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# THE EUROPEAN META-BORDERS: THE OUTSOURCING AND MILITARIZATION OF EUROPEAN BORDERS AND THE VIOLATION OF THE HUMAN RIGHTS OF SUB-SAHARAN REFUGEES

*As meta-fronteiras europeias: a externalização e a militarização das fronteiras europeias e a violação dos direitos humanos dos refugiados subsaarianos*

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Pina Sodano\*\*

**Abstract.** This paper examines the process of the externalization and the militarization of the European borders and the containment of third-country refugees, especially the Sub-Saharan Africans, for European political reasons. This leads to the human rights violation of millions of them. This essay is focused on Libya as a case-study. Starting with the concept of borders in the general theory of “States” then moving to analyse the concept of European “meta-borders” in Africa. The analysis begins with the agreements between EU member states and third countries. The paper also reflects on the necessity of overcoming traditional models of analyzing the migration flows, introducing the concept of “turbulent migration”.

**Keywords:** borders; “meta-borders”; refugees; externalization; militarization.

**Resumo.** Este artigo analisa o processo de externalização e militarização das fronteiras europeias e a contenção forçada de refugiados, especialmente subsaarianos, devido à vontade política da UE. Tal processo provoca a violação dos direitos humanos de milhares de pessoas. O foco específico do estudo é a situação da Líbia. Após apresentar o conceito de fronteira assim como elaborado na teoria geral do Estado, o artigo analisa o conceito de “meta-fronteira” europeia na África. O ensaio também reflete sobre a necessidade de superar modelos tradicionais de análise de fluxos migratórios, introduzindo o conceito de “migração turbulenta”.

**Palavras-chave:** fronteiras; “meta-fronteira”; refugiados; externalização; militarização.

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## Introduction<sup>1</sup>

Mobility has always been one of the characteristics of human beings, but now there are two main elements, which hinder such mobility: political-military district and a complex system of control/selection of refugees.

The article's objective is to analyse the origin and the evolution of this type of border, defined as "meta-borders", beginning with its development and conceptual evolution based on a general theoretical approach by the State. Secondly, follows an analysis of externalization and militarized border procedures that, with the relocation of reception centers, seem to characterize current EU and Italian foreign policies. The paper also identifies the main developmental stages.

Thirdly, the thesis is sustained by the examination of personal experiences of the African refugees who have arrived in Europe, especially the ones who were imprisoned in Libya. As a consequence, these refugees become victims of this system that violates human rights by forcing them to stay in a politically, socially and environmentally fragile countries.

## The Schengen Area and the Creation of Irregular Migrant Status

The origin of the process of the "meta-borders" (Cuttitta, 2007) and militarized monitoring can be traced back to the European establishment of the Schengen Area, the Schengen Agreement, signed in 1985 to gradually eliminate border controls within the EU and implement free traffic flows for all participating States. The initial "border management system" that contributed to redeveloping national and international monitoring structures including the Mediterranean Sea, which was only for navigating, it has become in fact a new "military-humanitarian" border to control (Tazzioli, 2015). As a result, EU legislation about immigration and asylum created two opposite concepts based on the logics of *security* and *inclusion*. The normative legislation between the Member States has caused exclusively "negative" results by signing international agreements aimed at withholding refugees as far away as possible from the EU's political responsibility – in addition to the prevalence of oppressive practices and the repression of human rights. This practice of expulsion of refugees links the agreement of readmission, detention centers, the protection and the control of the borders.

The above-mentioned practices have generated an inadequate and a superficial approach to "positive" cohabitation and regulations inspired by

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<sup>1</sup> The authors developed and discussed the entire foundation for the paper. Regarding the final draft, the introduction was written together, paragraphs: 1, 2, 3, 8 and 9 were written by Marco Omizzolo, and paragraphs: 4, 5, 6 and 7 were written by Pina Sodano. The conclusion was written by both authors.

