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# The Italian Migration Policy in Libya

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## ABSTRACT

Le storie di Italia e Libia si intrecciano già da molto tempo, ma i recenti sviluppi storici e geopolitici hanno riaperto i riflettori sul paese nordafricano.

A seguito di un excursus storico riguardante le diverse fasi delle relazioni italo-libiche, questa tesi si propone di analizzare l'attuale politica migratoria italiana in Libia.

L'ex colonia entrò nel mirino italiano già agli inizi del '900, quando immagini propagandistiche italiane la dipingevano come un paese tanto fertile quanto malgovernato, abitato da popolazioni seminomadi che non erano in grado di sfruttare le immense risorse del territorio.

La Libia venne, dunque, vista dall'Italia come un'opportunità imperdibile di affermare potere e prestigio sulla scena internazionale: iniziò così il periodo della cosiddetta "penetrazione pacifica", con cui il governo italiano favorì soprattutto l'arrivo di capitali, che si rivelò, tuttavia, di poco successo. Era necessaria una vera e propria operazione militare per procedere all'effettiva conquista del territorio: iniziò, così, nel settembre 1911 la guerra di Libia, la prima pietra di una colonizzazione italiana, che, tuttavia, non riuscì mai a sconfiggere completamente la resistenza. In madrepatria ci si aspettava una campagna rapida e incruenta, dando per scontato che i militari italiani sarebbero stati accolti come liberatori. Ma la storia fu ben diversa. Nonostante l'esercito italiano fosse moderno, innovativo e ben equipaggiato, la colonizzazione non fu né semplice né pacifica. Al contrario, la popolazione scelse di unirsi alle truppe ottomane per resistere all'invasore e il conflitto divenne, agli occhi dei libici, una guerra contro l'imperialismo europeo, per la difesa del proprio territorio, della propria cultura e religione.

Tuttavia, agli inizi del Novecento, l'Impero Ottomano si trovava dilaniato da conflitti interetnici e instabilità interna, soprattutto nei Balcani, e non aveva le forze per continuare la guerra in Libia. Decise così di arrendersi e firmare la pace di Ouchy il 18 ottobre 1912. Nonostante nel trattato non vi fosse alcun riferimento alla sovranità italiana sul paese, essa fu riconosciuta da tutte le potenze internazionali e la Libia fu divisa in due regioni, Tripolitania e Cirenaica, poste ciascuna sotto il comando di un governatore.

Ad ogni modo, la resistenza non si arrese e, seppur molto debole e frammentata internamente, continuò la sua battaglia tramite attacchi di guerriglia ed attentati.

Con lo scoppio della Prima Guerra Mondiale, il governo italiano iniziò a ritirare parte dei suoi contingenti per impiegarli sul fronte europeo. Tuttavia, proprio le rivalità interne alla resistenza libica e l'incapacità delle diverse tribù di agire in modo coordinato, vanificarono qualsiasi tentativo di indipendenza. Lo stesso accadde con l'introduzione della politica degli statuti, una nuova forma di amministrazione indiretta che avrebbe confermato la leadership italiana sul territorio, tutelando libertà e tradizioni locali, che non venne, però, mai implementata, principalmente a causa dell'instabilità interna e delle lotte di potere tra tribù rivali.

In seguito, con l'avvento del regime fascista, la conquista italiana divenne ancora più dura: l'esercito cominciò a distruggere tutto ciò che permetteva ai ribelli di sopravvivere, cercando di destabilizzare la vita agricola ed economica del paese. Con il pretesto di dover riportare la pace, in quegli anni vennero adottate misure sempre più brutali, come la deportazione di intere tribù e la costruzione di campi di concentramento. Il 24 gennaio 1932, il governatore Badoglio proclamò la definitiva sconfitta dei ribelli e la pacificazione della Libia. A questo punto, il paese era pronto per il vero intervento coloniale. Gli anni che seguirono furono ricchi di investimenti in molti settori, quali l'agricolo e l'industriale, ma anche in quelli di educazione ed istruzione. L'amministrazione Balbo (1933-1940) cercò anche di migliorare i rapporti tra la popolazione locale e il governo italiano e di trovare un equilibrio tra la maggioranza libica e la minoranza italiana, per evitare il diffondersi di idee radicali e nazionalistiche, come successo nei vicini paesi arabi.

Ci pensò lo scoppio della Seconda Guerra Mondiale, e la successiva sconfitta italiana, a cambiare le sorti del paese: nel 1945, la Libia fu divisa in tre amministrazioni differenti e posta sotto il controllo britannico (Tripolitania e Cirenaica) e francese (Fezzan).

Qualche anno più tardi, con l'avvento della decolonizzazione, la comunità internazionale si interrogò anche sulle sorti della Libia, finché il 24 dicembre 1951 venne proclamata la sua indipendenza. I primi anni di vita del nuovo Stato furono tutt'altro che semplici: la Libia non aveva né risorse economiche né personale qualificato per poter prendere in mano le redini del proprio futuro. Moltissimi coloni italiani erano tornati in madrepatria, il paese si trovava devastato dalla guerra, con infrastrutture distrutte e settore agricolo incapace di far fronte ai bisogni della popolazione. Il governo nordafricano si trovò

costretto a dipendere dagli aiuti provenienti dalle potenze europee e a vivere per diversi anni in bilico tra Occidente e vicini paesi arabi, capeggiati dall'influente Egitto di Nasser. La situazione libica migliorò a partire dagli anni Sessanta, grazie alla scoperta dei primi giacimenti di petrolio: lo sfruttamento di queste risorse diede un forte input allo sviluppo economico del paese. Tuttavia, pur divenendo uno dei paesi più ricchi del continente africano, alla crescita economica non fecero seguito cambiamenti politici e sociali: i giochi di potere e i clientelismi non diminuirono, così come il malcontento generale tra i ceti medio bassi della popolazione. La ricchezza del paese andava sempre più a concentrarsi nelle mani dei più ricchi. Il petrolio aveva trasformato il paese, ma senza eliminare le sue contraddizioni e il dissenso popolare divenne terreno fertile per la diffusione del nazionalismo arabo e degli ideali degli Ufficiali Liberi, un'ala dell'esercito che, capeggiata dal colonnello Mu'ammar Gheddafi, con la famosa rivoluzione del 1° Settembre 1969 riuscì a rovesciare il governo. Iniziò così il lungo periodo di potere di Gheddafi, che con la sua Jamahiriya riuscì a concentrare gradualmente tutto il potere nelle proprie mani e svuotare di ogni capacità qualsiasi organo statale ed istituzionale.

A livello internazionale, la politica di Gheddafi si rivelò alquanto contraddittoria: egli riconosceva l'importanza di mantenere e intensificare i rapporti con l'Italia, ma nutriva un forte risentimento nei confronti dell'ex potenza coloniale. A partire dagli anni '70 e dopo l'espulsione improvvisa della comunità italiana ancora insediata sul suolo libico, Tripoli iniziò un dialogo privilegiato con Roma, seguito da una serie di trattati economici e commerciali. Inizialmente, due erano i temi caldi della politica estera di Gheddafi: l'esportazione di petrolio e l'importazione di armi e materiale bellico, con cui supportare diverse organizzazioni attive in Medio Oriente, tra cui movimenti estremisti in Palestina e presunti gruppi terroristici, considerati dal leader libico "combattenti per la libertà".

Questa attitudine del Colonnello causò il deterioramento dei rapporti con gli Stati Uniti e le potenze occidentali, portando anche a bombardamenti americani su presunti centri di attività terroristica libici, a cui Tripoli rispose con diverse rappresaglie che culminarono negli attentati di Lockerbie, in Scozia, nel 1988, e del deserto di Ténéré, in Niger, l'anno successivo. A seguito di questi due attacchi, il Consiglio di Sicurezza dell'ONU emanò la risoluzione n. 748 del 1992, imponendo alla comunità internazionale di rispettare l'embargo promosso contro l'attività terroristica libica, che rappresentava una minaccia alla sicurezza e alla pace internazionali.

Nonostante una serie di riforme interne, Gheddafi si rese presto conto di quanto fosse vitale per il paese porre fine alle sanzioni e all'isolamento sulla scena internazionale e, con il riconoscimento di responsabilità degli agenti segreti libici nei due attentati in questione, agli inizi del 2000, riuscì ad inaugurare una nuova era per la Libia nel contesto mondiale. Fondamentale in questo senso fu il rilancio della cooperazione con l'Italia. Alla base del nuovo periodo di relazioni bilaterali vi fu il Comunicato Congiunto Dini-Mountasser, firmato nel 1998 con l'obiettivo comune di lasciarsi alle spalle il passato coloniale e creare un futuro di pace e stabilità. L'Italia, in particolare, espresse forte rammarico e promise di fornire supporto per lo sviluppo economico e culturale libico. Dal canto suo, l'ex colonia non mancò di sottolineare gli abusi subiti dalla popolazione e il bisogno di ricevere una cospicua compensazione da parte dell'Italia per chiudere definitivamente l'argomento.

In generale, questo accordo rappresentò la prima pietra di una lunga cooperazione tra i due paesi, che si sviluppò nei più svariati ambiti, tra cui turismo, investimenti, cooperazione culturale, fino ad interessare anche la lotta all'immigrazione clandestina.

La Libia, negli anni '90, aveva messo in atto la cosiddetta *open door policy*, con la quale aveva iniziato ad attrarre molti stranieri in cerca di occupazione e fortuna. Gheddafi aveva, infatti, messo in atto una serie di iniziative diplomatiche con l'intento di promuovere la creazione di un'area di libera circolazione per gli abitanti dei Paesi limitrofi. Alla base di questa nuova politica vi erano due ragioni principali: da un lato la necessità di far fronte all'embargo posto dalle potenze occidentali che spinse la Libia ad avvicinarsi al mondo arabo; dall'altro, lo sviluppo economico del paese, basato sui crescenti proventi derivanti dalla produzione di petrolio, che aveva cominciato ad attrarre sempre più manodopera straniera. Il progetto del Colonnello culminò nel 1998, con la creazione della *Community of Sahel-Saharan States* (CEN-SAD), con cui Libia, Mali, Chad, Niger, Sudan e Burkina Faso si prefiggevano di promuovere azioni coordinate riguardo a tematiche politiche, economiche, culturali e sociali, tra cui proprio la libera circolazione dei cittadini. La CEN-SAD si pose fin da subito obiettivi piuttosto ambiziosi, la maggior parte dei quali rimase solo "sulla carta". Tuttavia, il numero di stranieri che raggiungevano la Libia continuò a crescere per tutti gli anni '90, senza che fossero messe in atto misure pratiche per la gestione di tali flussi: il fenomeno migratorio cominciò a diventare un problema per le autorità militari competenti e nel paese iniziò a diffondersi



un clima di sospetto e paura, che culminò nelle rivolte popolari esplose nel 2000 a Tripoli e Zawiya.

Purtroppo, la *open door policy* mancava degli strumenti necessari per una valida e ottimale applicazione e per permettere un'integrazione proficua ed efficace degli stranieri nel tessuto sociale libico. Così, con l'avvento del nuovo millennio, alcuni immigrati iniziarono a tentare il viaggio verso l'Europa e, per far fronte a questa nuova sfida, Roma e Tripoli hanno iniziato ad attuare politiche congiunte, a partire dall'Accordo per la collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e di sostanze psicotrope ed all'immigrazione clandestina del 2000. Il nuovo millennio ha visto difatti l'intensificazione della cooperazione bilaterale tra i due paesi, che hanno iniziato a collaborare sempre più, tramite lo scambio di informazioni sulle organizzazioni criminali e la sorveglianza congiunta delle coste libiche. Gli impegni previsti dall'accordo del 2000, infatti, sono stati ripresi successivamente dal Trattato di Amicizia, Partenariato e Cooperazione del 2008 e dal Memorandum di Intesa del 2011. Quest'ultimo, in particolare, sottolineava la necessità di lavorare insieme sul controllo e la sicurezza dei confini libici, sia a terra che mare, al fine di ridurre non solo i flussi migratori in transito attraverso il paese, ma anche il traffico di esseri umani promosso da organizzazioni criminali internazionali. Per raggiungere questo obiettivo, la parte italiana si è impegnata a fornire supporto tecnico e tecnologico e a finanziare corsi di addestramento per gli ufficiali libici. In conclusione, nel nuovo millennio, l'Italia si è sbilanciata parecchio nelle negoziazioni con la Libia e ha previsto l'assegnazione di fondi rilevanti per far fronte a quella che nel nostro paese è vista proprio come un'emergenza migratoria. Questa cooperazione bilaterale sviluppata tra Roma e Tripoli può essere considerata un caso di esternalizzazione dei confini?

