



## MPC – MIGRATION POLICY CENTRE

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### *MPC - MIGRATION PROFILE*

## Libya

The Demographic-Economic Framework of Migration  
The Legal Framework of Migration  
The Socio-Political Framework of Migration

Report written by the

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on the basis of CARIM South database and publications

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## The Demographic-Economic Framework of Migration

The 2011 war in Libya had severe consequences for international migration movements as, since the 1970s, Libya has been an important country of immigration in the framework of international south-south movements: 768,372 migrants fled the country in 2011.

Historically, immigration flows into Libya began in the 1960s just after the discovery of oil and hydrocarbons there. In the following two decades, the rise in oil revenues together with ambitious economic and social programs and the country's lack of sufficient indigenous manpower, continued to attract large numbers

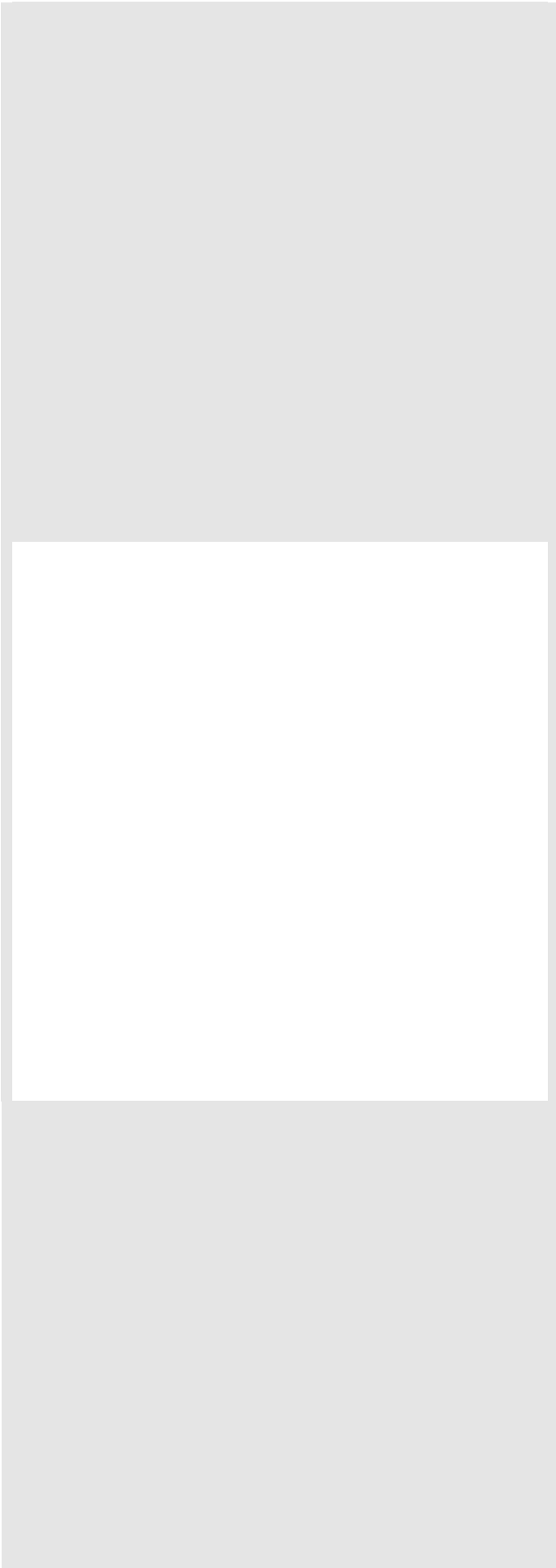


At the beginning of the unrest, the majority of these movements occurred on a temporary basis. For example, the main reasons Libyans came to Egypt included medical assistance, trade and 'visiting relatives' (UNHCR, 2011b). Moreover, very few Libyans asked for humanitarian assistance at the transit border areas because, unlike other migrants, they were allowed to enter Egypt and Tunisia without restrictions.

Two major changes occurred mid-April 2011. First, a substantial increase was observed in Libyan families crossing both the Egyptian and the Tunisian borders.