a multidimensional vision that is not based only on migration security. This is what leads to building the idea that migration to Europe is fundamentally illegal and pathological which can only be stopped through international, political and military instruments. The best example is what happened to at least 220 victims in the Mediterranean Sea who drowned in the sea after the wreck of three boats between the 19<sup>th</sup> and 20<sup>th</sup> of June 2018 by the Libyan coast. The lack of a coordinated system to help and rescue the refugees in the sea... has led to the first shipwreck in front of Janzur, only 15 kilometers west of Tripoli. Another shipwreck, also in Libya, happened close to Zawya, and a third one a few miles from Garabulli, east of Tripoli. These victims could have been saved if the European policies had respected the human rights and the international conventions such as the Ginevra convention. The UNHCR reported what has happened. The Italian Government accused the boats of the NGOs to be accomplices with the traders as Drudi (2015) says: the basis of the European policy of containment of the migration flow. This shutdown means that the migrants are either stopped and blocked in the Mediterranean Sea or pushed to the “meta-confine”: Libya, Southern Sudan, Sudan, Chad and Niger. Therefore, there is almost no chance to cross or to arrive to Europe or come back, unless they accept the miserable conditions from which they were escaping. The alternative would be to turn themselves to the traders and criminals who often for months, even years have committed abuse against them. They punished and tortured them with the purpose of making money. According to OIM, in Libya, every year there are 7000 victims of human trafficking and various forms of violence: the average age of the individuals who declare that they have experienced violence during the trip is 23 and in 95 % of the cases they have assisted to acts of violence in Libyan territory. Considering that human trafficking corresponds to about 10 % of the Libyan PIL: in other words, human trafficking has become the second main source of money after petroleum. Libya always remains the major stop for the migrants where they can not only be kept for months or years but also sold and bought again from militias, police, traders – they go from one prison to the other, waiting for earning some money by which they can start their trip to Europe through the Mediterranean Sea. This is the case of a young Eritrean who declares: “The prison is again under control of the military and we have become prisoners once again; they forced us to clean the arm ships and weapons. From Kuffra they have brought us to Gianfuda where I was kept for two months. Now, fortunately, I have managed to leave; I work in a factory owned by a Libyan, waiting to make enough money and the right moment to join my brother in Italy” (Omizzolo, Sodano, 2015). In the Libyan prisons there is an isolated population without any reason except for being refugees in a land ruled by the army. Not all the refugees are equal. The ones who come

from Sub-Saharan Africa live in extremely difficult conditions. If you are a woman, your situation is even worse because of the risk of being raped. The kids, however, run the risk of being kidnapped, exposed to sexual violence or organ trafficking.

In 2000, the EU policy evolved through building the wall in Melilla and a fence in Ceuta the two cities that are considered as the Spanish enclaves in Morocco; as well as, Evros between Greece and Turkey where they built a legally political wall that externalize the EU borders in Africa and the Middle East. In this way they pass the power to the cooperative States who will monitor the refugees and prevent them from entering Europe. All of that started with the Rabat process in 2006 followed by the Khartoum process in 2014 and the Malta agreement in 2015 and the treaty with Turkey in 2016 and finally the memorandum with Libya in 2017. Particularly, if we include all the agreements with the Libyan tribes. The policy and the information systems measure the success of these arrangement only by the reduction of landing boats to Europe. Shortly, the fact that fewer migrants arrive to Europe shows that the system is efficient. This is being proved by the decrease of 77% of landing boats in 2018 which was already taking place in the last six months of 2017. This is a fatal mistake which underestimates and completely ignores the issue of human rights and the international responsibilities. With these blocking they completely forget about the humanitarian costs in terms of sufferance and deaths. In fact, in Italy 3.498 victims were registered in 2017 in an attempt of reaching Europe (3.022 in the sea and 476 at land). In the first half of 2018, we have already reached 1.402 victims (1.176 in the sea and 226 at land). That means that in the 6 months of this year we have already reached 40,08% of the victims of 2017, but with a much more inferior number of arrivals in all Europe: about 51.000 versus 186.000. In other words, that means that the mortality rate has enormously increased: in 2016, it was 1 victim for every 68 arrivals, in 2017 1 victim for every 53/54 arrivals and now in 2018 we have reached 1 victim for every 36/37 arrivals. If we examine only the route of the central Mediterranean the one leading from Libya to Italy the number of the victims is 1 for every 20/21 arrivals. Besides, there are also other groups of migrants who are kept in the detention centers in Libya or sent back to their home countries in Africa as mentioned in the above interview. In fact, the Libyan coast guards do not rescue the migrants, instead they intercept them, bring them on shore and arrest them. They are then put in the detention centers that are controlled by militias, traders or the Government of Tripoli. This is manifested by the UN reports which open a case by the Criminal Court on the one hand about the Libyan system of the migration management (defined as a model to be followed by the current Italian minister of interior affairs Matteo Salvini) and on the other hand about the coast guard. Some judgments of the Italian jurisdiction are also

worth analyzing: during a trial in Assizes court in Milan, for example, one of the judges claimed that the only adequate picture to show the hell the prisoners went through is like Nazis camps. The trial ended with the condemnation of one of the tortures of the Bani Walid camp (150km south east of Tripoli).