Il processo di esternalizzazione si riferisce a quelle politiche che mirano a spostare responsabilità e funzioni di controllo svolte generalmente dalle frontiere di uno stato al di fuori del territorio dello stesso, in particolare, per quanto riguarda la gestione dei flussi migratori e delle domande di asilo.

Considerando i recenti accordi italo-libici inerenti il tema migratorio, non si può certo negare che la cooperazione tra i due paesi sia stata piuttosto intensa e abbia avuto tra gli obiettivi principali quello di stabilire standard comuni nella gestione della migrazione attraverso lo scambio informazioni e la collaborazione transfrontaliera tra gli apparati di

polizia sul suolo italiano e libico. Tuttavia, tali accordi, così come la presunta pianificazione della costruzione di campi di detenzione per migranti e i voli di rimpatrio, non implicano alcuna pratica di trasferimento di responsabilità e funzioni in Libia.

La proposta europea degli inizi del 2000 rappresentava maggiormente un tentativo di esternalizzazione. Essa, infatti, prevedeva la creazione di Regional Processing Areas, aree sicure vicino ai paesi di origine, in cui le persone avrebbero potuto fuggire e rimanere in attesa di essere ricollocate, e di Transit Processing Centres, ovvero centri per l'elaborazione delle diverse domande di protezione internazionale, posti appena fuori i confini dell'UE. Secondo gli Stati promotori, questo meccanismo avrebbe ridotto drasticamente il numero delle morti nel Mediterraneo, poiché i migranti avrebbero potuto essere assistiti vicino ai loro paesi di origine e arrivare in Europa in modo rapido e sicuro una volta ottenuti i documenti necessari. Inoltre, l'esternalizzazione avrebbe contribuito ad una più omogenea distribuzione di oneri e responsabilità e ad una condivisione più efficiente delle risorse tra i paesi membri. Tuttavia, oltre a mancare di dati precisi e dettagli pratici, questa pratica venne ritenuta da alcuni paesi come una mera strategia di contenimento, per limitare l'accesso di immigrati nel territorio europeo e come un tentativo di cedere il "fardello dell'immigrazione" a paesi extra UE.

In effetti, possiamo considerare l'attuale sistema europeo come una sorta di "esternalizzazione interna", in cui i paesi mediterranei, incaricati dal Regolamento di Dublino della gestione delle richieste di asilo, sono diventati una sorta di filtro per gli altri Stati membri dell'UE. In questa prospettiva il processo di esternalizzazione verso la Libia potrebbe spostare questo onere ancora più a sud, con la differenza che la situazione del paese è già piuttosto critica e tale pratica potrebbe avere gravi ripercussioni per i richiedenti asilo e la popolazione locale. Non è un mistero che dal 2011 il paese si trovi nel caos.

Per più di quarant'anni, la Libia è stata tenuta unita dalla persona di Gheddafi, che ha progressivamente concentrato tutto il potere nelle proprie mani, svuotando le istituzioni di qualsiasi capacità governativa. Dopo la caduta del regime, il paese è andato letteralmente alla deriva, privo di organi governativi capaci di svolgere le proprie funzioni e senza una qualche forma di unità o coscienza nazionale. Infatti, tutte quelle rivendicazioni delle singole tribù e milizie, che Gheddafi era riuscito abilmente a sopprimere con repressione e ricompense, esplosero subito dopo la caduta del regime.

Dal 2011 la Libia è un paese dilaniato da lotte e guerre interne tra diverse fazioni, dove vince chi ha il fucile con più munizioni.

Per cercare di risolvere la situazione, nel 2015 la comunità internazionale promosse la creazione del Governo di Accordo Nazionale capeggiato da Fayeze al-Serraj, ma il tentativo non fu sufficiente per fermare la corsa al potere del generale Haftar. Attualmente, il paese rimane diviso in tre parti: da un lato, Haftar con le sue forze armate ha consolidato la sua influenza su Bengasi e la parte orientale della Libia, dall'altro, al-Serraj controlla la zona di Tripoli, mentre il resto del paese è nelle mani delle milizie. Intanto, il conflitto interno assume sempre più un aspetto internazionale e diversi paesi intervengono sostenendo l'una o l'altra fazione, nel tentativo di proteggere i propri interessi.

Anche l'Italia cerca di ricoprire un ruolo di primo piano, con l'obiettivo principale di consolidare la cooperazione con l'ex colonia riguardo la tematica migratoria. L'attuale crisi libica ha sicuramente provocato la fuga di molti stranieri verso territori più sicuri, molti dei quali hanno deciso di tentare la traversata del Mediterraneo verso le coste italiane. Tali flussi migratori sono stati più volte sovrastimati e talvolta strumentalizzati a fini politici. Questa sopravvalutazione rappresenta una delle cause di quella "paura dell'invasione" che aleggia tra la popolazione italiana. Tuttavia, non vi sono ragioni reali per creare allarmismo in questo senso e questo clima artificiale di "emergenza migratoria" si è rivelato controproducente sia internamente che a livello internazionale. La necessità italiana di "parlare ad ogni costo" concede alla Libia un notevole *bargaining power* durante le negoziazioni: l'Italia è costretta praticamente a cedere a tutte le richieste libiche se non vuole rischiare di trovarsi "inondata" da migranti. Il memorandum italo-libico del 2017 ne è un esempio lampante, dal momento che il nostro paese si è impegnato a finanziare la fornitura di attrezzature e strumenti e corsi di formazione per milioni di euro. Inoltre, tale politica migratoria italiana, oltre ad essere onerosa e poco efficace, è anche nociva a livello di diritti umani. Le condizioni di migranti e richiedenti asilo in Libia, ormai ben note a tutta la comunità internazionale, sono state chiaramente riportate nel rapporto di UNSMIL e OHCHR. Migliaia di persone vengono stipate in edifici di fortuna, senza cibo e in pessime condizioni igieniche, costrette a subire violenze e torture di ogni tipo. Ciò che è certo è che la Libia non può essere considerata un luogo sicuro né un paese

con cui stringere accordi, almeno fintanto che non vi sarà un governo in grado di esercitare effettivamente le proprie funzioni.

Il nostro Paese dovrebbe riconsiderare i costi umani di tale politica migratoria, poiché il binomio “soldi in cambio di contenimento” rischia di rivelarsi inefficace oltre che disumano. È, inoltre, fondamentale sviluppare una maggior collaborazione tra gli stati europei, per mettere in atto un sistema di redistribuzione che permetta la condivisione di responsabilità di rifugiati e richiedenti asilo. I paesi europei dovrebbero capire che le migrazioni rappresentano una tematica che può essere affrontata in modo proficuo ed efficiente solo in maniera congiunta. E fin quando non vi saranno misure reali ed efficaci per consentire alle persone di spostarsi e cercare protezione in modo lecito e sicuro, i viaggi pericolosi non si fermeranno mai.

## INTRODUCTION

The distance as the crow flies between Tripoli and Lampedusa is less than 300 km. It is no coincidence that the history that intertwines the destinies of Libya and Italy is very long, and recent developments have certainly emphasized their importance. What do we know about this area so close yet so distant and different from us? Libya has always been a fragmented territory, where really different populations, tribes and lineages that have little to share with each other, are somehow kept together. Libya is a territory very rich in raw materials and it is the gateway connecting Africa and Europe. It is a strategic territory, geopolitically and economically, and that is the reason why it has always attracted international powers. Of course, Italy did not want to be outdone, it did not want to leave such an important treasure to its French and German rivals: it is at the beginning of the '900 that the campaign to conquer Libya begins, which will mark the joint future of these two states. From that moment on, for more than a hundred years Libya and Italy will relate to each other in different sectors, until they ended up tackling migration issues together.

Migrations have always been part of human life: people have been moving since ancient times. Recently, however, with the advent of globalization, goods, ideas and news are able to reach the other part of the world in a blink of an eye, while, especially after 9/11, mass movement seems to have become a problem. Migrants from the southern hemisphere began to be looked upon with suspicion, to be seen as a danger to security, peace and internal well-being, which surrounded Western societies. Here a foreigner is seen as a destabilizing element of that internal stability, which the West tries to jealously guard. Italy, which by its geographical nature represents a gateway from Africa to Europe, cries out for the "*invasion*" even though the registered numbers of the notorious landings are far from being an emergency. In this climate of mistrust and suspicion, the various Italian governments of the new millennium have tried to deal with the "migration problem". How? Looking South and asking for help from the former Libyan colony. In this thesis, it will be discussed their bilateral cooperation with regard to migration issues. I will start with a brief historical excursus to remember the main moments that marked the common history of these two countries, which remained very close even after Libyan independence. In the third chapter, the focus will shift to the Italo-Libyan

agreements on migration, which will be taken up again in the fourth chapter to analyze whether this bilateral cooperation can be considered as an example of *externalization*. What does it mean? This process refers to those policies aiming at shifting responsibility and border control functions outside the state's territory. Does this practice imply a delegation of sovereignty? We will find it out. Finally, in the last chapter, it will also be discussed the difficult Italian situation, worsened following recent developments. Unfortunately, the repeated human rights violations and the degrading conditions of asylum seekers kept in detention centres in Libya are no secret to anyone. Thousands of men, women and children are crammed into overcrowded makeshift buildings, without food and in poor hygienic conditions, forced to endure violence and torture of all kinds. Libya cannot be considered a place of safety and our country should reconsider the human costs of its migration policy, giving the right weight to the protection of human rights.

# CHAPTER 1

## COLONIZED LIBYA: FROM ITALIAN AMBITIONS TO THE END OF THE COLONIAL PERIOD

### 1.1 The Italian colonial goals and the *peaceful penetration*<sup>1</sup>

During the XIX century the Mediterranean was once again one of the most relevant geopolitical and economical areas in the international scenario and the Ottoman Empire was no longer able to protect its territories, leaving the European powers the possibility of thinking about the partition of the Ottoman lands.

Already in 1884, the Italian government had studied a landing plan in Tripoli, based on a propagandistic image of a fertile Libya, inhabited by nomadic and semi-nomadic populations that were not able to exploit the immense resources of the country. Italy saw the conquest of Libyan territory as an unmissable opportunity to affirm its prestige and power internationally and began an expansion toward those lands, both building diplomatic relations with the other European countries and pursuing a policy of economic penetration in order to affirm its interests locally<sup>2</sup>.

However, at the beginning of the XX century, the Italian position in Libya was rather weak, both as regard the penetration of capitals and businesses and the presence of Italian citizens on Libyan soil. Thus, starting in 1907, the Italian government started a series of credit operations, taking control of agricultural and construction companies, purchasing lands and competing for public work contracts.

If from an economic point of view this policy of *peaceful penetration* turned out to be rather unsuccessful, it was, instead, very useful to justify the political actions and, above all, the armed intervention that the government was planning, giving concrete content to the Italian interests in the region. In this context, the opposition of the Ottoman Empire also played in favor of the Italian intervention, evidencing all the limits of a peaceful penetration<sup>3</sup>.

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<sup>1</sup> F. Cresti, M. Cricco, *Storia della Libia contemporanea*, Roma, Carocci, 2015, p. 56

<sup>2</sup> Ivi, p. 50

<sup>3</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 56

## 1.2 The Italian invasion and the colonial penetration

On 29 September 1911, the declaration of war was delivered to Istanbul by the Italian government, announcing the military occupation of Tripolitania and Cyrenaica in order to defend Italian interests in the regions<sup>4</sup>. What drove the Giolitti government to the declaration of war were mainly considerations regarding international balances. The Libyan territory was considered fundamental to affirm Italy as an international power and it was necessary to impose a regular administration on it. Libya was still an underdeveloped country based on a tribal society, in which the previous *peaceful colonization* had obtained irrelevant results and the failure to industrialize the country could damage Italian economic activities and generate disturbances in the international balance of power. Furthermore, the Italian government was convinced that if it had decided to give up the conquest, another power would have taken advantage of it.

The decision to proceed with armed intervention was also influenced by other reasons, albeit of lesser weight, including internal politics: firstly, the Giolitti Cabinet was based on a balance between liberal majority and reformist socialism; important concessions were already made to the left wing and the war was seen as the possibility of securing support also by the right one. Secondly, even the economic groups were favorable to the conflict, above all Banco di Roma, which was risking losing those capitals, employed in the bankruptcy management of its activities in Libya<sup>5</sup>.

Together with all these considerations, the project of renewal and military expansion carried out in those days by the Ottoman Empire contributed to speed up the preparation of the occupation of Libyan ground by the Italian army.

