



THE ESCALATION OF THE LIBYAN CONFLICT AND COVID-19: WHAT CONSEQUENCES OF A REFUGEE INFLUX ON TUNISIA?

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INTRODUCTION

The recent developments in the Libyan conflict made headlines in the past year following two main developments: General Khalifa Haftar's announcement of his intention to conquer the capital Tripoli in April 2019, so far under the control of the UN-backed Government of National Accord (GNA)¹; and Turkey's announcement of its intention to send troops as a back-up to Sarraj's government since the start of 2020.

An escalation of the Libyan conflict might have dire consequences on its immediate neighbor, Tunisia. Amongst the most important aspects of these consequences would be a new wave of refugees arriving to the country in the upcoming weeks or months.

KEY TAKAWAYS

- Tunisia has been hosting and accommodating few irregular migrants from Libya who have been fleeing the conflict zone.
- Tunisia has no law in place to implement the right to asylum for refugees despite demands from CSOs. In fact, due to the equation of human trafficking with irregular migration, asylum-seekers and refugees have been criminalized in Tunisia.
- Despite the closure of the Ras Jdir border post, the outbreak of COVID-19 has created the dynamics for a new influx of refugees fleeing both Libya's war and deficient health care system.
- At present, along with its own domestic cases of COVID-19, Tunisia does not have the facilities to cope with a new surge of irregular migration.

¹ [https://www.theguardian.com/world/2020/mar/11/suspected-military-](https://www.theguardian.com/world/2020/mar/11/suspected-military-supplies-libya-un-cargo)

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A LEGAL AND POLITICAL STALEMATE IN TUNISIA

Tunisia has already witnessed a significant flow of refugees² fleeing the Libyan war in 2011, mainly Libyan nationals and Sub-Saharan Africans.³ The camp of Choucha, installed by the United Nations High Commissioner for Refugees (UNHCR) in 2011, a few kilometers away from the Ras Jdir border post, and closed by the United Nations (UN) Refugee Agency in 2013⁴, is symptomatic of Tunisia's lack of preparation to host refugees. The asylum-seekers whose applications were denied and who refused to be repatriated remained in Tunisia without any support from neither UNHCR nor the Tunisian State. Most of them survive on mendicancy and have little access to health care. In addition, the national preference logic of Tunisia's labor code in respect to foreigners does not allow them to secure a regular work contract, rendering them vulnerable to exploitation.⁵ The camp was also a humanitarian disaster, hosting, at a time, around 18.000 refugees in poor sanitary conditions.⁶ Several irregularities regarding

the process of Refugee Status Determination (RSD) were also reported.⁷

Although the right to asylum is inscribed in article 26 of the 2014 Tunisian constitution⁸, no law has followed since to implement this right, despite constant demands from civil society organizations (CSOs)⁹. Since the Ben Ali era, Tunisian authorities have been delegating the RSD procedure exclusively to UNHCR.¹⁰ In parallel, Tunisia has been part of the European Union (EU)'s border externalization policies since the 1990s.¹¹ Since the signature of the readmission agreement with Italy in 1998, other bilateral agreements with European counterparts followed as to prevent Tunisians and non-Tunisians from leaving the territory and reaching Europe's coasts.¹²

The criminalization of any type of irregular migration, including asylum-seekers, has been in place since independence, and has been growing exponentially since.¹³ Tunisian authorities have been denounced multiple times by humanitarian organizations, both local¹⁴ and international¹⁵, for preventing asylum-seekers from

² Tunisian political leaders (the head of government, the Minister for Human Rights, the Minister of Foreign Affairs) reported in July 2012 that at least 500,000 Libyans were in prolonged residence in Tunisia. See: https://euromedrights.org/wp-content/uploads/2015/04/EMHRN-Fact-sheet-Tunisia_FR_15JAN2013_WEB.pdf

³ Françoise De Bel-Air, "Migration Profile: Tunisia," *Migration Policy Centre*, no. 2016 (2016), http://diana-n.iue.it:8080/bitstream/handle/1814/45144/MPC_PB_2016_08.pdf?sequence=1.

⁴ https://www.lemonde.fr/afrique/article/2019/06/10/tunisie-du-camp-de-refugies-de-choucha-a-la-marsa-des-migrants-de-nouveau-dans-l-im-passe_5474320_3212.html

⁵ Faten Msakni, "From Sub-Saharan African States to Tunisia: A Quantitative Study on the Situation of Migrants in Tunisia: General Aspects, Pathways and Aspirations" (Tunisian Forum for Economic and Social Rights, 2019), <http://ftdes.net/rapports/subsaharianstates.en.pdf>.