This tendency that has led the EU to go forward with the agreements and the security policies and the externalization of the borders has been reinforced by the theory that migrants would not define their own and *ex lege* status as legal and illegal. Both phenomena are, in fact, closely connected: legal migration often facilitates illegal migration through migration networks, contradictory procedures and legitimate and illegitimate norms determined by the labour market in close relationship with immigration norms. In fact, legal entry may precede illegal permanent residency status: in the past, many migrants with legal residency have been denied or have been at risk of being denied and losing their “legal” status due to dynamics that conform to, for example, the dual or divided nature of the labour market, its structural and systematic loopholes, illicit recruiting procedures and administrative procedures developed nationally and locally. It would therefore be more precise to talk about the legal and illegal *conditions* in which migrants, including those seeking political asylum, find themselves.

During the Twentieth Century, Europe has always been a destination for illegal entry for migration flows. Until the mid-seventies, migrants have always found their paths toward social and labour inclusion, notwithstanding precise political choices in terms of juridical regulations on migration created the concept of “illegal immigrants” during the second half of the 1970s in answer to the economic crisis at the time. Based on this theory they created the concept of the “clandestine” as well as the European security policy system which uses the slogan of helping them in their home countries. The argument on illegal residency, that has since then had an increasing impact on the European legislation, has not reduced the non-regulatory component on immigration. On the contrary, it has led to mechanisms of “subordinate integration” and “marginal positions” used in a socio-productive context characterized by an increase in job insecurity, reduced state-funded social services and a general decline in labour protection and workers’ rights (Omizzolo, Sodano, 2015). Essentially, a contorted change in social conflict is on the way. It reverses the original objective through the exploitation of migrants in their status as weak subjects and, in some cases, illegal residents. The conflict does not move upwards but rather against those at the bottom. The conflict is no longer aimed at those at the top of the social scale, but on the contrary, it is directed towards those who are already at the bottom or who are even lower. The conflict against “weak subjects in the social consortium, fostered by institutional racism expressed by the regulations against immigration, is the reflection of a new,

radical asymmetry between “us” and “them” that substitutes, in educational procedures of collective identity, traditional identities and subjectivity of social classes” (Ferrajoli, 2017).

### **The Borders Between Conceptual Evolution And Daily Practices**

On a conceptual level, the traditional definition of border (Prescott, 1987) can be found in *The General Theory of the State* (Jellinek) and in *Political Geograph* (Ratzel). Ratzel says that “every State is part human geography and part territory. Mankind is unthinkable without land and much less without the most notable creation of mankind on our planet, the State” (Ratzel, 1923). Ratzel ties this idea with the concept of sovereignty as territorial *jus* (*ibidem*). According to Jellinek (1900), on the other hand, the unitary characteristic of State territory is one of three fundamental elements that contribute to the definition as well as to a unitary population and power. In this framework, the definition of border establishes the concept that marks the process of political expansion of a population or legitimate boundaries of the power of the State Government in that area.

This concept defined the framework within which the history of migration to Europe developed between the Nineteenth and Twentieth centuries, the development of precise migration systems and an organised geography of international migration. The exception to the principle behind organised union territory is colonies. Ratzel’s point of view on this is, in fact, that colonial expansion proves the vitality of the State organism and fractures its solidity by neglecting territorial continuity. Jellinek’s point of view presents a potential crack by acknowledging multiple sets of rules and subjective positions on unitary juridical space organised by the State (Mezzadra, Rigo, 2005).

In order to emphasize the peculiarities of the current situation, we must begin from the vacillating traditional concept of borders the moment the premise of it belonging to both State and territory became more problematic. Evidence of this, for example, is the refugee crisis following World War I (Arendt, 2001).

### **Migration Models and the “Turbulent Migrations”**

Current migration mobility presents the intensity and complexity of the tension and conflict at stake, particularly on European borders along its traditional geopolitical extent as well as within Europe itself. In the latter case, it has established spaces that are managed and at the same time alternate to historic and European regulations. The dynamics of such telluric tension contributes to establishing new political spaces where fractures between internal/external borders emerge and involve regulations and management.

So as not to overlook elements of continuity between current migration mobility and those of past centuries, we will analyse the changes regarding the former one (Gozzini, 2004).

Current migration is characterized by an increase in migration models, a marked acceleration of flows, a rise in the complexity of their structure, an increase in the unpredictability of their routes (Castles, Miller, 2003; Morawska, 2005) and extraordinary turbulence that characterizes their trajectories (Papastergiadis, 2000). Today, migration flows advance in every direction and any attempt to reproduce them on a graph seems futile (Macioti, Pugliese, 2003). International research on migration registers a crisis in models that focus on push and pull factors (Mezzadra, 2004a) against the excess of subjectivity. A utopia of complete control and absolute management of migration flows leaves room for other approaches that are aimed at confronting the margin of unpredictability referred to with concepts such as surplus and turbulence (Veenkamp, Bentley, Buonfino, 2003).