On 4 October 1911, the first troops landed at Tubruq and subsequently in Tripoli, Derna, Benghazi and Al-Khums. The Italian army was modern, powerful, equipped with innovative war tools and, in the motherland, it had been given for sure that the Italians would have been welcomed as liberators and that the campaign would have been short and bloodless. But, contrary to expectations, the population joined the Ottoman army and started resisting to the invader. It is sadly known the episode of Sharia Sciat, near Tripoli,

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<sup>4</sup> Ivi, p. 59

<sup>5</sup> Ivi, pp. 59-60



where, after an attack on the Italian troops by the insurgent population, revenge was just as bloody: the cities were rounded up and all the Arabs found armed were shot or hanged. This "Arab hunt" and the summary executions made about 2,000 victims<sup>6</sup>, while arrested people were deported to Italy. This killing deportation processes were the first traumatic accident of the Italian occupation and pushed the Libyan population to continue the resistance. In the eyes of the local population, the conflict became a war against European imperialism, a war for the defense of its own land, at times taking on religious connotations to preserve Islam.

Trying to quickly conclude the conflict, after some months, the Italian navy started to threaten strategic objectives in the Red Sea and the Mediterranean, aiming at forcing the Ottoman Empire to surrender. The latter, in those years, was even torn apart by internal instability and inter-ethnic conflicts, such as those in the Balkans between Greece, Serbia, Montenegro and Bulgaria and, having no alternatives, decided to sign the peace in Ouchy on 18 October 1912. The conditions of peace provided for the recognition by the sultan of the autonomy of the Libyan provinces: one of his representatives in Tripoli would defend Ottoman interests and designated the main officials of the administration of justice. The Italian government would recognize the caliph, the Muslim religious leader and the freedom of worship, while the forms of administration would be decided by a mixed commission. There was no mention of Italian sovereignty in the treaty, which was nevertheless recognized in the following days by all the powers<sup>7</sup>.

The signing of the Ouchy peace divided the forces of the Tripolitan resistance into two different groups: on the one hand, the representatives of sedentary populations were in favour of a protectorate similar to the Tunisian one; on the other, Tripolitan Senussia's members and several tribal leaders of nomadic and semi-nomadic groups were supporting all-out warfare. The different political choices were in many cases dictated by personal ambitions, in particular as regards the exponents of the political and business world. Some figures from the Arab and Jewish communities were particularly linked to Italian government, also thanks to the so-called *Chiefs Policy*, which gave substantial privileges to those who were willing to favor colonial penetration. In this sense, it can be argued

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<sup>6</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p.63

<sup>7</sup> Ivi, p. 70

that the Italian government implemented a generalized corruption action, which in many cases was successful: colonialism represented a possibility for many leaders and notables to preserve their own interests and power positions. On the contrary, all those people who since 1908 had received political benefits and privileged roles within the Ottoman Parliament or the local administration, sided with the Turkish government, becoming the main exponents of the resistance, unless changing their position after the surrender of the Ottoman Empire. The Ouchy peace certainly contributed to widen the distance among different power groups and populations inhabiting Libya, that in those years appeared more divided than ever. From the territorial point of view, the country was separated into two regions, Tripolitania and Cyrenaica, each placed under the guidance of a governor under the power of the Minister of Colonies<sup>8</sup>.

In any case, the resistance did not surrender, and it continued its fight against the invader with attacks and guerrilla warfare, although it was facing increasingly difficulties: domestic production was insufficient, and the population could not receive supplies from outside except through the Egyptian border, since the coast was now entirely under Italian control. The mortality rate recorded in the years immediately following the peace was skyrocketing. The Italian army was advancing with fewer and fewer obstacles: by the middle of 1914 the coastal Tripolitania and the Fezzan had been almost totally conquered.

### **1.3 Libya during the First World War and the statute policy**

With the outbreak of the First World War, the Italian Government began to withdraw most of its troops from Libyan territory to engage them on the European front. In the meantime, the resistance had reinforced, and it had regained the will to fight against the invader, also due to some government errors in the regions occupied by the Italians, including forced requisitions, taxes and deportations. In a short time, the occupied territories on the south were freed, but the resistance failed to take full advantage of the opportunity: in Tripolitania in particular, it did not emerge any power able to unify militants and lead the struggle. On the contrary, conflicts and tensions among the most powerful families had exploded, leading to the birth of many autonomous and often rival governments. The Ottoman Empire could have been an element of union, but it was now

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<sup>8</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 73-75

too weak to be able to do some successful action in this sense. Already in mid-1918 it was evident that the Turkish government would be defeated. In Tripolitania, in the middle of November, it was proclaimed the Tripolitan Republic, which after few months was forced to sign an agreement with the Italian government, under the threat of a new landing in Tripoli. This agreement represented the basis for a new line of colonial politics that would prefigure a form of indirect administration: the statute. According to the statute policy, the country management would be attended by representatives of the population, in respect of local traditions and with the aim of a general progress of the country, but under Italian leadership. This new policy, which repudiated all-out warfare and the power imposition, would be in line with the principles of international politics promoted by the president of the United States Wilson at the beginning of 1918<sup>9</sup>.

With the proclamation of the statute in Tripoli, an elective parliament and a distinct Italian citizenship were provided for the Libyans. The equality of Arabic and Italian languages in the administration was also recognized, while Arabic was to be the official teaching language in schools; any taxes not voted by the local parliament were abolished and a voluntary military service was established; the freedom of opinion and the freedom of the press were guaranteed, as well as those of political association. While waiting for the implementation of the statute, the Tripolitan representatives took on consultative roles.

The statute seemed to represent an important success for the indirect and peaceful penetration of the Italian government on the Libyan territory, but unfortunately it was never put into practice, because of the lack of capable government officials and of the situation of political instability in Tripolitania, characterized by inter-tribal struggles and internal clashes due to rivalry and personal interests. The fights between clans turned into a real civil war and represented in fact the end for the Tripolitan resistance<sup>10</sup>.

On the contrary, Cyrenaica, under the leadership of the emir Idris al-Sanusi experienced a less dramatic evolution. In this region, the statute was promulgated on 31 October 1919, but it remained just a formal act. A new agreement was made at al-Rajma in October 1920, with the recognition of Italian sovereignty. On the basis of this pact, the emir would receive substantial economic advantages and he would undertake to dissolve his armed

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<sup>9</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 79-85

<sup>10</sup> Ivi, pp. 85-86

camps and to favor the application of the statute. But the disarmament never happened since the leaders did not want to lose control over the surrounding territories.

In 1921 it was laid the foundation stone of Libya as a unitary state: the creation of a common program that provided for the unification of Tripolitania and Cyrenaica, under a single emir, which would manage the civil and religious administration. However, even this plan was never implemented, leading to the definitive failure of the statute policy and the beginning of the occupation. Among the different causes of failure of this peaceful and indirect colonization process there was the progressive radicalization of the demands for autonomy, deriving in particular from the development of nationalisms in other Islamic countries, first of all Egypt, Tunisia and Turkey. Therefore, two alternatives remained to the Italian government: the permanent abandonment of the colony or the war of conquest. Thus, in the middle of 1922 the Italian troops began to advance towards the main centers southwest of Tripoli and towards a Tripolitan resistance in serious difficulties<sup>11</sup>.

#### **1.4 The fascist reconquest and the Second World War**

Under the Fascist regime the Libyan military campaign became even harder. From that moment the military attacks left to the locals the only alternatives of all-out warfare, of the unconditional capitulation or of the escape. Within a few months almost all the lands in Tripolitania were under Italian control, the resistance had been dispersed and several tribes had chosen to move away towards the Fezzan.

Meanwhile, a second front had been opened in Cyrenaica. Here, in 1925 all previously concluded agreements were suspended, and from the Italian side a very hard struggle began, while the population was trying to resist with impressive compactness and ability to fight. The resistance quickly adopted a guerrilla strategy, with surprise attacks. It was a warfare that committed all the local resources, in particular when the Italian army's target became the destruction of everything that could allow the tribes to survive: disorganizing the agricultural and economic life of the rebels became the priority objective of armed actions. The most dramatic period began in 1929, with the proclamation of Pietro Badoglio as first Governor of Libya. In order to face the

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<sup>11</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 88-89

resumption of guerrilla warfare, the Italian command adopted the most brutal measures such as the separation between the submitted population and the rebels, the blocking of supplies for the latter and retaliatory measures through the intervention of irregular gangs. In particular, in order to drastically reduce the resources of the rebels perched in the Gebel region, the Italian forces implemented the deportation of entire tribes and their concentration away from the area. These very harsh policies were justified by the Fascist regime as necessary for the restoration of peace and it was denied, beyond all evidence, the fact that the centralization of the populations had led to the formation of real concentration camps. By contrary, these camps were described as models of rationality and good organization, useful to improve Bedouins' economic and health conditions and to carry out educational programs and activities for children and orphans<sup>12</sup>. According to Italian General Graziani, it has been estimated that the deportees were more than 100,000<sup>13</sup>.

After all the measures carried out by the Italian forces, the local resistance was exhausted, drastically reduced and able to receive aid only from Egypt; when, in 1931, even this road was blocked, the rebels had no alternatives but surrender.

On 24 January 1932, the governor Badoglio proclaimed the final defeat of the rebellion and the pacification of Libya, as well as the immediate liberation of the tribes (even if the last concentration camps were closed only in September 1933). In the same year, it was founded the Agency for the Colonization of Cyrenaica (*Ente per la Colonizzazione della Cirenaica, o ECC*). Financed by various credit institutions and by the Ministry of the Colonies, this agency had the purpose of enhancing the region through modernization processes and the inclusion of colonial families in order to constitute a small farming property<sup>14</sup>. The first years of intervention were characterized by a series of crises, since the available resources were insufficient and continuous extraordinary financing was needed. However, the colonial government carried out important public works that profoundly transformed the country, as the construction of roads and infrastructures.

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<sup>12</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 95-101

<sup>13</sup> R. Graziani, *Cirenaica pacificata*, Milano, Mondadori, 1933, p. 104 in: Cresti, Cricco, *Storia della Libia contemporanea* p. 103

<sup>14</sup> F. Cresti, *Non desiderare la terra d'altri. La colonizzazione italiana in Libia*, Roma, Carocci, 2011, pp.109-110

Once the military operations were over, the resistance was defeated, and concentration camps officially closed, the territory was fully at the disposal of colonial intervention<sup>15</sup>.

Under Balbo's governorate (1933-1940), colonization saw its most constructive period. Cities were enriched with public buildings and a new road and transport network was planned, together with the finishing of the coast road from the Tunisian border to the Egyptian one, which assumed a symbolic meaning of union between Tripolitania and Cyrenaica. The two territories had been administratively unified two years earlier, but from a physical point of view the Sirte desert remained a difficult barrier to overcome. The project for the coast road had first of all a military reason, since the Italian government was preparing for the conquest of Ethiopia and it needed to shorten the time to move troops from one border to another. In any case, the development of public works represented an opportunity to reduce the unemployment rate of the region, increasing the supply of paid jobs<sup>16</sup>. The Balbo administration tried also to better the relations between the Italian government and the local population, in particular with the release of political prisoners and the granting of amnesty, together with the promise of economic advantages to Libyan refugees who would decide to come back to their motherland. It has been estimated that only from Egypt around 10,000 refugees came back to Libya<sup>17</sup> and from Morocco and Tunisia around 2,000 people repatriated just in 1938<sup>18</sup>.

Moreover, in those years the education sector considerably improved. The statutes had created many hopes, but the access to middle and higher education had always been denied to young Libyans. Finally, in 1934, the post-elementary education was opened to everyone and, the following year, new professional schools were established, together with a high school of Islamic culture in Tripoli. Balbo considered education particularly relevant for the Arabs' social development and important to allow them access to administrative jobs, albeit in a subordinate role. This belief was based on a political calculation, aiming at finding a balance between the Italian minority and the vast Muslim majority in order to avoid the development of nationalist movements as it had happened

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<sup>15</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 111

<sup>16</sup> Ivi pp. 112-114

<sup>17</sup> Edward Evan Evans-Pritchard, *The Sanusi of Cyrenaica*, Oxford, Clarendon, 1949, p.197 in: Cresti, Cricco, *Storia della Libia contemporanea*, p. 114

<sup>18</sup> Cresti, *Non desiderare la terra d'altri. La colonizzazione italiana in Libia*, p.169

in neighboring Arab countries. This balance was to be found in a new totalitarian organization of Libya, in which the Muslim population would actively, but separately, participate in the mass institutions of the regime<sup>19</sup>.

However, despite this strategy, it was essential to increase the Italian presence in the region with demographic colonization interventions organized by the State: in 1938 about 20,000 settlers moved to Libya followed by other 11,000 a year later<sup>20</sup>.