The average daily number of Libyans who crossed





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Libyan Crisis One Month into IOM's response, 28 March 2011; International Organization of Migration (IOM). 2011b. Egyptian Migration to Libya; International Organization of Migration (IOM). 2011c. IOM Dhaka Situation Report, 6 April, 2011; International Organization of Migration (IOM). 2011d. IOM response to the Libyan crisis, External Situation Report, 22 March 2011; Pastore F. 2007. Libya's Entry into the Migration Great Game. Recent Developments and Critical Issues, background paper for the project "Managing Migration in the Neighbourhood of the EU and the US", carried out by CeSPI with support from the German Marshall Fund of the United States; Pliez, O. 2004. *De l'immigration au transit? La Libye, dans l'espace migratoire euro-africain* in Pliez O. (ed.), *La nouvelle Libye, Sociétés, espaces et géopolitique au lendemain de l'embargo*, Karthala, Paris; United Nations High Commissioner for Refugees (UNHCR). Humanitarian Situation in Libya and the Neighbouring Countries, various updates: 2 March 2011 (2011a); 22 March 2011 (2011b).

## The Legal Framework of Migration

The legal framework for foreign nationals saw its most important developments in the 1980s. Law n°6 of 1987 stated the general conditions for foreigners to enter and stay in Libya, but a series of decisions and bilateral conventions demonstrated Qaddafi's Pan-Arab policy with special preferences for Arab nationals.

When Libya swapped Pan-Arabism for Pan-Africanism in response to more explicit support from the OAU<sup>5</sup> against the international embargo, the diplomatic switch was introduced into law. Regulations were adapted to the official declarations calling for African manpower and advertising the end of visa requirements for Sub-Saharan Africans, as was foreseen in the objectives of CENSAD<sup>6</sup>, created in Tripoli in 1998. From 2001, African manpower, claimed to be temporary and with low qualifications, was given access to the private and public sectors of agriculture, building and cleaning.

Important legal changes characterised 2004, when Decision n°1 related to the conditions of employing foreign manpower introduced a new distinction between nationals from countries with which Libya has concluded bilateral agreements and nationals from other countries. The former were given priority over the latter. Libya gave up a (pro)regional approach for a bilateral and case-by-case policy, but diplomacy has remained crucial in the creation and implementation of the law.

When Libya began to be perceived as a transit zone for migrants and consequently as a priority for the European Union's migration policy, it brought in a more rational and repressive law. From 2004, the vocabulary turned back to the 1970s, a vocabulary which distinguishes between Libyan and foreign nationals. In 2007, a visa requirement returned for all nationalities, except for the Maghreb nationalities. Also an ultimatum was set for regularising the employment of foreign nationals, who also lost free access to health and education public services.

The multiplication of decisions regarding aliens, added to the absence of implementation, explains the legal insecurity and the risk of arbitrary treatment which weigh so heavily on migrants. Informality and easy access to the territory and work are matched by an absence of legal protection for immigrants, who may be arrested, expelled and locked up with relative ease.

Several bilateral agreements have been made with EU Member States, particularly Italy, in order to combat irregular migration. In 2008, a "Friendship Pact" was signed between Italy and Libya, whereby Libya agreed to collaborate with Italy on the return of boats intercepted on international waters (or so-called 'pushed-backs'). Although the Transitional National Council, the ruling entity after the overthrow of Qaddafi, reaffirmed the Pact in December 2011, in February 2012 the European Court of Human Rights pronounced in the Hirsi case that the pact between Italy and Libya was unacceptable. The agreement, therefore, was suspended. Even so, in April 2012 Italy-Libya migration cooperation was reinforced with an agreement on training programs, the detention of migrants, and voluntary return programs.

One of the top priorities for the new Libyan government is increasing border security in order to combat irregular migration, trafficking in arms and drugs, and organized crime. Throughout 2012, Libya increased cooperation with European countries to secure borders, and in December 2012, Libya made agreements with Algeria, Niger, Chad, and Sudan to secure borders and setup joint border forces.

