation of democratic currents. Gaddafi established a totalitarian state in the literal sense of the word, made possible only by repression and dictatorship. Gaddafi suppressed all dissent or any voice that may represent competition or even a potential threat to his rule. With the ongoing suppression of opposition, most dissidents left the country. Yet they were unable to create an alternative to his regime, however symbolic. Other opponents fell silent in fear of arrest or assassination.<sup>1</sup>

The Gaddafi regime failed to build a modern nation state despite incredible oil wealth and a comparatively small population spread out over a broad geographical area. Tribalism remained the dominant paradigm in Libyan society, with tribal loyalties superseding all other norms. This essentially turned Libya into a large collection of tribal groupings ruled by a totalitarian authority. Libya also suffered from the inequitable distribution of oil revenues and sharp social disparities, with services limited to areas and tribes loyal to the regime and high officials. Entire sectors, regions, and tribes were denied services and endured corresponding high rates of poverty and unemployment and poor living standards while Gaddafi and his family shared the oil revenues and spirited much of the surplus abroad.<sup>2</sup>

As a conservative Arab society where tribal relations are paramount, various Islamist movements and factions such as the Muslim Brotherhood and Salafis gained a foothold, now controlling a substantial part of the country. Although they did not contest or threaten the Gaddafi regime, they were not immune from repressive state measures. By the 1980s, most members of these Islamist movements who remained in Libya had either been imprisoned or executed.<sup>3</sup> In the final years before the uprising of 2011, all these contradictions began taking their toll, and anger and dissatisfaction—though muted—were rife among Libyans, becoming a force that rejected Gaddafi’s rule by all means at its disposal.

The Gaddafi regime committed several massacres of its citizens, most prominently the massacre at the Abu Selim Prison in 1996, in which more than 1,200 people were killed, many of them prisoners of conscience. The government did not turn the victims’ bodies over to their families and did not reveal any details of the massacre at the time.<sup>4</sup>

The massacre marked the starting point for public protests and sit-ins. These gained momentum in 2009 and peaked when the Libyan authorities arrested lawyer Fathi Terbil, who represented the victims’ families, on February 15, 2011, immediately before the protests scheduled for February

17. His arrest was the spark that ignited the Libyan revolution. The authorities released Terbil the following day, after numerous demonstrations in Benghazi protesting his arrest.

### **The Revolution: A Knot of Complexities**

Inspired by the seemingly successful Egyptian and Tunisian uprisings, Libyans took to the streets. (They soon received the support of NATO forces for the subsequent military and political rebellion.) Libyan protestors raised the same demands as the crowds in Tunisia and Egypt: justice, freedom, dignity. The Gaddafi regime responded to the protests with a violent crackdown, even dispatching planes to bomb Libyans. The uprising ended with Gaddafi's death, the collapse of his regime, and the disintegration of the Libyan army, units of which joined the opposition front.

As in any country, local conflicts cannot be separated from superpowers' interests and aspirations in that state and the conflict over these interests. Having created numerous regional and international foes, many parties had an interest in eliminating Gaddafi. Various international parties and major petroleum companies like Mobil and Occidental also had their eye on Libyan oil.<sup>5</sup> Libya became an arena for wide-scale international interventions, either direct or under the cover of NATO and the UN.

International parties sought to support those it identified as potential allies, thereby giving rise to new rivalries that exacerbated existing conflicts and divisions. Consequently, the conditions of ordinary Libyans deteriorated. Libya also proved fertile ground for militias, which were strengthened after Gaddafi's death and drew fighters from other states with the support of foreign and domestic parties. Like Iraq and Syria, Libya became the arena for proxy war. In particular, fighters came in to join jihadi groups, spurring parties like Egypt and the UAE to undertake airstrikes on behalf of parties fighting jihadi militias backed by Qatar and Turkey.<sup>6</sup> This rendered most Libyan cities unsafe for ordinary citizens unaffiliated with any militias, particularly in poorer areas.<sup>7</sup>

There are several dimensions to militia warfare in Libya—political, tribal, social, economic, regional, and international. Here, suffice it to say that one militia, the 7th Brigade, has come to operate entirely in the interest of one Libyan tribe, or rather a few families in that tribe. One of the main axes of conflict between militias is the control of oil-producing areas and oil wells.<sup>8</sup>

### **Libya and Migration**

Irregular migration<sup>9</sup> in the Libyan context is not directly related to the revolution. It is long-standing and motivated by other factors, although the aftermath of the uprising has fueled it and turned it into a multidimensional, international problem.