In the second half of the '30s, the strategic value of the Libyan territory on the international scene appeared ever more evident. The defense against external attacks and its use as a basis for future conquests became the main objectives of the Italian military action: the construction of the coastal road and the agricultural colonization are just a few examples of how the country was subjected to the motherland war effort. However, during the Second World War, the Libyan territory suffered serious damages: a large part of the agricultural structures was destroyed, all the irrigation pipes had been confiscated by the troops, and the mechanical machinery had been seized, making agricultural work virtually impossible and blocking almost all the settlers' activities in Cyrenaica. In addition, besides the major war, a minor war developed: that of the Arab shepherds, returned to their old lands, against the settlers. Because of this and of the Allied occupation, part of the Italians of Cyrenaica fled to Tripoli, leaving the eastern Libya. In this context, Libyan refugees began an intense political activity, in particular tightening relations with representatives of the British government that will be decisive for the future of the country<sup>21</sup>.

Although the ceasefire was proclaimed only in May, in February 1943 the war in Libya ended, together with the period of Italian domination over the country. With the end of the Italian regime, lots of Libyan refugees returned, especially to Cyrenaica, where the Muslim population passed from 245,952 inhabitants in 1943 to 304.437 four years later<sup>22</sup>. The northern regions suffered enormously from the war. It was estimated that there had

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<sup>19</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 114-116

<sup>20</sup> Ivi, pp.116-117

<sup>21</sup> Ivi pp. 125-129

<sup>22</sup> Ivi, p.129

been 3,128 naval and aerial bombardments on Libyan territory and that Benghazi and Tubruq suffered more than 1,000 air strikes<sup>23</sup>.

After the final Italian-German retreat, the territory was placed under three different administrations: two British areas, Tripolitania and Cyrenaica, and a French one in Fezzan. In the scarcely populated Saharan region, France established an administration similar to that used in Algeria under the supervision of a military command. France's goal seemed to be the annexation of Saharan territories to Algeria and Tunisia, restarting with its colonial expansionism interrupted by Italy's intervention in 1911. On the other side, the British government wanted to maintain control over Cyrenaica, which otherwise could pose a threat to Egypt and the Suez Canal. The interests of the two powers, however, went against Libyan nationalism that absolutely wanted to avoid the fragmentation of the country. But, the Libyan resistance continued to be patchy, disorganized and divided, in particular into two distinct groups: on the one hand, those who recognized the legitimacy of the emirate of Idris al-Sanusi; on the other those who supported the establishing of a republican government. However, the fate of the country should have been decided by the winners of the world conflict: the United States, Russia, France and Great Britain met in Paris in July 1946, but unfortunately, they could not reach an agreement.

Meanwhile, Idris al-Sanusi, who was invited by the British government to settle in Cyrenaica and take an advisory role in order to represent the popular will, decided to form a National Front of Cyrenaica, led by the heads of the Bedouin tribes, which would represent the interests of the old political class. On the other side, a young pan-Arab nationalism was emerging, which found expression in the club '*Umar al-Mukhtar*, originally born as a sport association for Libyan youth. The promoters of this club were losing hopes for a political change carried out by Idris al-Sanusi and the "old politicians", blamed to be concerned only in defending their regional and personal interests, regardless of the country's true objective: the independence of Libya and the unity of its historical regions. The club's protests ended only in 1947, when Idris al-Sanusi decided to found a National Congress and to ban every other political group. However, in Tripolitania the Nationalist Party was illegally formed, but the heterogeneity of its members led to an

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<sup>23</sup> J. Wright, *Libya: a modern History*, London, Croom Helm, 1981, p. 44 in: Cresti, Cricco, *Storia della Libia contemporanea*, p.129



internal split and the subsequent creation of two new parties: the United Nationalist Front, supported by Great Britain, which was fighting for an independent state under the emirate of Idris al-Sanusi; and the Free Nationalist Bloc, which preferred a united and republican Libya. The idea of unity and independence of Libya was supported also by the Liberation Committee of Libya, a party founded in Cairo and endorsed by the Arab League<sup>24</sup>.

In the years immediately following the war, because of the critical situation of British finances, the Tripoli administration received no credit for repairing war damage: the road network was in disastrous condition and the ports were unusable; the unemployment rate was skyrocketing, and agriculture had been heavily damaged by an invasion of locusts. In addition, the strong devaluation of the local currency led to a sharp increase in prices, and with the end of the colonial administration the investments in the country had disappeared. Aiming at reducing the deficit, the British administration encouraged the export of all available resources, leading to a worsening of the conditions of the local population. Between 1944 and 1946, all the cereal surpluses had been sent to London, without maintaining any reserves for the future, and in 1947, due to bad weather conditions, the harvest was almost completely missed, generating a long period of famine. Moreover, the agricultural production had strongly diminished after the departure of the Italian farmers and, in general, all the modern economic fields had been put in crisis by the part of the settlers<sup>25</sup>. One shining example is the public health sector, where, since 1943, there were no more doctors and the hospitals were run by local nuns and nurses. Libya returned to be one of the poorest countries in the world, with an infant mortality rate soared to 40%<sup>26</sup>.

The Italians left an exhausted Libya, without any officials able to take over the country. The literacy rate was still too low, few locals had received university education and the population lacked basic knowledge and skills to be able to get the country out of the crisis, and to modernize and resume any economic sector.

From a political and social point of view, Cyrenaica had rediscovered the rhythm and condition of the pre-colonial era, while in Tripolitania the achievement of a new

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<sup>24</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp.129-132

<sup>25</sup> Ivi p. 133

<sup>26</sup> Wright, *Libya: a modern History*, p. 48, in: Cresti, Cricco, *Storia della Libia contemporanea*, p.134

balance was made more difficult by the ferment of modernity and the permanence of an Italian minority that kept an important role in the economy and in the administration of the country. The few Italians left on Libyan soil concentrated in the Tripoli area; in the agricultural sector, they kept the best lands and the most productive farms, while in Cyrenaica the lands had returned to the Arab population, contributing, however, to a considerable production impoverishment. In general, the settlers hoped for a return to the Italian administration after the end of the war, a dream that had broken with the signing of the Paris peace treaty in 1947, in which Italy renounced any right over its colonial possessions in Africa<sup>27</sup>.

The years immediately following the signing of the peace of Paris were marked by a strong political tension in Tripolitania, linked, in particular, to the debate on the country's destiny.

### **1.5 The Four Power Commission of Investigation for the Former Italian Colonies**

After more than three years of negotiations, the winning powers failed to reach an agreement on the disposal of the former Italian colonies in Africa. Thus, a Commission of Investigation was sent to the three former Italian colonies (Libya, Eritrea and Italian Somaliland), in order to find out and report the wishes of the population and political groups and to analyze the economic, political and social conditions of those regions. The Commission was held in Libya from 6 to 20 March 1948: interviews, petitions and documents were collected, and meetings were organized for the subsequent drafting of a final document in three sections, one for each administrative area of Libya. The conditions in Tripolitania, Cyrenaica and Fezzan differed widely one from the other and the regions were also administrated differently, the first two being English and the last one French, thus it was more appropriate to analyze and report them separately<sup>28</sup>.

*Tripolitania.* This region was characterized by an intense political activity and the local parties and the press had long propagated the ideas of unity and independence, which resulted from the majority of the people surveyed. The different political parties

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<sup>27</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 133-134

<sup>28</sup> Ivi, pp.135-138

had always had the same objectives but had been divided by rivalries and personal interests of their leaders. But, shortly before the arrival of the Commission, the National Council for the Liberation of Libya persuaded local parties to present a common front, leaving aside their differences. Thus, they all spoke with one voice, declaring their desire for a complete and immediate independence, the unity of Libya and membership of the Arab League, which the National Council for the Liberation of Libya was closely in touch with. Almost all the inhabitants of Tripolitania were on the same page of the political parties and a general dislike of Italian rule was expressed. Only the minorities demanded the protection of a foreign government, first of all, the 40.000 Italian settlers remained in the region. As for the form of government, the majority preferred an agreement between the parties after obtaining the independence, even though it wished to avoid a Senussian emirate. On the economic side it was evident that the region was not self-supporting, economically and financially, and that it could not develop without foreign aids. In addition, there were not sufficient trained people to allow self-government. The committee members fully agreed that Tripolitania was unable to independence<sup>29</sup>.

*Cyrenaica.* Here the emir Idris al Senussi was for the independence of the region in the framework of an alliance with Great Britain, since London had promised him that never again Cyrenaica would be ruled by an Italian administration. Since Idris had banned all the political parties, the only active political organization was the National Congress, which stood for the immediate and complete independence of Cyrenaica, a constitutional government under the emir and the rejection of any co-operation with the Italians. They would accept the union with Tripolitania only in these terms, while among the locals, there was no prospect of union with the other Libyan regions. The majority of the population agreed with the National Congress and it was in favour of having Idris as the head of the emirate or of any other form of government he would chose. Even the minorities, in particular the Jewish and the Greek, went along with the positions of the Congress. In general, a strong opposition to the return of Italian rule was expressed and in case of foreign assistance all the preferences indicated were for British help. Actually,

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<sup>29</sup> F. E. Stafford, *The Ex-Italian Colonies*, in "International Affairs", vol. 25, no. 1 (Jan. 1949) pp. 52-53

foreign aid was necessary, since Cyrenaica was poor of natural resources and, despite having a homogeneous social structure, it was unable for self-government<sup>30</sup>.

*Fezzan.* Here neither local press nor political parties existed and practically no trace of Italian occupation remained. Even the anti-Italian feeling had been removed and the population was not contrary to a foreign administration. They asked for security and stability and they wanted a government that could help the region to develop. The idea of a united Libya received very few votes, but the region was too scarce of natural resources and people too poor and the Commission was unanimous on the impossibility for Fezzan to become an independent territory. The question was whether or not it should be separated from Libya<sup>31</sup>.

In conclusion, the report of the Commission of Investigation for the Former Italian Colonies left open the question whether Libya should have been dealt with as a single territory or be partitioned. But all the members fully agreed in reporting that Libya was not fit for independence, either in its separate parts or as a whole<sup>32</sup>.

## **1.6 Conclusions: political and social developments in Libya during the Italian colonization**

Since the arrival of Italian settlers, the Libyan society had appeared fragmented and largely tribal. The intervention of a common enemy could have been a reason for political unification for the population, but the reasons for division and the idea of a localist belonging, which led to the definitive fragmentation of the forces of resistance, prevailed. In particular, among the different political visions underlying the anti-colonial movement there were pan-Islamism and the defense of the Ottoman state, to which was added a sort of "Senussian nationalism", an ideology of super-tribal unity that constituted a symbol of self-identity for the great part of the Cyrenaic population. Despite the internal divisions, the resistance, although exhausted and decimated by the Italian forces' attacks, fought for a long time against the invader. For more than thirty years the population

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<sup>30</sup> Stafford, *The Ex-Italian Colonies*, pp. 54-55

<sup>31</sup> Ivi pp. 53-54

<sup>32</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 138

suffered the consequences of the colonial conquest: retaliations and murders, hangings, deportations and hunger were used to spread terror and to break the will to resist<sup>33</sup>.

It is difficult to draw a precise picture of the demographic trend during the colonial period, but the losses were certainly numerous, also due to famines and epidemics of the war years. According to Angelo del Boca, the victims of the violence of the conquerors throughout the colonial period were about 100,000, of which 40,000 people died due to deportations to Cyrenaica<sup>34</sup>. Between 1923 and 1936, a demographic collapse was recorded and at least 50,000 Cyrenaic people died during this period: among these victims the fighters were just 6,500<sup>35</sup>, while the remaining part died because of the economic and sanitary disaster created by the operations of repression and concentration and by the terrible living conditions of the reclusive tribes. In Italy this episode had long been unspoken; only at the end of the Seventies some scholars, including Giorgio Rochat and Angelo del Boca, revealed the gravity of the ethnic cleansing in the region of the Green Mountain, that has been classified by some as genocide<sup>36</sup>.

As for the refugees, the few documents available have testified that in the early 1930s they were more than 30,000, of which around 20,000 in Egypt, 8,000 in Tunisia and Algeria and another 2,000 scattered in different countries of the Arab world or Africa<sup>37</sup>. After the pacification, the colonial government decided to implement a propaganda action for the return of expatriates. In the period 1931-1936, around 6,000 people returned to Libya, especially from Egypt; but, even after this campaign, there were still at least 4,000 refugees in the southern regions of Tunisia and at least 8,000 in Egypt<sup>38</sup>.