Like its neighbours, Libya is still without any national asylum procedure. UNHCR has been tolerated since 1991 and offers humanitarian aid to a few thousands of people under its informal mandate, with status certificates that are not always recognised by the official authorities. In April 2009, a plan for elaborating a national asylum system was launched. Following on from this agreement, UNHCR got the right to visit migrant detention camps to identify possible refugees.

Although Libya





## Rights and Settlement

**Five-year stay visa** issued to persons residing regularly in the country for ten years; to students registered in a Libyan institution; to foreign nationals on an economic or State basis; to family members of foreign residents; to non-Libyan spouses and children of Libyan citizens.

Arab nationals' rights and duties defined by a series of decisions, including decision n°456 of 1988 and law n°10 of 1989. Subsequent and progressive disappearance of their privileges.

**Access to Employment:** Ordinances n°238 and 260 of 1989 on employment conditions of foreign workers: labour visa as long as there is a labour contract and a health card; employment has to be approved by the Central Bureau of Employment; national and Arab preference. Possibility of regularizing labour visa after the entry (Ordinance n°125 of 2005).

Decision n°403 of 2001 on the employment of African manpower. List of non-qualified professions. Medical care and accommodation charged to the employer.

Decree n°6 of 2007 listing professions open to foreigners, especially in the oil industry and the health sector. Suppression of commerce. Employment is allowed in highly qualified (consulting, expertise) or non-qualified professions (building, catering, agriculture). Decision 98 of 2007: for nationals from states linked to Libya by a bilateral agreement, migrants can stay for three months while job searching (red card).

70% cap on foreign manpower in the private and public sectors (GPC Letter to the Labour Ministry in March 2007).

Labour Code Reform in 2010 extending its scope to domestic and

<p><b>Labour</b></p>	<p>¾ <b>Bilateral Agreements:</b> agreements on agriculture manpower (1971) and circulation of persons and establishment (1988) with Niger; convention of establishment with Tunisia (1973); labour agreement with Morocco (1983); convention in the field of work and the use of human resources with Algeria (1987); labour agreement with Jordan (1998); convention for cooperation in the field of employment with Ukraine (2004); Libya-Yemen agreement (2013) to form a joint committee to develop procedures for the exchange of labour; among others.</p> <p>¾ <b>International Agreements:</b> 1990 Convention on the Protection of all Migrant Workers and Members of their Family; 29 ILO conventions ratified.<sup>8</sup></p>
<p><b>Citizenship</b></p>	<p><b>Dual citizenship</b> theoretically needs authorization.</p> <p>Law n°17 of 1954 on Libyan nationality: <i>jus sanguinis</i> by male descent. Libyan mothers transmit their nationality only in cases of an unknown or stateless father. Their child can be naturalized when of age if a 3-year residence in Libya is demonstrated. Till then, no free access to public services. No <i>Jus soli</i>. A foreign woman married to a Libyan man can get Libyan citizenship if she renounces her original nationality. Naturalisation, generally allowed after a ten-year-residence, possible for Arab descendants after a five-year residence or even without previous residence for scientists useful for the country.</p> <p>Law n°18 of 1980 on Arab nationality: extending Arab nationals' privileges in acceding citizenship.</p>

<sup>8</sup> Including conventions C111 concerning Discrimination in Respect of Employment and Occupation and C118 Equality of Treatment of Nationals and Non-Nationals in Social Security, but excluding conventions C97 concerning Migration for Employment, and C143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.



In July 2012, Libya held a nationwide election, which resulted in the formation of the General National Congress, and the election, later that year, of a President and Prime Minister. The current and most pressing migration policy issue for the fledgling regime is border management and security, especially as the deterioration of security following the crisis has led to an increase in irregular migration, smuggling and other trans-border crimes. Libya is also currently working with its neighbours Algeria and Tunisia, and others, on joint border security measures. As the fighting also resulted in hundreds of thousands of migrants fleeing towards Egypt and Tunisia, and, to a lesser extent, Chad, in addition to the internal displacement of migrants, the Libyan Government has worked with the IOM and UNHCR to organize their repatriation to their countries of origin, as well as the evacuation of other migrants trapped in Libya.