For more than two decades, Libya was a receiving state for irregular migrants, particularly from neighboring countries, who come in search of jobs or small-scale business opportunities. Libya had become less attractive to migrants in the Arab and African context for several reasons, including Gaddafi's military adventurism and conflicts with most neighboring states, as well as declining development and the economic blockade on Libya.

Irregular migration to Libya did not stop after the revolution, with the country becoming not so much a receiving state but rather a transit state for migrants. This does not necessarily mean that it was not an arena for transit migration or human trafficking under Gaddafi—it was, and this was one point of contention between the Gaddafi regime and European nations. However, the proportion of receiving to transit migration shifted, and Libya is now predominantly a transit state. In fact, the Gaddafi regime assisted European states in controlling irregular migration to Europe in exchange for funds. Italy alone gave Libya €500 million in 2008 to install surveillance equipment for migrants on the Libyan coast.<sup>10</sup>

International organizations working on migration identify three Arab countries as the prime source countries—both direct and as major transit points—for irregular migration from the Middle East to southern Europe: Egypt, Tunisia, and Libya. The relative stability of state institutions in Egypt and Tunisia has curtailed the use of their coasts for smuggling operations, leaving Libya as the focal point for irregular migrants from neighboring states.

Moreover, Libya's natural geography offers several advantages: it is closer to Malta and Italy than other states—only 1,800 km from the Italian coast—and its coastline nearest to Europe stretches over 1,900 km. Its border with African states extends over 4,600 km, making it difficult to closely monitor, let alone control. Border control is particularly made difficult by the ongoing armed conflict and Libya's de facto division into militia-dominated areas of influence, some of which—such as the Ibrahim al-Hanish and Abu Ebeida al-Zawi militias<sup>11</sup>—are involved in human trafficking and migrant smuggling. In short, there is no central state with effective sovereignty or control over all of Libyan territory.

### **General and Specific Causes of Migration**

No one wants to be wholly separated from the country in which they have friends, social roots, and family; and where they are familiar with the language, people, and customs, (except temporarily for tourism, study, medical treatment, or for business or work). This type of movement is typically time-bound and takes place within a legal framework. But most societies in Africa and Asia have seen exceptional conditions due to the impact of colonialism on the economic structures of their countries, as well as the post-colonial reality of structural economic disequilibrium, poor development, job scarcity, and widespread unemployment.

International economic policies are also a significant cause of migration and entail flagrant disparities in the distribution of global income with the continued extraction of primary commodities—oil being a prime example—instead of using these commodities for manufacturing to serve national development. In addition, the policies and conditions imposed on debtor states by international financial institutions, particularly the International Monetary Fund and the World Bank, exacerbate crises, deepen impoverishment, and establish a debt trap; these policies include the lifting of subsidies and price hikes.

Moreover, a small number of multinational firms govern most sectors of the global economy, while intellectual property monopolies of technologies and pharmaceuticals allow the imposition of unfair prices for their products. These are all general causes of migration, spurring migrants to

leave their countries for richer ones in search of a better life. The specific causes, which are related to the general ones and are indeed a product of them, include ethnic, religious, political, or other persecution.<sup>12</sup>

Libya has recently become the major source of irregular migration to Europe as a direct source and a transit country, according to several studies. This includes migrants coming from African nations such as Egypt, Ghana, Sudan, Somalia, Chad, Mali, and Nigeria. These migrants typically cross land borders using desert transport trucks and camels. They then stay in Libya temporarily, provided they are not caught by the authorities or a militia, waiting to agree with smugglers to take them to the Italian coast, typically for the cost of \$1,200 per person.<sup>13</sup>

After the fall of Gaddafi, the tribal struggle for his bequest began. International parties backed their potential allies with material support, weapons, and military training. Religious groups emerged and Daesh found a golden opportunity in this climate to form its own militia. In addition, military divisions defected from Gaddafi's army, giving their loyalties to numerous warring factions. Libya currently has three governments vying for power, each in control of certain regions and each with its own militias and paramilitary formations.

