

People fleeing Libya  
*vis-à-vis*  
EU Policies & Civil Solidarity at Sea

## Libya: Key Humanitarian Issues

- **Arbitrary detention.** MRAS are subject to arbitrary detention in inhumane conditions in Libya.
- **Community insecurity.** Heightened vulnerability of MRAS in the urban community in Libya, exacerbated by exploitation, kidnappings, arrests and confronted with the lack of safety due to their legal status in the country.
- **Inadequate humanitarian response.** Limited access to the country and outreach to MRAS in community and detention. Donors relation (ie EU-MS) set an indirect link to migration policies. Shift from humanitarian to development framework in 2023: from MRAS protection to “migration management”.
- **Limited legal pathways.** Extremely limited solutions out of Libya leaving MRAS trapped in a protection deadlock: stranded in the community at risk of exploitation, detained or smuggled onto the Central Mediterranean Sea.
- **Cycle of abuse.** The EU support to the Libya authorities in facilitating forcible returns to implement its border externalization policy on migration exposes MRAS to multiple interceptions at sea followed by reiterated arbitrary detention, risk of trafficking and exploitation.

# EU Externalization Policy

February 2017:  
Italy-Libya MoU and the Malta Declaration

- **State practice**
  - Omission of rescue
  - Delayed interventions
  - Facilitating collective pushbacks by proxy
- **EU responsibilities**
  - Financial, Logistical and Coordination Support to the Libyan Coastguard
  - Complicity in aiding and abetting internationally wrongful acts ?
  - Reduction of institutional European presence at sea to aerial monitoring facilitating interceptions and pushbacks to Libya
  - Commission by omission ?
- **The Human Cost**
  - A policy providing no solution and violating International Law
  - Fuelling a Cycle of Abuse
  - Creating a protection deadlock

# The Issue of Libya

- A rescue operation terminates in a “Place of Safety”
- Refoulement by proxy (vs Hirsi Jamaa vs Italy (2012) )
- The Libyan SRR: an area of responsibility treated as area of jurisdiction in violation of international law
- No cooperation amongst states in SAR (Hamburg Convention Chapter 3)

## Civil Society at Sea

Intervened to fill a gap,  
punished  
for the omissions of others

- **Institutionalization of Omission of Rescue**
- **Criminalization of the Duty to Rescue**

# Civil Society at sea: a Timeline

2013-14 Mare Nostrum

2015 NGOs intervened to fill a gap : lack of institutional SAR mission and support to the Italian Coast Guard

2017 EU Externalization policy: NGOs as uncomfortable witness, first attempts to control NGOs activity (CoC)

2018-2019 Criminalization on criminal grounds: aiding and abetting illegal migration

2020-2021 Administrative measures against NGOs ships and discriminatory application of Covid measures

2022 Apparent “normalization”, Italian government crisis and September elections

2023.....? **Let's strategise now!!**

# Criminalization

- Over 20 criminal investigations open by Italian Prosecutors Offices
- Main accusations:
  - Aiding and abetting illegal migration
  - Representing a criminal association
  - The application to NGOs of the anti-mafia investigation paradigm
- Security Law bis: a law for ad hoc criminalization of NGOs (entry into territorial waters of NGO vessels with rescue survivors as threat to public safety)

# Administrative measures

- Over 10 detentions on administrative grounds since Spring 2020
- Misuse of the safety argument
  - “NGOs ships are not certified for a systematic activity of search and rescue, resulting in endangering the life of the people rescued”



## Libya & Tunisia

- Broader perspective over the Central Mediterranean route: LY& TN cannot be seen anymore as not interlinked
  - Monitoring of border crossing dynamics between Libya and Tunisia : land border crossings, interceptions at sea, pushback dynamics, voluntary returns to Libya
- A consequence of EU externalization policy and lack of safe and legal pathways for migration from countries of origin ?

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## Immediate strategic needs / opportunities

- **Adopt a regional perspective on the Central Mediterranean Route connecting LY and TN**
- **Renewed support civil society intervention against criminalization**