Some groups of refugees continued their struggle with different works of propaganda from abroad: publications and demonstrations against the colonial regime and provision

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<sup>33</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 111-112

<sup>34</sup> Ivi, p. 105

<sup>35</sup> C. Di Sante, S. H. Sury, *L'occupazione italiana della Libia. Violenza e colonialismo (1911-1943)*, Centro per l'archivio nazionale e gli studi storici (Tripoli-Libia), Ascoli Piceno, Arti Grafiche Picene, 2009, p. 38, in: Cresti, Cricco, *Storia della Libia Contemporanea*, p. 104

<sup>36</sup> N. Labanca, *Oltremare. Storia dell'espansione coloniale italiana*, Bologna, il Mulino, 2002, p. 422-424

<sup>37</sup> F. Cresti, M. Cricco, *Storia della Libia contemporanea*, p. 106

<sup>38</sup> Ibidem

of information on the massacres. Thanks to the contact with Arab nationalisms, the expatriates also began to create a new national image for modern Libya, based on the idea of common territory, language and culture, that could have become a response to the collapse of the old political system and to the fragility of the traditional historical separation between Tripolitania, Cyrenaica and Fezzan<sup>39</sup>.

Initially, the colonization had developed based on strictly economic criteria, so as to avoid the intervention (and expenses) of the state, but the metropolitan capitals were not particularly attracted to Libya and the application of this colonial policy did not allow the increase in Italian labor, that was much more expensive than local labor. If the aims were to be of a political nature, public intervention was essential. Hence the passage from a private agricultural colonization to a settlement organized by the State with an increasing investment of public capital, paradoxically, took place in the framework of the Italian economic and financial crisis of the late 1920s, which caused the increase of unemployment in the motherland. The measures taken by the government worsened the conditions of the popular classes, causing unrests in many Italian regions. By absorbing part of the unemployed farmers, the colony would allow the government to remove hostile groups from the regime and to promote consensus. To this end, in Tripolitania, in the decree of 1928 it was introduced the obligation for the entrepreneurs to hire at least one family of Italian peasants every 100 hectares of concession<sup>40</sup>.

Agriculture remained the most important economic activity and the basis of export, but the country was very far from economic self-sufficiency. Public investments continued to increase throughout the colonial period, realizing, among other things, a significant improvement in the health sector. According to Italian government's official data, in the period 1913-1942, the total expenses of the state reached 10.175 million lire<sup>41</sup>.

In general, the colonial intervention had a different incidence in western and eastern Libya and, while remaining largely anchored to the traditional forms of land

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<sup>39</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 106-107

<sup>40</sup> Ivi, pp. 107-109

<sup>41</sup> Tipografia del Senato, *Memorandum on the Economic and Financial situation of the Italian Territories in Africa*, Roma, 1946, in: Cresti, Cricco, *Storia della Libia contemporanea*, p. 120

exploitation, the social structure of the local population changed to varying degrees in the three regions of the country.

- In Tripolitania, the resistance had been shorter, and its losses affected the social structure to a lesser extent; a longer peace period permitted to develop fewer conflicting relations among the populations. In this region, many locals left their old activities to work in the city or in Italian concessions, and the urbanization rate increased about four times<sup>42</sup>. The tribal structure was strongly shaken, but it did not completely disappear.
- In Cyrenaica, on the other hand, the colonial intervention was longer and more violent. The tribes had been deprived of all their power and placed at the service of public works or concessions. However, the tribal structure remained intact and only in the main cities the traditional organization disappeared.
- In Fezzan there had been only minimal changes, which had not affected the feudal social structure, characterized by the concentration of wealth in the hands of a very small minority<sup>43</sup>.

In general, the status of inferiority of the native people was confirmed in all Libyan regions and by most legislative provisions. The opening policy implemented by Balbo turned out to be late and short-lived and failed to lead to the expected results, especially with regard to education. At the beginning of the 1940s, 90% of the Muslim population in Tripolitania and Fezzan was completely illiterate and in Cyrenaica the situation was even worse<sup>44</sup>. It is no coincidence that the school policy of the years of colonial occupation was defined by some historians as a veritable educational apartheid.

The issue of racial discrimination and relations between settlers and the local population has never been sufficiently deepened, if not for political or propaganda purposes. However, a spatial separation in the urban environment was theorized, although never practiced, and the separation between areas for metropolitan farmers and areas for the Muslim population was precisely indicated in the demographic colonization plan.

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<sup>42</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p.121

<sup>43</sup> Ibidem

<sup>44</sup> Ivi, p.122

In conclusion, if on the merely practical side of the territory development, of modernization and of the exploitation of local resources, the colonial intervention has led to a progress and an improvement of the Libyan situation, this has not happened on the social level. The Italian government has been cautioned not to unify the country and overcome the internal divisions between the various local tribes, as it has preferred to avoid forming a Libyan ruling class, educated and able to manage the country<sup>45</sup>. Most of the public works and infrastructures built during the colonial intervention were destroyed during the war and with the return of the settlers to the motherland, Libya found itself devastated, fragmented and deprived of means and resources to build its own future.

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<sup>45</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p.122-123



## CHAPTER 2

### INDEPENDENT LIBYA

#### 2.1 The international context after the Second World War

With the beginning of the Cold War, the Middle East became an area of potential conflict between the Western and Soviet blocs and the US military and strategic interests had grown in the area, deemed as a line of containment of the possible Soviet expansionism towards the Mediterranean. In the same years, Great Britain had been hit by a profound financial crisis, which had forced it to severely limit its international commitment: London decided to grant full independence to India, to withdraw military forces from Greece and Turkey and to renounce the mandate on Palestine, creating power vacuums that could be exploited by the Soviet expansion<sup>46</sup>.

Concerned about the space left in the Middle East, in 1947, the United States elaborated the famous Truman doctrine, which provided for a program of economic and military aid to Turkey and Greece (quantifiable in 400 million dollars<sup>47</sup>) in the short term and which manifested the intention of the United States to defend and support democratic regimes through economic and financial interventions in the long run. Great Britain would have to renounce the exclusive control of the Middle East, which it was no longer able to support, and to start an equal partnership with the United States, in order to promote common western interests, first of all avoiding the spread of Soviet influence in the area. Obviously, the new role of the United States in the Middle East also concerned Libya, where the British air base of *El Adem* and the American one of *Wheelus Field* had been installed in 1943 (in Cyrenaica and Tripolitania, respectively) ensuring the air control of the central and eastern Mediterranean to the Western powers<sup>48</sup>.

Precisely because of the strategically important position of the country, the United States played a decisive role in the future form of state of Libya, both through the Four Power Commission of Investigation for the Former Italian Colonies and within the United

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<sup>46</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 141

<sup>47</sup> Ivi, p. 142

<sup>48</sup> Ibidem

Nations Advisory Council for Libya. In particular, Washington promoted the complete independence of Libya, going against the verdict of the Commission of Investigation and the neo-colonial aspirations of the European powers. The Italian government wished to regain control over the region, through a mandate on Tripolitania; France was for the annexation of Fezzan to its area of influence in equatorial Africa; and Great Britain hoped for the constitution of an independent Cyrenaica under the British protection. The different European aspirations were formalized by the compromise known as Bevin-Sforza, signed by the British foreign minister, Ernest Bevin, and the Italian one, Carlo Sforza, on May 1949 and presented to the UN General Assembly. But, the agreement turned out to be unsuccessful: internally the Libyan local groups' opposition was so strong that the emir Idris unilaterally declared the independence of Cyrenaica on 1 June 1949; abroad, the United States could not accept their exclusion from the Libyan territory administration and, concerned that the Libyan non-independence could expose the country to the risk of a neo-colonial influence and of the consequent exacerbation of the Arab nationalism in the region, they supported the locals in their desire for unity and independence<sup>49</sup>.

## **2.2 The United Nation Advisory Council and the Libyan independence**

Thanks to the support of the United States, on 21 November 1949 the UN General Assembly approved the resolution No. 289, which provided for the formation of an independent and sovereign Libyan state by 1 January 1952<sup>50</sup>.

To assist the local population in the formulation of a constitution and the creation of an independent government, it was formed the United Nations Advisory Council for Libya, chaired by the Dutch Adrian Pelt and composed of ten members, representing Egypt, France, Great Britain, Italy, Pakistan, the three Libyan provinces and the two ethnic minorities of the countries. All members of the council agreed on the monarchical-institutional form of government ruled by the emir of Cyrenaica Muhammad Idris al-Senussi, while there was not unanimity about the form of the state: Pakistan and Egypt supported the creation of a unitary state, in order to avoid the emergence of some British,

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<sup>49</sup> Cresti, M. Cricco, *Storia della Libia contemporanea*, pp. 143-144

<sup>50</sup> Ivi, p. 144

French and American zones of influence; while Western countries stood for a federal state, in order to safeguard the political and cultural identity of the three Libyan provinces. Although the United States favoured the federal formula, they feared the Arab opposition, especially from Egypt, and preferred to act cautiously, in order to safeguard its main objective: obtaining, in association with Great Britain, the rights for a continuing use of the military installations in the region<sup>51</sup>.

On 7 October 1951 the constitution was promulgated by the national assembly. According to it, Libya was defined as a hereditary monarchy with a bicameral representative government system and with two capitals: Tripoli and Benghazi (art. 2, 188); Islam was recognized as the state religion and the monarch had to be Muslim (art. 5, 51), while it was also granted the equality of citizens before the law without any distinction of religion (art. 11). A vast range of powers was accorded to the king: he was inviolable and exempt from any responsibility, he could enshrine and promulgate laws and decrees (art. 62), dismiss the senate and update the Parliament's works (articles 64, 65, 67), he was the head of the armed forces and could declare war and peace, decree martial law and a state of emergency (articles 68, 69, 75), appoint and dismiss the first and all the ministers (art.72), confirm or annul the death sentences imposed by the courts (art. 76), appoint the 24 members of the senate and its president (articles 94, 97). The federal organs of the new state consisted of the cabinet, the bicameral parliament and the federal supreme court. The chamber of representatives was elected according to a proportional system (in which the representatives of Tripolitania predominated), while the senate, whose members were in part appointed by the king, represented the three provinces in an equal manner. Tripolitania, Cyrenaica and Fezzan had their own governors, representing locally the king. An executive council constituted the provincial government and was responsible before a legislative council, whose members were elected in large majority, while the king had the right to designate a small part of it. Each province had its own administrative services and its own police, together with the federal corps<sup>52</sup>.

On 24 December 1951, the king Idris I proclaimed the independence of the new state, but it had neither the financial means to cover budget expenditure, nor qualified

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<sup>51</sup> Cresti, M. Cricco, *Storia della Libia contemporanea*, pp. 144-145

<sup>52</sup> Ivi, pp. 145-147

native officials to fulfil the fundamental roles of the public administration. Libya appeared as one of the poorest states in the Mediterranean basin, where the majority of the population was illiterate and of which only 21% resided in urban areas, while 42% were nomadic or semi-nomadic<sup>53</sup>. The country's economy was mainly linked to agriculture, but only 18% of the lands were cultivable due to the aridity of the climate. In addition, half of the lands that housed farms and fields were owned by the Italians who remained in the country, in particular in Tripolitania, representing the largest ethnic-linguistic minority<sup>54</sup>.

Because of the lack of resources, the Libyan government was forced from the first moment to ask for help to the western countries, in particular to Great Britain and the United States that granted economic and financial support in exchange for the maintenance of the air bases of El Adem and Wheelus Field. Although they already exerted a significant influence in the area, the two western powers were concerned about obtaining a formal recognition of their prerogatives, through the stipulation of treaties with the Libyan government. In 1953 the Anglo-Libyan military alliance treaty of Benghazi was signed, consolidating the already strong British influence. With the agreement, all the Libyan facilities were provided for the British forces and, in exchange, London guaranteed Tripoli limited financial assistance to meet Libyan military needs but unable to cover all the expenses of the new government. The agreement with the United States followed a longer process: the negotiations for the concession of the Wheelus Field airbase had already begun before independence, but Washington and Tripoli could not agree on the amount of aid to be allocated to the new state. The situation remained stalled until Mustafa Ben Halim was appointed Prime Minister in 1954. He reopened the negotiations and inaugurated a new foreign policy based on solid friendship and collaboration with the United States. Ben Halim succeeded in exposing the needs of the country and the consequences that Libya would have to face with the concession of the US air base, first of all regarding the relations with the Arab League member countries. On the basis of the new arguments, the US government was convinced to re-launch the proposal and to offer an economic assistance program that provided for the payment of

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<sup>53</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 147-148

<sup>54</sup> Ivi, p. 148

40 million dollars in 16 years (1954-1970), an extraordinary payment of 3 million dollars for 1955 and the immediate supply of 24,000 tons of wheat to supply the needs of the population. On its side, the Libyan state granted the United States, in addition to the concession of the air base, a series of rights that allowed Washington to exercise substantial control over the country. The treaty was signed in Benghazi on 9 September 1954<sup>55</sup>.