For years, border studies in the United States have argued on the role that hybridization has had in defining borders, adding to the continuous confusion on border identity. This is also evident in studies on transnationals (Ambrosini, 2008) even though an interpretation professing aestheticism on transnationalism, as emphasized by Ruba Salih (2003), would not capture the profound ambivalence and the reproduction within transnational spaces of old and new hierarchies and genres (Ong, 1999). Finally we can affirm that: the gradual deterritorialization of external and internal borders by the European polis renders its juridical space discontinuous and acknowledges a sovereignty shared by different players, both public and private (Rigo, 2004).

Deterritorialization is defined as both shifting standard border control activities beyond the boundary and the distribution of services within the space the border should perimeter (for example, detention centers for migrants pending deportation).

As much as border control policies outside the EU have organised themselves to block refugee movement, they have resulted in managing selective mobility (Walters, 2004). Border control policies outside the EU have established an active process in migrant labour through illegal entry (De Genova, 2002) used in the production system that includes various forms of illegal payment based on exploitation (Omizzolo, Sodano, 2015).

### **The Origins of European Border Externalization**

The European Council of Tampere (October 1999) established a few elements in European migration policies including: partnerships with countries of origin by promoting co-development in order to improve their economic



and social conditions; a Common European Asylum System; fair treatment of third-country nationals who reside legally on the territory and management of migration flows at all their stages (Zampagni, 2015).

The Council reassessed the common values rooted in enlarging the European Union through a shared commitment to guarantee freedom and legal rights to individuals – regardless of their nationality – and introduced guidelines for legal entry for labour.

The implementation of Tampere, aimed at creating an area of security, freedom and justice in Europe based on human rights, was confirmed in The Hague Programme in 2004 but the programme reinforced security and restrictive aspects, juxtaposing immigration to organised crime and terrorism, and strengthening external militarized border management with greater emphasis on different systems of international security. Amongst the priorities of The Hague Programme was the setting up the Frontex Agency to manage external borders and police cooperation sanctioned by the European Pact on Immigration in 2008. These two events have weakened some of the basic principles of the constitutional State as well as fractured its own foundation. Evidence of this is currently happening in various EU States such as abusing administrative detention and the establishment of external borders that use unofficial practices of collective deportations abolished by the Geneva Convention, the Charter of Fundamental Rights of the European Union and the European Court of Human Rights.

The Stockholm Programme (December 2009) standardized the security strategy. It only mentions security for European citizens confirming the need to develop an internal security that protects the lives and safety of the European citizens, and counter organised crime, terrorism and other threats.

The Programme revolves around three fundamental concepts: “circular migration” practiced by third-country nationals who return to their country of origin or are in search of seasonal labour in the EU; “mobility partnership” agreements on legal migration with third countries willing to cooperate with the EU in the management of migration flows, including potential “assisted return measures”; and a new governance model for migration models that engages the countries of origin and destination, fostering a common approach that includes strengthening cooperation tools for development in compliance with so-called “co-development”.

This vision, focused on control and security, results in unloading every aspect regarding reception, job opportunities and the protection of migrant rights included the human ones. Conversely, it is essential to achieve a common ground on European policies and practices regarding reception and integration

as well as a revision of the entry and residency regulations founded on the protection of migrants and their rights (Omizzolo, 2011).

### **The European Border Control System**

Presented as an offset to free circulation in the Schengen Area, the EU's compensatory measures have spawned reinforced external border controls and intensified juridical and police cooperation. An external aspect has been added to protecting external borders; the shared responsibility of EU border controls by neighboring countries. This shared responsibility has led to a new type of political and economic relationship between States whose aim is the extraterritorial management of refugees.

Protecting the EU's external borders embodies, above all, the management and control of entries through policed control at borders largely inspired by the notion of "migration risk". Third-country nationals must undergo complicated procedures in order to obtain a Schengen visa and European consulates abroad have become the first border controllers outside the EU. Even before starting the procedures, anyone requesting Schengen visas is considered "a risk" for the sole possibility that they might overstay the period of time granted, especially when they come from poor countries. In addition to this, there is prejudice against the terroristic threat they pose especially after the attacks in Belgium in March 2016 and prior to that in France, London, and the United States. A selection system for admission of migrants into the EU has been established as a mechanism to protect the safety of European citizens against the risk of conceivably dangerous migrants. A further element in the European system of border controls is represented by the implementation of the Dublin II Regulation wherein Member States must determine the Member State responsible for reviewing an application for asylum in their territory. The objective is that only one Member State is responsible for asylum seekers; usually the State through which they first entered.