⁶ https://www.lemonde.fr/afrique/article/2019/06/10/tunisie-du-camp-de-refugies-de-choucha-a-la-marsa-des-migrants-de-nouveau-dans-l-im-passe_5474320_3212.html

⁷ Juliette Garms et al., "The Deficiencies of UNHCR's RSD Procedure: The Case of Choucha Refugee Camp in Tunisia," *In Oxford Monitor of Forced Migration* 4, no. 1 (2014): 46–49.

⁸ Assemblée Nationale Constituante, "Constitution de La République Tunisienne" (Imprimerie Officielle de la République Tunisienne, 2014), <http://www.legislation.tn/sites/default/files/news/constitution-b-a-t.pdf>.

⁹ Monia Benjemia and Souhayma Ben Achour, "Plaidoyer pour une réforme des lois relatives aux migrants, aux étrangers et à la nationalité en

Tunisie" (EuroMed Rights, 2014), https://euromedrights.org/wp-content/uploads/2015/07/REMDH_CETUMA_Monia-BJ_Souhayma-BA_Plaidoyer_r--forme-des-lois-sur-la-migration-les---trangers-et-la-nationalite_fr-2.pdf.

¹⁰ Vasja Badalič, "Tunisia's Role in the EU External Migration Policy: Criminalization Law, Illegal Practices, and Their Impact on Human Rights," *Journal of International Migration and Integration* 20, no. 1 (2019): 85–100, <https://doi.org/10.1007/s12134-018-0596-7>.

¹¹ Monia Benjemia, "La répression des migrations clandestines en Tunisie," in *Le Maghreb à l'épreuve des migrations subsahariennes. Immigration sur émigration*. (KARTHALA Editions, 2009), 267–78, <https://books.google.be/books?id=TOJZxGhXCDMC&pg=PA270&lpg=PA270&dq=tunisie+loi+1975+et+loi+2004+pas-se-port&source=bl&ots=sgk79KeJGK&sig=ACfU3U2BdSYNEAN6FmfTYQ3GN73LGDXXug&hl=en&sa=X&ved=2ahUKewi3oKaC3oboAhXB-qQKHx26D9MQ6AEwB3oECAYQAQ#v=onepage&q=tunisie%20loi%201975%20et%20loi%202004%20pas-se-port&f=false>.

¹² Riadh Ben Khalifa, "L'émigration irrégulière en Tunisie après le 14 janvier 2011. Le problème des disparus : pouvoirs publics et société civile," *Hommes & migrations. Revue française de référence sur les dynamiques migratoires*, no. 1303 (2013): 182–88.

¹³ Badalič, "Tunisia's Role in the EU External Migration Policy."

¹⁴ <https://www.espacemanager.com/le-ftdes-denonce-les-violences-suries-par-les-migrants.html>

¹⁵ United Nations Human Rights Council, "Report of the Special Rapporteur

seeking protection with UNHCR. Most notably, the existence of undeclared detention centers for irregular migrants, apart the two official ones, has been regularly contested by CSOs.¹⁶

The 2004 Act concerning passports and travel documents¹⁷, voted under Ben Ali, criminalizes any type of help provided to irregular migrants, equating smuggling networks and humanitarian organizations. It also forces professionals, such as doctors and lawyers, to denounce irregular migrants. This mistrust pushes the latter not to seek assistance, thereby jeopardizing their chances to succeed in their status determination applications. Tunisia's border patrol has also been "pushing-back" irregular migrants from reaching its frontiers, including potential asylum-seekers.¹⁸ This strategy increased since 2015 with the surge in the country's security threats, specifically following the 2015 attacks on the Bardo museum and the resorts in the coastal town of Sousse¹⁹. Refugees became synonym with potential security threats, and migration has been equated with smuggling networks, transnational crime and terrorism.²⁰

THE SITUATION IN LIBYA AND REPERCUSSIONS OF COVID-19

The recent resignation of Ghassan Salamé, UN's special envoy for Libya, following an umpteenth suspension of

talks between the GNA and the Libyan National Army (LNA) in Geneva during a meeting at the behest of Salamé²¹, is revealing of the Libyan stalemate. The latest UN embargo is poorly enforced and international stakeholders are maintaining their deliveries of military supplies.²² Although not confirmed, five thousand metric tons of cargo are suspected to have been delivered, mainly through an airport near the city of Benghazi, one of General Haftar's strongholds.²³ The Turkish parliament approval of deploying troops in Libya in January of this year in support of Al Sarraj was a turning point in the conflict. In parallel, Haftar's troops have been gaining more territory.²⁴

The UN, as well as a number of Arab and Western countries, has recently called for a truce in the country in response to the COVID-19 crisis.²⁵ It should be noted Libya did not register any official case of contamination²⁶, although the already poor sanitary conditions in the country and the low rate of testing might induce a rapid propagation.