Just as Ben Halim had predicted, the protests and accusations of complicity with Western powers were not long in coming, especially from the Arab nationalist movement, headed by the Egyptian president Nasser. Ben Halim then decided to state to Nasser the reasons why his country needed to receive foreign aid, explaining how this policy was necessary to develop the nation and to ensure that Libya could break free from foreign influence in the future. In this way, Ben Halim succeeded in obtaining the support of Nasser and the neutrality of the Egyptian media, although Libya's foreign policy in those years remained in the balance between Arab and Western world. Moreover, in order to show the Arab League members that Libya could conduct its foreign policy independently of Washington, Ben Halim also began to establish diplomatic relations with the USSR. The Libyan prime minister also had other reasons to turn to the east, since on the one side he was looking for Soviet support for the admission of Libya to the United Nations (which it obtained on 4 December 1955) and on the other, he wanted to play on rivalry between the USSR and the United States, to maximize aid from Washington. In fact, the beginning of Libyan-Soviet relations concerned the West, which feared that the USSR could use Libya to settle in North Africa and the Mediterranean. Washington was therefore forced to offer Tripoli an increase in development aid of \$ 12 million in grants for the years '56-'57, a donation of weapons and equipment to the Libyan army and 25,000 tons of wheat. In exchange, however, the United States demanded Libya to renounce any USSR aid and to accept specific limitations regarding future relations between the two countries, including the prohibition of oil concessions to the USSR<sup>56</sup>.

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<sup>55</sup> *Agreement between the Government of the United States of America and the Government of the United Kingdom of Libya, Benghazi, 9 September 1954*, Washington DC, US Government Printing Office, 1954.

<sup>56</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 152-158

As for Italy, since the proclamation of Libyan independence, Rome had been strongly interested in maintaining relations with the new state, especially for the substantial Italian community remained in the country. The Italo-Libyan treaty was signed on 2 October 1956, in accordance with the UN General Assembly resolution No. 388 of 1950, which provided for an agreement of economic collaboration between the two countries and definitively regulated all matters arising from the recognition of Libyan independence. The treaty provided that Italy should pay 5 million pounds as a "contribution to the economic reconstruction of Libya", that the permanence of the Italian community in Libya was assured and that Italian citizens were guaranteed the free enjoyment of their assets (art. 9). Italy was also granted the right to retain ownership of numerous public buildings, necessary for diplomatic and consular functions and for educational institutions in Libya (Art. 7)<sup>57</sup>.

Rome was greatly favoured and formally exonerated for all the damage caused to the former colony (art.18)<sup>58</sup>. However, the Libyan governments of the 1950s and 1960s would always remain hostile to the Italian government and the minority present on its territory and they would also pass different laws in order to reduce their presence.

### **2.3 The 1960s: the oil discovery and the socio-political changes**

In the 1950s the Libyan government enacted the first laws about oil exploration, allowing and encouraging foreign companies to patrol Libyan soil. The priority of Ben Halim's government was to achieve Libya's economic independence and the exploitation of oil wealth would have been vital for the country's development.

In 1959 the Esso Standard Libya discovered a very rich deposit in Cyrenaica, which included Libya in the first thirty world producers of crude oil and opened important prospects for the future. The following year, with the establishment of OPEC, the Organization of Petroleum Exporting Countries, Libya's strategic position became even more evident. It represented a valid alternative for the Western powers, allowing them to

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<sup>57</sup> *Accordo tra l'Italia e la Libia*, Roma, 2 ottobre 1956, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

<sup>58</sup> *Ibidem*

circumvent both the economic obstacle of OPEC, which wanted to gain control over oil prices, and the geographical obstacle of the Suez Canal, now under the control of Nasser's Egypt<sup>59</sup>.

At the end of 1962, Libya's oil revenues reached a quota of 5.6 million dollars, but oil development was not accompanied by a political one: the government was incapable of creating long-term programs, the parties did not exist, and the decisions were based on personal interests, loyalty to the tribes and rivalry between the provinces. With the aim of countering these divisions, in 1953, a law was passed to transform Libya from a federal state into a unitary state, with a series of amendments to the 1951 Constitution. The new law should have allowed for a single management of oil resources and the definition of a correct and unitary development policy, as well as combating corruption within the provincial administrations and reducing the bureaucratic system. Actually, the situation did not change much: power games and clientelism did not diminish, as did corruption and feelings of belonging to the regions. On the contrary, the new law benefited the oil companies, which could now deal with a single interlocutor, and the monarch group, which could concentrate more power in its own hands<sup>60</sup>.

As far as foreign policy is concerned, the new prime minister Muhi al-Din al-Fikini immediately disagreed with an excessive interference of Western powers, getting closer to the Arab League. With the transformation of the Libyan economy and the increase in oil wealth, the country was acquiring greater self-esteem and willingness to affirm its presence and independence from foreign aid. Even at the popular level, rumours began to rise against Western interference, partly because of the penetration of the country of Nasser's socialism. The Egyptian president had strongly underlined the danger for the country and for the neighbouring Arab states deriving from the presence of the foreign bases on the Libyan territory. 1964 opened with a series of popular unrest, to which the government responded by initiating negotiations with the United States and Great Britain for the liquidation of the bases. However, King Idris strongly opposed, demonstrating

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<sup>59</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 169-171

<sup>60</sup> Ivi, pp. 172-174

how his power was still very strong. But the problem of foreign influence was just one of the many upheavals brought about by the discovery of oil<sup>61</sup>.

Libya had become a rich country, but wealth had not spread homogeneously among the various social classes, favouring only the highest ones. In particular, the 1960s saw the emergence of a new bourgeois, at the top of which there were a small number of businessmen linked to the government. The intertwining of business and administration quickly became very tight, leading to the spread of corruption. Moreover, the large gap between low public wages and the high salaries paid by the oil industry encouraged state officials to exploit their powers to blackmail oil companies, making big profits illegally. The oil industry was attracting more and more people and many Libyans began to move from villages to big cities to seek an occupation in this sector. The actual employment rate, however, was not able to cope with the large supply of labour and the concentration in the cities favoured the increase in the prices of rents and foodstuffs, which soon became unsustainable for most families<sup>62</sup>.

Furthermore, the oil discovery and marketing constituted a crisis factor for the other economic sectors, which were gradually abandoned: between 1960 and 1970, the percentage of the labour force employed in agriculture and farming decreased from 70% to 30% and the percentage of the sector in the total GDP fell to 3% in the same years.<sup>63</sup> As a result, exports of agricultural products plummeted, dropping from 1.23 million Libyan pounds in 1956 to 600,000 Libyan pounds in 1968. On the contrary, Libya's dependence on food imports increased from half a million Libyan pounds in early '60s to 27.6 million in 1968<sup>64</sup>.

Oil had transformed the country, without however eliminating its contradictions: as a poor country totally dependent on foreign aid, Libya had become a rich but underdeveloped one; it had strengthened its self-esteem and desire for independence, but in fact it could neither free itself from the influence of the neighbouring Arab countries nor manage its

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<sup>61</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 177-181

<sup>62</sup> Ivi, pp. 182-185

<sup>63</sup> O. I. El Fathaly, M. Palmer, *Political Development and Social Change in Libya*, Lexington Books, Toronto, 1980, pp. 16-20, in: Cresti, Cricco, *Storia della Libia contemporanea*, p. 186

<sup>64</sup> A. A. Attiga, *The Economic Impact of Oil on Libyan Agriculture*, in Allan et al., 1973, p.18 in: Cresti, Cricco, *Storia della Libia contemporanea*, p. 186



own development without the support of Western powers. All these radical changes were creating a situation of instability that neither the king nor the government were able to manage, and the future looked even worse considering the hypothetical success of king Idris: prince al-Hasan al-Rida, devoid of authority and governmental skills<sup>65</sup>.

The general discontent and dissatisfaction represented a fertile ground for the spread of Arab nationalism coming from Egypt, capable of creating disorders and mobilizing large crowds. Thanks to the media and the many teachers and public administration officials, Cairo exerted a very strong political and ideological influence on the Libyan population, which even increased after the outbreak of the 1967 Arab-Israeli War (the Six-Day War). President Nasser became the spokesman for the Arab peoples' need to free themselves from the yoke of colonial and imperialist powers, encouraging demonstrations and riots in all the main Libyan cities. Here, a new generation of young students with a greater political and economic culture was eager to improve the country, freeing it from corruption and foreign influence. These same ideas were spreading within the army, where it was emerging a group of young officers (most of whom were part of the clandestine movement of the Free Officers), who represented those middle and popular classes that had been excluded from the political life of the country<sup>66</sup>.

## **2.4 The 1st September Revolution, Gaddafi and the Jamahiriya**

In the uncertainty of the Libyan scenario of the late 1960s, Colonel Al-Shalhi had already planned a coup, with the complicity of the Interior Minister and the forces of public security. However, the news reached the group of Free Officers, who decided for a preventive takeover, anticipating the colonel's movements. With efficiency and swiftness, on 1 September 1969, the Free Officers occupied the key positions in the main Libyan cities, took control of airports and communication equipment, arrested al-Shalhi, his supporters and the prince al-Hasan al-Rida and presented themselves to the population as the Revolutionary Command Council. Their captain was Mu'ammarr Gaddafi, who proclaimed himself colonel and commander-in-chief of the armed forces<sup>67</sup>.

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<sup>65</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 186

<sup>66</sup> Ivi, pp. 189-201

<sup>67</sup> Ivi, pp. 203-206

The root causes of the revolution were of social, political and economic nature and the intervention of the Free Officers was based on the desire to fight a society based on corruption and favouritism, strongly influenced by foreign powers, characterized by social and economic inequality and in which Libyan citizens did not have an acceptable standard of living, despite the country's enormous oil wealth<sup>68</sup>.

Internationally, the new government wanted to continue having economic relations with Western powers, but on condition that the air bases of Great Britain and the United States, which according to Gaddafi represented a legacy of imperialism and deprived Libya of a total freedom, were dismantled. Negotiations with the British ambassador began on 8 December and ended five days later with a guarantee from London to conclude the withdrawal from the base by 31 March 1970. Subsequently, negotiations were held with the United States, which committed themselves to the final withdrawal of Wheelus Field by 30 June 1970, while Libya guaranteed that troops from other countries would not be allowed after the US withdrawal, to reassure Washington on the impossibility of future Soviet infiltration in the country<sup>69</sup>.

The signing of the US agreement took place on the same day of the President Nasser's visit to Tripoli, which inaugurated the start of military and political cooperation between the two Arab countries. Gaddafi saw Nasser as a guide from an ideological point of view, but he considered the help and collaboration of Egypt important also for reasons of internal security, especially after the attempted coup by Adam al-Hawaz and Musa Ahmad Hasi, members of the RCC minority group. The Revolutionary Command Council was in fact divided between two different factions: the first, led by Gaddafi, which gathered the youngest and most intransigent officers and was anti-imperialist and favourable to Arab unity; while the second, composed of more mature officers, seemed more willing to pursue military cooperation with the United States and Great Britain. The denunciation of a conspiracy against the regime represented for Gaddafi the opportunity to get rid of two dangerous rivals and consolidate his power.

Meanwhile, the 1951 constitution was replaced with a new constitutional proclamation, which affirmed among other things that the Libyan people were part of the Arab nation

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<sup>68</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 208-209

<sup>69</sup> Ivi, pp. 212-213

and would fight corruption to establish a democratic and progressive government and to achieve the goals of freedom, socialism and Arab unity.

The proclamation also stated that sovereignty belonged to the people, that Islam was the state religion but that the state defended freedom of religion in accordance with the established tradition (art.1). The purpose of the state was the elimination of any kind of exploitation and disparity between social classes with the aim of achieving prosperity (art. 6). The RCC was given powers and privileges not inferior to those that the 1951 constitution attributed to the monarch<sup>70</sup>.

The political philosophy and ideology at the origin of Gaddafi's first moves can be summarized as a nationalism that fights for the union of the Arab countries. This pan-Arab idea derives from the doctrine of the Egyptian president Nasser, even if it departs from it in some points, above all for the greater importance that Gaddafi reserves to the Islamic component, an indispensable part of Arabism and an element of legitimization in the new ruling class. At the beginning, the main goals of Gaddafi's policy were:

1. The liberation of the country from the yoke of the colonial powers, which had their strength in the air bases present in the territory;
2. A fair distribution of the country's resources;
3. Freedom of expression of the masses, outside the framework of political parties and organizations, which appeared as the main sources of internal division<sup>71</sup>.

However, with time, his political thought took the form of a general theory, which became known as the *Third Universal Theory*; and, in particular, the project of a new society was exposed by the Libyan leader in the famous *Green Book*, published in three distinct parts between 1976 and 1979.