Although militia alliances in Tripoli have shifted numerous times, only four of them have maintained consistent control: The Special Deterrence Forces, al-Nawasi Brigade, the Abu Selim Martyrs' Brigade (Central Security), and the Tripoli Revolutionaries Brigade. Today these four paramilitaries function as police forces and domestic intelligence bodies and, at times, combat forces.<sup>14</sup> These groups undertake arrests and carry out raids to prevent terrorist attacks, criminal activity, and attacks by extremist militias in the area, which has led the local population to rely on them and their services for the preservation of security in the city. Successive attacks have only bolstered the militias' position in the city, justifying their presence. Their status has further allowed them to recruit fighters and they have funded this with activities in the black economy. According to some reports, unnamed militias play a different role, receiving financial support from Italy to prevent irregular migration.<sup>15</sup>

Militias in Tripoli control the sole functioning airport in the city, prisons, migrant detention centers, and other basic infrastructure, all to ensure the continued influx of funds.<sup>16</sup> Militias are also involved in oil smuggling, human trafficking, and drug trafficking.<sup>17</sup> This has increased their power, permitting them to simultaneously operate as security organizations and criminal networks. These militias share influence in Tripoli and enjoy the legitimacy of the Government of National Accord. Many people accuse them of exploiting this situation to expropriate financial appropriations and control banks—even the Central Bank—and in turn the Presidential Council, which many believe has become hostage to the militias.

In short, Libya has virtually no secure zones given the armed conflict and the influence and control of militias. This anarchy and the lack of a central authority that can extend its control and sovereignty over Libyan territory is a significant barrier to a political resolution that could bring relative stability, despite countless attempts and initiatives for negotiations.

The reality on the ground suggests that neither negotiations nor resolutions will bring genuine solutions. Any agreement made in the air-conditioned halls of power is broken by militias on the

ground, which have a stake in maintaining the status quo. In addition, migrant issues and the conditions of ordinary Libyans are almost absent from such negotiations and talks, in which each party is typically seeking to bolster the position of its current or potential allies.

### **Libyan Refugees and IDPs**

According to the UN High Commission for Refugees (UNHCR), there are 217,000 IDPs in Libya as well as more than 280,000 returnees. The UNHCR estimates that another one million Libyan refugees remain abroad.<sup>18</sup> These are very high numbers considering that the Libyan population was 6.7 million in 2017. In other words, one in six people in Libya is a refugee or IDP.

Under international refugee law, there are three permanent solutions for refugee status, all of which are pursued by the UNHCR: voluntary repatriation, assimilation in the country of refuge, or resettlement in a third state. Of course, the repatriation of refugees is the best solution for the UN and international community, but several conditions must be in place to facilitate the return of refugees to their countries of origin, including state reconstruction, reconciliation, reintegration into one's country of origin, the recognition of professional and academic qualifications received by refugees abroad, and the rehabilitation of refugees in their country of origin. These conditions are no justification to compel refugees to repatriate, but depend on the individual case. To whatever extent conditions in the country of origin improve, some refugees who were traumatized by their experience in their countries cannot be repatriated simply because of improved conditions.

The UNHCR has recognized some exceptions to the conditions that must be place for the return of refugees. For example, it encouraged educated Afghan professionals, such as teachers, doctors, and nurses, to repatriate in 2003 since they were fundamental to the reconstruction of the country.<sup>19</sup> These are the dilemmas facing decisions makers in the UN. While there can be no reconstruction without the return of educated people, many people cannot be compelled to repatriate if there is no comprehensive program in place for the reconstruction of their country of origin.