Socio-Political Framework	Outward migration	Inward migration
<b>Governmental Institutions</b>	<ul style="list-style-type: none"> <li>x Ministry of Interior</li> <li>x Ministry of Foreign Affairs and International Cooperation</li> <li>x Ministry of Justice</li> <li>x Ministry of Defence</li> </ul>	<ul style="list-style-type: none"> <li>x Ministry of Interior</li> <li>x Ministry of Foreign Affairs and International Cooperation</li> <li>x Ministry of Justice</li> <li>x Ministry of Defence</li> </ul>
<b>Governmental Strategy</b>	<p><b>Facilitate outmigration of Libyan students</b> for educational purposes (e.g., with Maltese universities,<sup>11</sup> among others).</p>	<p><b>Address concerns of displaced migrants and refugees</b> within Libya (e.g., working with the UN Support Mission in Libya and other international organisations for protection and humanitarian assistance, and IOM for the repatriation and return of migrants –especially from Chad, Niger, Tunisia and Egypt).</p> <p>Combat human trafficking (e.g., recent joint IOM-Libyan Ministry of Justice workshop on combatting human trafficking, building capacity of judiciary<sup>12</sup>).</p> <p>Encourage foreign companies to engage in development projects within Libya (bringing in foreign workforce to carryout project, e.g., from India, China, Brazil among others<sup>13</sup>).</p>

<sup>11</sup> Libyan Ministry of Foreign Affairs. (10 February 2013). *Minister of Foreign Affairs and International Cooperation speaking with the Foreign Affairs Minister of Malta for ways to support and strengthen the existing bilateral relations between the two countries*. Retrieved from [http://www.foreign.gov.ly/ar/news\\_details.php?id=7460](http://www.foreign.gov.ly/ar/news_details.php?id=7460)

<sup>12</sup> Libyan Ministry of Justice. (3April 2013). *Closure of workshops on capacity building of the judicial corps in the fight against human trafficking*. Retrieved from <http://www.aladel.gov.ly/main/modules/news/article.php?storyid=544>

<sup>13</sup> For more information, see Libyan Ministry of Planning at <http://www.planning.gov.ly/?cat=4>

### Irregular migration

**Limit irregular migration** by working with EU<sup>14</sup>, the UN Support Mission in Libya<sup>15</sup>, and other international partners<sup>16</sup> to increase capacity building to patrol land and maritime borders, and receive training for police and border forces (e.g., with Italy and UK<sup>17</sup>)

**Intensification of efforts within Ministry of Defense to combat irregular migration** (e.g. intensification of reconn2(ns)-8(i)3(f)-13(i)-19p://wwwD[( )-60 >:

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<sup>14</sup> Libyan Ministry of Defence. (18 March 2013). *Deputy Defence Minister meets EU delegation*. Retrieved from <http://www.defense.gov.ly/modules/publisher/category.php?categoryid=1>

<sup>15</sup> Security and management of borders is one of the areas the UN Support Mission in Libya assists the Libyan Government. For more information, see <http://unsmil.unmissions.org/Default.aspx?tabid=3544&language=en-US>

<sup>16</sup> Libyan Ministry of Defence. (1 January 2013). Meeting in London in preparation for the Ministerial Conference in Paris. Retrieved from <http://www.defense.gov.ly/modules/publisher/category.php?categoryid=1>

<sup>17</sup> Libyan Ministry of Ministry of Foreign Affairs (4 April 2013). *Minister of Foreign Affairs and International Cooperation receives British Minister of National Security Strategies*. Retrieved from [http://www.foreign.gov.ly/ar/news\\_details.php?id=7496](http://www.foreign.gov.ly/ar/news_details.php?id=7496)

<sup>18</sup> Libyan Ministry of Defence. (2 February 2013). *Defence Minister confirms the formation of the modern armed forces*. Retrieved from <http://www.defense.gov.ly/modules/publisher/category.php?categoryid=1>

<sup>19</sup> Libyan Ministry of Defence. (10 April 2013). *Defence Minister receives Chief of Staff of the Egyptian Armed Forces*. Retrieved from <http://www.defense.gov.ly/modules/publisher/category.php?categoryid=1>