The *Green Book* is a volume divided into three parts, dedicated respectively to reflections on political, economic and social aspects. Particularly, the first part deals with the theme of democracy, described by Gaddafi as a substantial defeat of the people; even the most advanced democracies, in fact, constitute the mask of a dictatorship suffered by the majority of the population. Parliamentarism has allowed the establishment of the worst dictatorships and the struggles between parties do not differ from those between tribes or

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<sup>70</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 211

<sup>71</sup> Ivi, pp. 226-228

clans, leading only to the affirmation of the interests of a small part of the population. The solution proposed in the *Green Book* is the realization of a popular democracy through congresses and popular committees, where regular meetings permit the direct participation of the entire adult population. Moreover, this political society does not need a statute, as it already possesses it naturally in custom and religion; the constitutions represent only an imposed law that has taken the place of a natural one<sup>72</sup>.

On 2 March 1977 in Sabha, the General People's Congress announced the birth of the *Great Socialist People's Libyan Arab Jamahiriya*<sup>73</sup> which aimed to abolish all traditional instruments of power, through a system based on 187 basic popular congresses and 47 municipal popular congresses. At the end of the same year, the second part of the *Green Book* was published, which dealt with the economic system, which was to be based on a return to natural norms and an equality-based socialism. In particular, every man had to be free to satisfy his basic needs and this must be guaranteed by the society in which he lived. Wages were not allowed, but the only legitimate purpose of commercial activity was the satisfaction of basic needs; therefore, the accumulation of unnecessary material resources was considered a subtraction of the others' goods and a form of illicit exploitation. The land was not owned by anyone, but everyone could exploit it and enjoy the benefits of agriculture and farming. Based on these principles, most productive activities came under state control, through nationalization and expropriation, as well as uncultivated lands and unoccupied dwellings<sup>74</sup>.

The fundamental objectives of the new socialist state were: to destroy the capitalist class, to give work to the whole population, avoiding the birth of a society that lived on oil income and to strengthen popular support for the government through a redistribution of wealth. However, Gaddafi never found unanimous support, either within the RCC or among intellectuals. Already in 1975 there had been demonstrations of dissent by young students, which were harshly repressed, and several attempts at coups, which led to an exacerbation of the repressive aspects of the regime. Furthermore, the new economic

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<sup>72</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 229-231

<sup>73</sup> Jamahiriya is an Arabic neologism that derives from the word "Jamahir" (which means "masses") and can be translated as "State of the masses".

<sup>74</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 231-232

policy had led to the abandonment of the country by the most qualified population, which had seen the prohibition of any private or professional activity<sup>75</sup>.

In 1979, the third part of the *Green Book* was published, relating to the structure and elements of the Libyan tribal society, strongly idealized by Gaddafi, described as the best society, as natural, socialist, based on equality and mutual help among the various members. Here the individual is free from the easements and conditioning of modern society and protected from the enemies by the tribe.

## **2.5 The Libyan Arab Republic's new oil policy and Libyan foreign affairs**

The American, British and Dutch oil companies saw their interests in Libya severely penalized as early as the 1970s, when the new executive decided to tackle the problem of the percentages that oil companies paid to Libya, judged to be unprofitable. At the beginning of the year negotiations began between the oil companies and an ad hoc commission for the determination of the new crude oil prices. Tripoli was very adept at dealing separately with the various companies and, following a precise strategy, at entering into the first agreement with the Occidental Oil Company, the weakest link in the chain, that allowed the government to create a precedent and oblige the other companies to accept Libyan proposals. In particular, the agreement of 1 September 1970 between Tripoli and Occidental provided for an increase in the official price of crude by 30 cents per barrel, and it was based on two other principles:

1. The API gravity principle, according to which the price could fluctuate slightly depending on the quality of production;
2. The principle of retroactive payment, which provided for an additional surcharge of 3% per annum on the company's profits, as compensation to the Libyan government for the difference between the new price and the old one.

This agreement inaugurated a new strategy for managing oil resources by the government, in which the companies became real hostages, at the mercy of threats and retaliation. Moreover, since September 1970 there has been an escalation of the RCC's interference in the oil market, up until the Tripoli agreement in 1971. This forced the companies to

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<sup>75</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 233

accept the increase in the official oil price from \$2.55 to \$3.32 per barrel, and in the government tax from 50% to 55%, together with the imposition of an additional tax based on the export quota<sup>76</sup>.

Furthermore, in the same year, the government began to nationalize oil companies on its territory, starting with the BP Exploration Company (Libya), a subsidiary of British Petroleum Company Limited. By nationalizing this company, in addition to affecting the interests of the British government, Tripoli secured the control over one of the main oil export apparatuses in Libya, with an estimated production at over 200,000 barrels of crude oil per day and issued a warning to the other companies, which, however, did not have a much longer life. Starting from 1973, indeed, Gaddafi decided to complete the re-appropriation of oil resources, with the nationalization of the interests and properties of the major companies operating in Libya (including Esso, Mobil and Shell), completed in 1974 with the creation of the Libyan National Oil Company.

The acquisition of almost total control of oil resources allowed Gaddafi to further consolidate its power and to modify not only the economic structure of the country, but also the social and political ones. Moreover, thanks to the enormous wealth accumulated by the country, he decided to strengthen the military arsenal, transforming Libya into the most armed state in all Africa. Its purpose was to create, starting from Libya, the union of the Arab world. The project began with the signing, in December 1969, of the Tripoli Charter which sanctioned the birth of a federation composed of Libya, Egypt and Sudan. The subsequent Nasser's death gave even more strength to Gaddafi's unionist spirit, which led, in April 1971, to the proclamation of the Union of Arab Republics between Libya, Egypt, Sudan and Syria. However, this and subsequent treaties were never followed by a practical realization, and the failure reached its peak with the outbreak of the Yom Kippur war in 1973, in which Egypt and Syria attacked Israel without informing Libya. From that moment, an increasingly strong rivalry developed between Gaddafi and the new Egyptian president Sadat that would culminate with the Egyptian attack on Libya in 1977.

As for relations with Italy, the Libyan Arab Republic had a strong interest in maintaining relations with the former colonial power, both because of the importance of

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<sup>76</sup> S. M. Ghanem, *The Pricing of the Libyan Crude Oil*, Adam Publishing House, La Valletta, 1975.

Italian technology and labour, and because Italy depended heavily on Libyan oil and gas supplies. However, Gaddafi had always had a strong grudge against the heirs of the Italian occupiers, who had humiliated his country and killed and deported many people from his tribe and his family. Signs of intolerance towards the residual Italian community in Libya exploded with the announcement on 21 July 1970 of the expulsion of 13,000 Italian citizens and the confiscation of their assets and properties, which amounted to more than 100 million dollars<sup>77</sup>. But the removal of the Italian community, consequent to the unilateral revocation of the 1956 Italo-Libyan treaty, was especially damaging for Libya itself, since the Italian departure deprived the country of a substantial part of the technical and administrative personnel, difficult to replace in a short time<sup>78</sup>.

But after the effective expulsion of the foreign community, completed in October 1970, the attitude of the Libyan government changed radically. Beginning in the 1970s, it acted in a contradictory manner: on the one hand it claimed reparations for the responsibilities of the colonial domination, on the other it began with Rome a privileged dialogue, followed by a set of economic and commercial treaties. In particular, in the face of advantages in the supply of Libyan oil, the Italian government offered Libya support in the modernization of the country, through a preferred cooperation based on the sending of highly qualified labour to the petrochemical sector and technology for the construction of industrial plants and public works. In 1974 an important framework agreement on scientific, technical and economic cooperation was signed. It envisaged the possibility of increasing Libyan oil supplies to Italy from 23 to 30 million tons a year, in exchange for the Italian collaboration in the realization in Libya of refineries, fertilizer production plants and remediation projects<sup>79</sup>.

Other economic agreements followed, such as the one between AGIP and the Tripoli government, for an expansion of the research area of the Italian oil company. According to this agreement, the initial research costs would have been fully borne by AGIP but, in case of discovery of new deposits, the Libyan National Oil Company (NOC) would have joined the Italian company, participating in the investment and management costs and in

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<sup>77</sup> A. Del Boca, *Gheddafi. Una sfida dal deserto*, Laterza, Roma-Bari, 2010, p.47

<sup>78</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 216

<sup>79</sup> Ivi, pp. 218-219

the proceeds of the mining activity. In 1975, the Libyan Ministry of Petroleum signed an economic cooperation agreement with ENI, for the design and construction of additional petrochemical plants, oil pipelines and refineries. Moreover, the following year, an agreement was ratified between Libyan Arab Foreign Bank, controlled by the government of Tripoli, and FIAT, which envisaged the purchase of 180 billion lire of shares of the latter, with the pass in the hands of the Libyans of 9.1% of the automotive company<sup>80</sup>. Finally, in 1978, a new framework agreement was signed in the field of economic, technical and scientific cooperation, providing for a further increase in oil exports to Italy and imports into Libya of chemical products and Italian manufactured goods<sup>81</sup>. The agreement established a greater presence of Italian industries on the Libyan territory, through the supply of vehicles, technical assistance and skilled labour.

## **2.6 The years of the embargo**

In the 1970s, thanks to the significant oil revenues, Tripoli continued to stock up on weapons from various countries, including France, Great Britain, the United States, Italy and especially the USSR. However, the Libyan army's over-supply and theoretical increase in power did not correspond with a real improvement in effectiveness, also because the group in power feared that a well-trained army could easily overthrow the regime. Moreover, Gaddafi did not purchase military equipment only for his own army: distributing weapons, he supported various insurgent organizations, including the most extremist Palestinian movements and alleged terrorist groups, which the Libyan leader considered to be freedom fighters<sup>82</sup>.

On the international stage, this attitude progressively strengthened the idea of Libya as a dangerous and unreliable country, which the Western powers began to look at with suspicion. In particular, the relations with the United States deteriorated definitively in 1979, when, following the Iranian revolution, many demonstrators in Tripoli set fire to the US embassy and the Libyan government remained almost indifferent. The situation got even worse with the election of Ronald Reagan to the White House in 1981. The new

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<sup>80</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p. 219

<sup>81</sup> *Ibidem*

<sup>82</sup> Ivi, pp. 241-242



president wanted to reaffirm American prestige in the world, especially in the Middle East and North Africa. His main concern was the Soviet threat and, in particular, that some radical states supported by the USSR could unleash regional conflicts to accommodate Soviet aims. In this perspective, Gaddafi was an unpredictable and dangerous actor. Reagan's policy against the Libyan regime started, in May 1981, with the expulsion from the United States of the entire Libyan diplomatic corps, which was followed, one year later, by the announcement of a boycott of Libyan oil, which particularly hit the government of Tripoli. Washington had the goal of convincing Gaddafi that it would no longer tolerate his direct or indirect support for terrorist organizations. Reagan was ready for the use of force, but he was waiting for irrefutable proof linking the Libyan leader to international terrorism, which was found, according to the White House, in the 1986 attack in a Berlin nightclub<sup>83</sup>.

On 15 April of the same year, the US bombed what had been called "Libyan terrorist activity centres", causing 37 deaths, 93 wounded and several damages to various military and civil structures. The Reagan administration was convinced that the attack would lead to a radical change in Gaddafi's foreign policy, but this did not happen. By contrary, the Libyan leader always maintained the same attitude towards terrorist groups and remained intent on using Libyan resources to destabilize the international political system. In particular, the colonel reacted to the US attack with a series of terrorist reprisals that lasted for almost four years, culminating with the tragic attacks in Lockerbie, Scotland, in December 1988, and in the Ténéré desert, in Niger, in September 1989, in which, the explosion of two planes caused respectively 270 and 150 victims. The involvement in these attacks of the Libyan secret services and the Libyan refusal to deliver the alleged perpetrators to an international court led to the application of severe sanctions against the country, decided by the UN Security Council with the resolution No. 748 issued on 31 March 1992<sup>84</sup>. Reaffirming the principles of the previous 731/1992 resolution, the Security Council determined some sanctions that all the international community was asked to follow, in order to fight against terroristic actions, that constituted a threat to international security and peace. Indeed, after affirming that the investigations about the

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<sup>83</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 245-250

<sup>84</sup> Ivi, pp. 252-253

two attacks in Lockerbie and in the Ténéré desert had shown the implication Libyan government officials, the 731/1992 resolution regretted the fact that the country had not fully cooperated in establishing responsibility for these terroristic actions. The Security Council urged “the Libyan government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;”<sup>85</sup> and it urged also “all States individually and collectively to encourage the Libyan Government to respond to those requests”<sup>86</sup>.