Governments in countries of origin have the greatest stake in the voluntary return of refugees and asylum seekers, particularly if there is a new regime that wants to exploit the return for political and public relations reasons, to give the international community the impression that it has imposed its control and sovereignty over the country. Repatriation is facilitated by embassies in countries of refuge, often at state expense. The greater the number of returning refugees, the safer the country of origin is perceived to be. Iraq is one such country. Its embassies abroad encourage Iraqis to voluntarily repatriate and even today, the Iraqi Foreign Ministry in meetings with European counterparts in countries of refuge encourages repatriation, particularly in areas from which Daesh was ejected. The same is true of Sudan, which at times uses security methods to cajole or threaten refugees to return, particularly those who fled the conflict in Darfur.

As for the second solution—the assimilation of Libyan refugees in countries of refuge—this is becoming more complicated due to rising right-wing populism in Europe as well as pressures and efforts from EU states to limit this and repatriate migrants.<sup>20</sup> In countries neighboring Libya, poverty and poor conditions in these low-growth countries and the lack of guarantees for secure refuge are countervailing factors. In many cases, refugees are deported without regard for such

risks. Most neighboring countries deal with refugees as a purely security issue, and there have been cases in which refugees and dissidents have been forcibly repatriated.<sup>21</sup>

The resettlement of Libyan refugees in a third safe country, despite its feasibility, only occurs on a very small scale, limited to special security and health cases or cases involving gender-based violence. It is always undertaken on the initiative of the resettling state, which establishes specific conditions and standards for the acceptance of refugees as immigrants, as a prelude to granting them citizenship after a certain period of time. Resettlement makes repatriation more complicated. While most refugees may dream of return, resettlement can put an end to that dream and make it far less likely.

Regarding IDPs, only basic services like education and health need to be in place in the area from which they were displaced to allow them to return. This simplifies matters somewhat given that UN agencies and local and regional civil society organizations offer emergency services to returning IDPs.

Despite the foregoing, it should be recognized that the major problem for refugees is not returning after conditions are stabilized, but rather at times of tension, conflict, and risk. In the Libyan case, there are several barriers to initiating arrangements for voluntary return (even early return, which precedes or leads to reconstruction). There is currently no indication that a resolution is imminent, despite agreement from some European states, such as Germany, to Egypt's proposition about the need to re-stabilize Libya.<sup>22</sup> Pragmatically speaking, this is the ideal solution for Europe, in order to prevent migrant flows across the Mediterranean.

## **Recommendations**

First: In terms of security, the negotiating period is not a secure time, despite ongoing attempts and promises from influential regional parties. All parties are still armed and control various areas of influence in which they impose their own rules, which may conflict with the customs, culture, and beliefs of groups of refugees. Although this does not constitute a barrier under international refugee law, it nevertheless impedes the return and settlement of returning refugees. Indeed, returnees could further inflame the situation, threatening more lethal massacres and fueling a desire for revenge, fed by the tribal spirit, among both militias and people returning to their homes. Doctrinaire Islamist groups, for example, are armed, and refugees from a different confession or even the same confession could run afoul of them. Such dangers are latent and liable to go off at any moment.

Nevertheless, the refugee issue could be a priority on the negotiating agenda, with a focus on the return of refugees, with security and dignity, with the necessary guarantees for their safety. In this case, an appeal could be made to tribal, political, and religious principles and fundamentals—though the tribal dimension may be a double-edged sword if not used carefully—to establish guarantees, even if militias are not disbanded. Yet even this solution is purely notional if there is no strong central state capable of imposing guarantees and rules of citizenship without discrimination. This solution, moreover, should not be imposed by force but by intimations thereof, to support the negotiator on behalf of the central state that is working to extend its control.



Second: More complicated than the security issue is that refugees often become a political trump card in negotiations, used to bolster various parties' positions, rather than being raised as a humanitarian issue. In such cases, the question of refugees can cause negotiations to stumble or they may be sacrificed to ensure successful negotiations, as is the case with the return of Palestinian refugees, which has been a sticking point in both periods of tension and calm. Some organizations and armed movements in the region routinely exploit the hardship of refugees and IDPs for political gain, in Iraq or Syria as well as in the Saharan conflict between Morocco and the Polisario Front. Such exploitation takes negotiations down a dead end, with refugees becoming the problem rather than victims paying the price of conflict.