Conditions for issuing visas for short stays and transit were elaborated in the Schengen Borders Code (2006) and the Community Code on Visas that came into force on 5 April 2010 accompanied by the implementation of various regulations for gathering and exchanging relevant information between the authorities in charge. The system of reviews and information has not prevented the development of an *extended* migrant population, that is to say illegal, often used as a low-cost labour force controlled by organised crime (Omizzolo, Carchedi, 2016). This is followed by appeals for administrative detention and expulsion measures that, by elimination, permit the reconfiguration of the sense of belonging to Europeans by distinguishing the *self*, or rather the fully-fledged national, to the *other* who can be *expelled* at any time. Evidence of this approach can be seen in the European Parliament's

adoption of the June 2008 directive on “common standards and procedures in Member States for returning illegally staying third-country nationals” aimed at ensuring harmonized features regarding the various European regulations on the expulsion of illegal migrants. It was aligned with the minimum standards of the Member States and established a drop in the harmonization of migrant rights and protection by allowing individual States to maintain more favourable regulations. Finally the German model was adopted which includes long-term detention for migrants (up to a year and a half), a five-year no-entry ban for expelled migrants, and weak legal protection against excessive detentions or arbitrary expulsions. Furthermore, the directive permits the detention of asylum seekers for the entire duration of the review of their application, as well as the detention and expulsion of minors and other “vulnerable persons”.

Another aspect is the return of migrants to a country of transit and not to their country of origin. While a fourth application regarding control of European space was added to the visa and expulsion model and the system of gathering and exchanging information, Frontex: a virtual “mobile border” that moves according to need and performs all the tasks that should be implemented within individual states or their respective borders.

### **From Readmission Agreements to Refoulement**

Through the development of an “external dimension” of migration policies, control services have been transferred to private entities and States outside the European space, candidates for EU membership, or simply locations chosen due to their strategic position on migration routes to Europe. As part of this strategy, many countries in the Southern Mediterranean and sub-Saharan strip have taken an increased political role. The externalization of borders and border controls tends to coincide with the relocation and reception of migrants: they are selected or blocked in the countries of transit, or rather, before they arrive on European soil, creating extraterritorial spaces. By moving its borders, the EU also relocates migrant rights to transit countries ruled by dictatorial regimes who take advantage of the cooperation between States.

Readmission agreements and cooperation between police forces play a key role in the European strategy for the externalization and militarization of border controls. Initially signed bilaterally by the European countries with the countries of origin and countries of transit, such agreements have often been directly concluded by the EU.

Beginning in December 2002, the European Union recognized the opportunity to further integrate issues related to the control of migration flows and asylum seekers with third countries in order to pressure them into collaborating in migration management. In European policy making,

such agreements are taken for granted. In fact, readmission allows for actual expulsion since it implies cooperation with the country of origin or the last country of transit that agrees to let the expelled migrants onto its territory. The EU has signed several readmission agreements with third countries. Countries in Eastern Europe, interested in corroborating as credible partners, unilaterally accepted the readmission of its nationals. Countries to which the EU has little or nothing to offer, however, often accept similar agreements in exchange for visa facilitation, development aid or economic concessions that may include informal agreements of a financial, commercial or other nature (Omizzolo, Sodano, 2017).

### **The Relocation of Reception Centers at European Meta-Borders**

In recent years, the process of the externalization of European borders has also been affected by procedures regarding reception centers. On one hand, enclaves are being erected within the European territory as “reception” areas for migrants without regular permits waiting to be expelled. It is a type of extra-territorialism on the rights of European territory: temporary residence centers, identification and expulsion centers, waiting zones and removal centers are moving within a belt of countries to the south and east of the EU. This strategy is already in use under the criterion of the “Safe Third State” in which an asylum seeker who has not been granted refugee status can be expelled and by creating “international protection zones” in countries of transfer who offer humanitarian assistance. The intention is to open “centers for asylum” in neighboring countries where applicants are held and their requests are reviewed before they enter Europe. Border fences are another feature of this policy.

The second process, the relocation of reception centers on the limits of the meta-borders, confirms the change in European legislature regarding the principles of mandatory reception for refugees. The extent of external border controls also takes advantage of refusing migrants directly at sea notwithstanding Art. 33 of the Geneva Convention (1951) that prohibits States from expelling or returning refugees and asylum seekers to places where their lives or freedom could be threatened due to their race, religion, nationality, membership of a particular social group or their political opinion (the principle of *non-refoulement*). The same principle is reaffirmed by the European Convention on Human Rights. Prohibition applies if the refusal occurs towards a country that could return them to a territory where they would be exposed to such treatment. Despite this, *refoulement* occurs regularly, at times through international agreements such as the cases in Libya, Turkey, Sudan, Somalia and Nigeria (Drudi, Omizzolo, 2015).