Neighboring Tunisia, which registered twenty-seven cases of contamination so far²⁷, lacks the capacities to manage an influx of refugees fleeing a sudden resumption of hostilities in Libya. Tunisia has also been suffering from a structurally deficient health care system. The rate of unemployment, registered at 14.9% in the

on the Human Rights of Migrants. Addendum: Mission to Tunisia,," 2013, <https://reliefweb.int/sites/reliefweb.int/files/resources/G1313539.pdf>.

¹⁶ Badalič, "Tunisia's Role in the EU External Migration Policy."

¹⁷ Parlement de la République de Tunisie, "Loi Organique N° 2004-6 Du 3 Février 2004 Relative Aux Passeports et Aux Documents de Voyage" (Journal Officiel de la République Tunisienne, 2004), <http://www.legislation.tn/sites/default/files/fraction-journal-officiel/2004/2004F/011/TF200461.pdf>.

¹⁸ Badalič.

¹⁹ <https://www.bbc.com/news/world-africa-47183027>

²⁰ Ahmed Driss, "Tunisia and the Mediterranean Region Facing Security Challenges" (Center of Mediterranean and International Studies, 2016), <http://www.cemi-tunis.org/medias/files/bulletin-cemi-ang.pdf>.

²¹ <https://www.bbc.com/news/world-africa-51713683>

²² <https://www.theguardian.com/world/2020/mar/11/suspected-military-supplies-libya-un-cargo>

²³ Ibid.

²⁴ <https://www.bic-rhr.com/research/turkey-and-libya-urgency-europe-act-prevent-further-tragedy>

²⁵ <https://www.nytimes.com/reuters/2020/03/17/world/africa/17reuters-health-coronavirus-libya.html>

²⁶ <https://www.libyaobserver.ly/health/libyan-parallel-health-ministry-suspects-three-coronavirus-cases>

²⁷ <https://www.realites.com.tn/2020/03/tunisie-le-nombre-de-cas-confirmes-du-coronavirus-grimpe-a-27/>

fourth semester of 2019²⁸, has also been increasing since 2011 with the worsening of the economic crisis and the inflation of the country's external debt.

Now, and as part of Tunisia's containment measures of COVID-19, the Ras Jdir border post between the two countries is closed, apart for repatriation processes from both sides. Tunisia also closed its land, air and maritime borders in response to the rapid propagation of the virus. In parallel, the GNA has also declared a state of emergency and closed all Libya's entry points.²⁹

In conclusion, the imminent threat of a massive and sudden flow of refugees fleeing war and sickness in the direction of Tunisia might aggravate the socio-economic situation of a country that remains in a fragile transition period, and that lacks the financial and

structural resources to humanely welcome asylum-seekers. The BIC therefore offers the list of recommendations below as to buffer the negative impacts on both refugees and the welcoming State, and remedy past deficiencies on the Tunisian part.

BIC POLICY RECOMMENDATIONS

- > Accelerate the adoption of a law regulating the asylum process in Tunisia.
- > Remedy the deficiencies of the Refugee Determination Status (RSD) in 2011, specifically through implementing an impartial appellate body with the competence to review and overrule decisions.
- > Amend the dispositions of the 2004 Act regarding the criminalization of humanitarian aid to irregular migrants as to allow CSOs to assist asylum-seekers.
- > Amend the dispositions of the Tunisian Labor Code as to allow refugees whose status has been recognized by UNHCR to legally work in Tunisia, in case they were not resettled in a third country.

²⁸ <https://www.leconomistemaghrebin.com/2020/02/15/taux-chomage-recule-149-4eme-trimestre-2019/>

²⁹ <https://www.libyaobserver.ly/news/libya-closes-land-and-air-ports-takes-measures-prevent-coronavirus>

The BIC is an independent, non-profit, think-and-do tank based in the capital of Europe that is committed to developing solutions to address the cyclical drivers of insecurity, economic fragility, and conflict the Middle East and North Africa. Our goal is to bring added value to the highest levels of political discourse by bringing systemic issues to the forefront of the conversation.



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