Third: Economic policies in the current international order do not help to create stable conditions in states witnessing armed sectarian, ethnic, or political conflict, for such policies limit opportunities for growth with the restraints imposed by debt and the conditions of international financial institutions like the IMF and World Bank. In practice, such policies have thus far only increased unemployment and poverty rates and exacerbated crises in debtor states. Any effective treatment of issues of asylum and migration must therefore reconsider international economic policies in full. If not, we will continue to treat the secondary effects of crisis and conflict, fueled by weak development, ignorance, and poverty.

International economic challenges must be understood through a comparative analysis of post-conflict contexts and the lens of international human rights law and international humanitarian law. This solution does not appear to be imminent. Such an ideal solution requires a change in the policies of superpowers and the major regional players, who seek fundamental solutions less than stopgaps, regardless of the stability of the country in which they wish to intervene. It has been reported by Deutsche Welle that some European states are backing particular militias to encourage them to stop refugee flows across the Mediterranean.

Overall, the Libyan situation is too complex to find an older model that can be adopted and replicated wholesale. Regional and international interference has further complicated the situation, as each party has brought funds, political pressure, or intelligence to bear in Libya, hoping for a settlement that serves its interests. This is virtually impossible given the multiparty conflict and conflicts of interest in Libya. The hope is that the minimum demand of all these parties and their proxies on the ground is stability, at least relative.

### **About the Author**

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- <sup>1</sup> See Asharq Alawsat, Nov. 18, 2018 and al-Sadeq Shukri, May 12, 2006.
- <sup>2</sup> BBC Arabic, Feb. 26, 2011.
- <sup>3</sup> Aaron Zelin, Islamism in Libya, Apr. 2013, The Washington Institute.
- <sup>4</sup> Documentary film about the massacre.
- <sup>5</sup> Sputnik News, Aug 3, 2018.
- <sup>6</sup> David Kirkpatrick and Eric Schmitt, “Arab Nations Strike in Libya, Surprising U.S.,” Aug. 25, 2014.
- <sup>7</sup> For more details see, Laila Hamdan, Tibyan, Aug. 18, 2016.
- <sup>8</sup> Televised report on the 7th Brigade. Al-Arabiya, Sep. 3, 2018, and Libya Akhbar, Sep. 3, 2018.
- <sup>9</sup> Irregular migration is the term used in rights circles and UN reports, as opposed to illegal migration, which is used by receiving states and gives a criminal dimension to the topic of migration.
- <sup>10</sup> “Italy to Pay Libya \$5 billion,” New York Times, Aug. 31, 2018.
- <sup>11</sup> Libya Akhbar, Aug. 22, 2018.
- <sup>12</sup> The 1951 refugee convention establishes five types of persecution on the basis of which a person may seek refuge outside his country of origin: for reasons of race, religion, nationality, membership of a particular social group, and political opinion.
- <sup>13</sup> See the field study on irregular migration in Libya by Dr. Abdullah Ahmed al-Misrati in the Arab Journal of Security Studies and Training, vol. 3(195), 2014.
- <sup>14</sup> Erin Neale and Yousuf Eltagouri, “Tripoli: A Kaleidoscope,” Atlantic Council, Jun. 22, 2018.
- <sup>15</sup> Deutsche Welle Arabic, Sep. 8, 2017.
- <sup>16</sup> Ibid.
- <sup>17</sup> Ahmed Suleiman, BBC Arabic, Aug. 11, 2014.
- <sup>18</sup> UNHCR, Libya.
- <sup>19</sup> UN News, Sep. 2, 2004.
- <sup>20</sup> European states continue to pressure Egypt and Tunisia to accept refugees or migrants that Europe continues to deny entry to.
- <sup>21</sup> Egypt continues to refuse to register Libyan refugees. Refugees were temporarily admitted to the Abu al-Salloum border camp, but it was shut down after two years due to security considerations. Libyan refugees are still not accepted as refugees by the UNHCR office in Egypt.
- <sup>22</sup> Deutsche Welle Arabic, Mar. 2, 2017.