An example of this is Darfur, a region in south-western Sudan, where a brutal war has been waging since 2003, the conflict is so violent that the International Criminal Court (4 March 2009) issued arrest warrants for war crimes and crimes against humanity against President Omar al Bashir. The conflict is being fought between the black majority and the nomad minority of Arab descent backed by the Government of Khartoum. It has been defined by many as genocide driven primarily by the Janjawid, the “devils on horseback”, a militia that intervenes rapidly and was recruited by the Sudanese Government from the Abbala, a local tribe who have been attributed with killing the majority of the 300/400 thousand victims in the region in the past twelve years.

It seems Al Bashir’s conviction for the massacres in Darfur has taken second place for many western countries, including Italy and the EU.

The Khartoum Process, for example, requests that States block refugees in transit in their country – above all those from Eritrea, Somalia and South Sudan – before they cross the Libyan or Egyptian borders on route towards the Mediterranean coast in the hopes of getting on a boat. Bashir entrusted this task to the Janjawid militias, integrating them as regular units of the army.

Somalia has also been a country in ruins for almost thirty years. The Government in Mogadishu only controls the capital and the larger urban cities. Most of the country, especially in the south, is dominated by Al Shabaab’s jihad militia that has close ties to Al Qaeda. Recruits increased after 2006 because they were the only ones in opposition to the Ethiopian troops that had broken through the southern border. The conflict continued after the fall of the dictator Siad Barre in 1991 and was followed by a civil war which was fueled by armed factions of various warlords.

Operation *Restore Hope*, proposed by the UN and entrusted to the USA, took place between 3 December 1992 and 4 May 1993. It was a complete failure. Even though the military troops that arrived in Somalia were sent by the UN, the population saw it as a military invasion. *Continue Hope*, another UN initiative entrusted to the Turkish army general, Cevik Bir, did not have better results.

In 2015, there were almost 950 attacks. The bloodbath continued in 2016 confirming that the airplane and drone bombing campaign launched by President Obama in 2009 to block Shabaab’s expansion also failed. The death of many civilians during the bombings increased the population’s feeling of hostility against the Government in Mogadishu and its western supporters. One of the consequences of these missions was to strengthen the militants and worsen the living conditions of the refugees, victims of traffickers. Some journalists like Drudi and Tesfai (2017), for example, wrote that,

over a thousand young Eritrean and Ethiopian refugees, seized by gangs of raiders near the Sudan-Libyan border, have been segregated for over six months in a huge prison of traffickers in Berk, a town not far from Sabha, the capital of Fezzan, a junction between the Saharan tracks arriving from Sudan, Chad or Niger and the roads leading to the north, towards Tripoli, Homs and the Mediterranean coast. By avoiding the surveillance of the guards, some of them managed to contact don Mussie Zerai and the Habeshia agency with a mobile phone, launching a desperate request for help.

This is confirmed by many dossiers published on Libyan camps by UN commissions and numerous NGOs (Sodano, 2014).

### **The Libyan Prisons: Summary of a Hell**

The report: *"Abuse behind bars: Arbitrary and unlawful detention in Libya"* made by the United Nation, blames the Government of Libyan premier, Al Sarraj, and it denounces the responsibility of some armed groups guilty of killing and perpetrated torture against detained refugees. In fact, the Minister of Justice, manages just barely some prisons that host almost 6.500 detainees, instead many others are often victims of arbitrary detention inside jails that formally depends by the Government of Tripoli but, in reality, they have been entrusted to the arms groups allied with the Government that violated routinely the human rights and deprived the migrants and Libyans of freedom. This situation is the result of a political instability undeniable in the last few years, and for this reason traffickers in human beings are becoming more professional in their activities, they are using violence and torture on migrants who are already in bad conditions, like slaves they are engaged in forced labour. Even if many associations denounced that condition, asking the EU to take a position against this situation who sees them only concerned with the control of the borders instead of the respect of human rights. As a result of this policies, the EU, the African Unions and OIM, around 10.000 migrants, decided to come back freely in their own countries after being abused in Libya. Also many Libyans are treated worthily; political asylum, journalist, are prevented to get involved in the politic. This obviously leads to the impossibility to develop a democratic state in Libya. The UNHCR's report (Drudi, 2018) attributes a big responsibility for this situation and in particularly for the disrespect of the human rights to the Sarraj govern, that has failed even though the support of UN and Italy. Abused and violent acts were denounced in the Cirenaica zone monitored by Khalifa Haftar and his Libyan national army. Also in Kuweifiya, more than 1800 persons denounced human rights violations. Nobody of the Libyan leaders focused his attention on the respect of individual freedom and human rights.

Finally if the situation will be more chaotic and insecure, the ones who will mainly suffer it would be the fragile categories, like migrants, those ones against the Government and all people that are victims. The current Italian Government ignores this consideration and for this reason that they want just stopping the refugees in Libya thanks to the agreement with Libya and with the expulsions of the NGO's boats in the Mediterranean sea.

### **International EU and Italian Agreements and Protocols. The “Meta-Borders” Becomes a Fence**

A brief analysis of the international agreements and protocols that created the externalization of borders in the EU will help to better understand the principle aspects of the strategy in terms of migrants and borders.

**The Rabat Process:** signed in 2006 by the EU and 27 West African states a year after the erection of the fortified fence in the city of Melilla. One of the crucial aspects is the role assigned to Mauritania and Morocco to block migrants at the southern Moroccan border and prevent arrivals from the Mediterranean Sea.

**Bilateral Agreements:** in compliance with the decrees set by the Rabat Process, various Mediterranean States have signed bilateral agreements with individual African States that assume the role of anti-immigration “police officers” on the Mediterranean coast. Italy's most significant pacts were with Libya: 2008/2009 (Berlusconi Government), 2012 (Monti Government) and 2013 (Letta Government).

**The Khartoum Process:** this is an Italian initiative that was established in Rome in November 2014. Inspired by the Rabat Process, it was applied during the Italian Presidency of the Council of the European Union to Eastern Africa, the EU, ten African countries including Libya, and in particular, to countries under dictatorships such as Egypt, Sudan, and Eritrea, where crimes against human rights are practiced daily and have been internationally recognized.

**Partnership of Malta:** established in La Valletta in November 2015, it provides African countries with externalization policies of European borders, *refoulement*, and confinement including African countries with expelled or deported nationals seeking asylum in Europe. It is similar to outsourcing migrant blocks and *refoulement* in exchange for 3.6 billion Euro in funding which was paid in two installments of 1.8 billion Euro each.

**The EU-Turkey Deal:** the planning process began at the end of 2015 but was accelerated after the Malta negotiations and put into force at the end of March 2016. It foresees that, in exchange for 6 billion Euro, Ankara would block the migratory flows towards Europe. In turn, Ankara stipulated pacts with



14 African (including Eritrea) and Asian countries on refoulement and forced repatriation of intercepted refugees.

Furthermore, in order to carry out the “blocking policy”, a border fence was erected along the entire border with Syria. The same is foreseen along the border with Iran. Ultimately, the EU is financing the physical construction of border fences and the expulsion of refugees towards countries (like Syria, Eritrea and Iraq) where citizens, based on international conventions, have the right to be received as refugees or asylum seekers.

**The Cooperation Agreement with Afghanistan:** signed in November 2016, it foresees that in exchange for reconstruction-fund of approximately 3.5 billion Euro, Khabul will accept the re-entry of 80 thousand refugees on the basis that Afghanistan, thanks to the reconstruction, would become a “safe country”.

At the end of 2016, two UN reports argued against the agreement. The first report observed that in 2016 the cultivation of opium, one of the rebel’s main sources of income, had an increase of over 10%. The second stated, “the year 2016 has been the bloodiest year in Afghanistan since 2009 and probably the worst for civilian casualties since the last phase of the civil war began in 2001”. The numbers in the dossier are significant: 11.500 civilians killed or wounded, a third of which were children.

Some of these international agreements are signed by Italy like:

**The Italy-Libya Memorandum of Understanding** (2 February 2017): signed in Rome by Premier Gentiloni and Fayez al-Sarraj, Prime Minister of the Government of National Accord (GNA), it was endorsed by the UN and criticized by the majority of the population. It designates Tripoli as the *gendarme* on immigration in the Central Mediterranean entrusting the Libyan Coast Guard with the task of blocking migrants at sea or before boarding boats, and its border police with securing the 5,000-kilometer-long southern border – in the middle of the desert – with Niger, Chad and Sudan.

The Italy-Libya memorandum had various precedents, or “police pacts”, that, as such, were granted immunity from Government control as in the cases of Sudan and Eritrea. Both countries received 40 million Euro in funding (December 2015) in compliance with the Khartoum Process to “reinforce the security of borders” between the two States. The memorandum basically funds the border police and security forces, including the Sudan rapid intervention militia. The police pact between Rome and Khartoum (3 August 2016) led to the forced repatriation on a special flight from Turin of approximately 40 young refugees who fled to Italy from Darfur.

**The Malta Summit** (3 February 2017): the memorandum between Rome and Tripoli was one of the key points at the EU summit held in Malta. Italy and the Maltese Government insisted on making the agreement a model for the



other States. The EU approved it in full. Germany was the only country to raise questions due to Libya's instability and the inhumane detention of migrants throughout the country.

**Support to Libya** (from the beginning of February 2017 onward): in order to implement the memorandum, Italy has committed to supplying a fleet of ten coast guard vessels, training courses for the Libyan Coast Guard, helicopters, armored and off-road vehicles, electronic sensors and night-vision binoculars, computers, and logistics material. Libyan sources have also spoken about radar surveillance systems installed along the border.

**Deal with Tunisia** (17 February 2017): Italy and Tunisia signed an agreement once the foundation was set with the political backing of the EU Commission. Tunisia initially agreed to receive at least 200 migrants a month, of any nationality, that left from Libya and were intercepted in international waters by Italian or European rescue ships.

Italy and the EU agreed to provide substantial financial aid, IT apparatus and anti-terrorism police forces in order to guarantee further cooperation and cut down the risk of destabilization the country was facing.

There has since been a substantial change in the agreement between the EU and Turkey. In the 2015 pact with Ankara, Greece was supposed to handle the requests for asylum and return the persons who were not accepted to Turkey. According to the deal between Italy and Tunisia, refugees would be blocked at sea and managed by a third country.

**Pact with the Tribes in Libya** (31 March 2017): signed by the Italian Minister of the Interior, the agreement is primarily between the Fezzan tribes, a southern region in Libya who control the roads that enter Libya from Niger and Chad and proceed north through the desert, and also control the main junctions such as Sabha. The Tebu and Suleiman Tribes were also part of the pact; officially to assist migrants but in reality, as some heads of the Tebu have revealed, their task was to block refugees beyond the border.

The Minister of the Interior negotiated a new deal at the end of August 2017. It has never been specified what the Tebu and Tuareg received in exchange for accepting the role of *gendarmes* at the meta-borders. There is also no proof of guarantees regarding the destinies of the intercepted migrants.

**Italian Coordination of the Libyan Coast Guard:** the problem erupted in May 2017 when the German non-profit NGO Sea-Watch reported that after one of its ships, the *Sea-Watch 2*, informed the Maritime Rescue Coordination Centre in Rome that as it was rescuing a wooden boat with 493 migrants aboard. It received a mandate to stop because the Libyan Coast Guard had command of the rescue mission even though the boat was not in Libya's territorial waters. A Libyan Coast Guard vessel forced the *Sea-Watch 2* to retreat.

Such episodes were repeated frequently in the months following.

**Agreements with Niger and Chad** (22 May 2017): signed in Rome during a meeting of the Ministers of the Interior from Italy, Chad and Niger, the agreements were intended to set up reception centers in the two African countries where blocked migrants would be held before crossing the borders or be expelled from Europe and Libya regardless of their nationality. It also intensified surveillance along the Libyan border to prevent and stop migration flows. The agreement includes the following points: “Cooperate in the fight against terrorism and human trafficking; Improve border security and border control forces; support the creation of a legal economy in the border areas”.

**Agreements with Senegal, the Ivory Coast, Mali and Nigeria** (May 2017): during the G7 summit hosted in Rome - Italy, it was revealed that similar agreements already signed with Niger and Chad had been put on hold regarding Senegal and the Ivory Coast.

An agreement for the re-entry of refugees from Mali and Nigeria has been under development since August 2016.

**Financial Aid to Niger** (May 2017): as part of the agreement signed on 22 May with the specific aim of blocking refugees before they arrive in Libya, the EU gave full financial support to Niger with a grant of 610 million Euro plus 50 million more from Italy.

**Italian-Libyan Control of Southern Borders** (1 June 2017): the Italy-Libya commission to fight illegal immigration established a committee to control Libya's southern region and stem migration flows from Niger, Chad and Sudan.

Italy and Europe will finance the initiative and give Libya 35 million Euro to “improve security at the southern border” in view of the meeting held in December 2017 between the Italian Minister of the Interior and Libyan Prime Minister Fayez al-Sarraj in Tripoli.

## Conclusions

In the past few years, the EU has handled its approach to migration and globalization with profound contradictions in relation to its origins and its political views on advanced security. Policies on blocking migration flows, conventions, national and international regulations, processes and agreements like the Rabat, Khartoum and Malta Processes, have led to creating *meta-borders* that promote border controls, military monitoring, and increased security and externalization measures on the perimeter of its jurisdiction. This has fostered transferring refugee migration flow management from the EU to various third countries that often do not have the capacity to deal with such complex responsibilities. The EU has also entrusted these procedures to dictatorial regimes such as Eritrea and South Sudan.

This produced a systematic model of the violations of human rights against migrants and especially towards women.

The international agreements and processes analysed in the paper are proof of the deviation of security measurements imposed by the EU and foreseen by its terse observation of the concept of borders and their evolution until analyse, in conclusion, the case of Libyan jails.

A Union that cannot express a contemporary democratic awareness founded on respecting human rights and solidarity is destined to betray its founding values and to generate new conflicts and increasing xenophobic and racist degeneracy.

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