After two months, since Libyan Government had not responded to the requests and it had failed to “demonstrate by concrete actions its renunciation of terrorism”<sup>87</sup>, the 748/1992 Resolution was issued, setting out the measures that all states should have adopted starting from 15 April 1992. According to this resolution, all states should:

- “Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya”<sup>88</sup>, except from some humanitarian flights approved by the UN Security Council Committee;
- “Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components”<sup>89</sup> and, in general, the sale of “arms and related material of all types, including [...] weapons and ammunition, military and paramilitary vehicles and equipment [...], as well as [...] the supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned”<sup>90</sup>;
- “Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, or

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<sup>85</sup> *UN Security Council Resolution n. 731/1992*, New York, 21 January 1992, para 3 (see Appendix A)

<sup>86</sup> *Ivi*, para 5

<sup>87</sup> *UN Security Council Resolution n. 748/1992*, New York, 31 March 1992, preamble (see Appendix B)

<sup>88</sup> *Ivi*, para 4

<sup>89</sup> *Ibidem*

<sup>90</sup> *Ivi*, para 5

used of the items previously mentioned”<sup>91</sup>, and “withdrawal any of their officials or agents present in Libya to advise the Libyan authorities on military matters”<sup>92</sup>;

- “Significantly reduce the number and the level of the staff at Libyan diplomatic missions and [...] restrict or control the movement within their territory of all such staff who remained”<sup>93</sup>;
- “Prevent the operation of all Libyan Arab Airlines offices” and “take all appropriate steps to deny entry or expel Libyan nationals who have been denied entry or expelled from other States because of their involvement in terroristic activities”<sup>94</sup>.

Thus, the most difficult period for Libya from the proclamation of its independence began. In addition, Gaddafi started losing support within the country, where a general discontent was spreading, due to the economic crisis resulting from international isolation and sanctions. After the embargo, the leader began a series of internal reforms, which went on to continue a process already begun in 1987 with the *Infitah*, a vast program of activities for economic liberalization, to which was added the following year, the adoption of the *Great Green Charter of Human Rights in the era of the Jamahiriya*. This charter guaranteed for the first time to Libyans some fundamental rights and freedoms, such as the protection of private property and the independence of the judiciary. However, it did not grant citizens civil and political rights and did not include freedom of the press and opinion<sup>95</sup>.

However, these reforms did not achieve the desired results, partly because the 1992 embargo began to undermine the country's economic and social fabric, leading to a deterioration in living standards. Although he declared abroad that the UN sanctions would not have in any way damaged his country, Gaddafi knew that the Libyan society was rather fragile: he therefore promoted a series of reforms, above all political ones, destroying the institutional apparatus of the Jamahiriya and bringing the country back to a tribal system. To guarantee the stability of the regime, in fact, he created a structure of

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<sup>91</sup> *UN Security Council Resolution n. 748/1992*, New York, 31 March 1992, para 5 (see Appendix B)

<sup>92</sup> *Ibidem*

<sup>93</sup> *Ivi*, para 6

<sup>94</sup> *Ibidem*

<sup>95</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp. 255-256

alliances with the tribal leaders, based on a series of privileges that were given in exchange for their loyalty, in order to create a capillary instrument of control over territory and population. Formally the legislative and government authority continued to reside in the General People's Congress (legislative body) and in the General People's Committee of Libya (executive body), but the real power was in Gaddafi's hands who, with his family, his tribe of origin and a small group of faithful councillors, represented the top of the mechanism<sup>96</sup>.

The regime's stability was based, therefore, on a close alliance between the three main tribes of the country: the *Qadhadhfa*, the leader's tribe, who had about 100,000 members, the *Maqariha*, from northern Fezzan, with about a million members and the *Warfalla*, the largest one with over one million people, spread throughout the country<sup>97</sup>.

Moreover, Gaddafi progressively weakened the army, fearing that a military coup could come from military circles, mobilized by popular discontent. The defence of the leader and the new apparatus of power was now guaranteed by a series of security services and paramilitary forces, at the top of which was the *Jamahiriya Security Organization*, responsible for internal and external secret services. Despite this security apparatus, the colonel continued to be the target of numerous attacks during the '90s, especially by the *Libyan Islamic Fighting Group* (LIFG). Gaddafi reacted to the various attempts, exacerbating repression and punishment, up to the point of introducing, in 1997, the *Charter of Honour*, which included the exclusion from civil rights and social services for those families, or even entire tribes, that did not have denounced one of their members who had committed a crime against the regime. However, the repressive policy adopted was not sufficient to support an increasingly unpopular regime, especially among the new generations. It was now necessary to put an end to the sanctions and the international isolation of the country<sup>98</sup>.

It happened at the end of the '90s, when, with the second Clinton administration, a timid dialogue resumed between Tripoli and Washington and the following year, on the proposal of the US and British prime ministers, the trial for the Lockerbie attack was

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<sup>96</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p.258

<sup>97</sup> Ivi, p.259

<sup>98</sup> Ivi, pp. 259-261

convened in the Hague. Soon after the recognition of Libyan secret agents' liability in the aforementioned attacks and the delivery of the two alleged attackers, the sanctions on Libya were immediately suspended. Moreover, in the same year, Gaddafi recognized the Palestinian National Authority (ANP) as a legitimate representative of the Palestinian people and secured his formal support for the Middle East peace process, encouraging the Clinton administration to launch a cautious policy of rapprochement with Libya. The opening of a new season of dialogue with the international community favored the start of new economic initiatives by the government of Tripoli in Europe and Africa, aimed at ending the isolation of Libya and re-establishing diplomatic and commercial ties with numerous states.

The suspension of UN sanctions took place at a time when the price of oil was rising sharply on the international market: from an average of 17 dollars a barrel in early 1999 to nearly 40 dollars a barrel at the beginning of 2003<sup>99</sup>. As a result, Libyan incomes from oil exports grew considerably, contributing to an increase of around 50% of GDP and 97% of exports<sup>100</sup>. Moreover, at the International Conference on Development and Investment in 2000, the Tripoli government presented a plan to liberalize the economy, followed, a few years later, by a new strategy based on diversification of the Libyan economy, on the removal of customs tariffs to more than 3,500 imported goods and on the creation of the Tripoli Stock Exchange<sup>101</sup>.

As for international relations, Libya increasingly moved away from the Arab League countries, distancing itself from Islamic terrorism and the growing Islamic opposition within Libya, in order to rehabilitate the country in the eyes of the western powers.

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<sup>99</sup> Cresti, Cricco, *Storia della Libia contemporanea*, p.262

<sup>100</sup> R. B. St John, *The Changing Libyan Economy: Causes and Consequences*, in "Middle East Journal", 62, 1, Winter, 2008, pp.79-80

<sup>101</sup> Cresti, Cricco, *Storia della Libia contemporanea*, pp.262-263

## CHAPTER 3

# THE START OF THE ITALO-LIBYAN COOPERATION ON MIGRATION

### 3.1 The 1990s *Open Door Policy* in Libya

As we have previously seen, the 1990s represented years of particular relevance to Libyan domestic and foreign policy for several reasons. On the one hand, both the embargo imposed by the international community and the Gaddafi's pan-Arab projects, led the Tripoli government to turn to the neighboring Arab states, beginning to establish new diplomatic relations with them. On the other hand, the strong economic development, made possible by the exponential oil revenues, and the privatization of the Libyan economy, allowed the country to become one of the richest in the entire African continent. As a result, Libya quickly became a magnet for many migrants, seeking employment and a more prosperous and peaceful future<sup>102</sup>.

At the beginning of the '90s, Gaddafi launched the so-called *Open Door Policy*, starting a series of bilateral and multilateral diplomatic initiatives to create an area of free movement for the inhabitants of neighboring countries. In 1990 Libya and Sudan signed an integration charter, which was followed, four years later, by a *People Residence, Transit and Trade Agreement* signed by the governments of Libya and Chad. The endpoint of this process was the creation of the “*Community of Sahel-Saharan States*” (CENSAD) on 4<sup>th</sup> February 1998, following the *Conference of Leaders and Heads of States* in Tripoli<sup>103</sup>. Establishing CENSAD, Libya, Mali, Chad, Niger, Sudan and Burkina Faso aimed at promoting common and shared political, cultural, economic and social actions within the region. Nowadays its membership has grown to 28 countries, which share different objectives, such as the establishment of an economic union with “the removal of all restrictions hampering the integration of the member countries through the adoption of necessary measures to ensure above all:

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<sup>102</sup> S. Bredeloup, O. Pliez, *The Libyan Migration Corridor*, [Research Report] European University Institute, 2011, pp. 5-7

<sup>103</sup> Ibidem

- Free trade and movement of goods, commodities and services from member States;
- The promotion of external trade through an investment policy in member States.
- Free movement of persons, capitals and interests of nationals of member States;
- Right of establishment, ownership and exercise of economic activity;
- The same right, advantages and obligations granted to their own citizens to nationals of the signatory countries in conformity with the provisions of their respective constitutions.”<sup>104</sup>

In conformity with the Libyan *Open Door Policy*, one of the core purposes of CENSAD was right the implementation of the free movement of member states’ citizens, as reported in art.1 of the treaty establishing this regional economic community. The article stipulated that “the same rights, advantages and obligations granted to a member State’s own citizens should be applied to nationals of the signatory countries, in conformity with the provisions of their respective constitutions.”<sup>105</sup>

Implementation of the specific objective has been stagnant and many of these institutional decisions had few practical consequences. However, different CENSAD member States have gradually started liberalizing their policies and have successfully implemented measures to foster the intraregional movement of people, through both ECOWAS’s (*Economic Community of West African States*) channels and instruments and discreet and private initiatives concerning cross-border mobility. For instance, in 2001, Tripoli established a Libyan air company with a Pan-Arabic agenda in order to facilitate free movements of migrants headed to the country. But both internal and external propaganda had been going on for a long time. The country, indeed, since 1995 had been attracting more and more Arab migrants, especially from Egypt. According to Libyan officials, in 1995 there were 40,000 Sub-Saharan living in Libya, while in 2000 the number peaked at 1.5 million<sup>106</sup>. However, available data on this issue is quite unreliable and some disparities can be explained on various grounds. First, most migrants were not registered

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<sup>104</sup>From the website of African Union, information available at: <https://au.int/en/recs/censad>

<sup>105</sup>From the website of United Nations Economic Commission for Africa, information available at: <https://www.uneca.org/oria/pages/cen-sad-community-sahel-saharan-states>

<sup>106</sup> Bredeloup, Pliez, *The Libyan Migration Corridor*, p. 6

when they entered the country, but they were regularized at a later time, for instance when they got their sanitary card or when they were hired by a company. Second, they were not registered even when they left the Libyan territory, thus a general confusion between migrants, visitors and traders ended up contributing in increasing their numbers. Moreover, the general category of "migrant" enclosed the most different types of individuals, without any distinction between political refugees and economic migrants, between long-established people and those in transit, between those who settled down in Libya and those waiting for an opportunity to continue their journey to Europe<sup>107</sup>.

However, a great number of migrants arrived in Libya and if, on the one side, it helped the country to develop and boost its economy, filling vacancies in the oil industries and increasing commerce and trade, and to better diplomatic relations with other African states, on the other, this phenomenon became a problem for military authorities in charge of border areas. Indeed, if until the '80s Trans-Saharan migration was low and the Libyan officials were able to control migrants and direct them to regions in need of workers, from the '90s the management of a foreign workforce coming to the country without proper contracts became less acceptable and radical measures were sometimes taken. "Migrants were examined at border checkpoint and nothing can really protect them from arbitrary methods, rackets, abusive arrests and unfree labour"<sup>108</sup>.

Unfortunately, public authorities and the media contributed to increasing this confusion, without clarifying those blurry frontiers between regular and irregular migrants and feeding the spread of feelings of hostility and mistrust towards foreign citizens, that culminated in the anti-African riots exploded in 2000 in Tripoli and Zawiya, in which 130 Sub-Saharan migrants died<sup>109</sup>.

The *Open Door Policy*, therefore, lacked valid application tools necessary to cope with the ever-increasing flow of migrants from neighboring countries, which had to be integrated into the social fabric in a useful and constructive way. Although Libya experienced rapid economic growth in the 1990s, the country was unable to manage the ongoing migration phenomenon and the regime exploited the "African Project" more as

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<sup>107</sup> Bredeloup, Pliez, *The Libyan Migration Corridor*, pp. 4-5

<sup>108</sup> Ivi, p. 7

<sup>109</sup> Ibidem



a strategy for its foreign policy than as a valid instrument to better the internal social and economic situation. Because of this, together with energy crisis and embargoes, the Libyan standard of living gradually worsened.

### **3.2 The Dini-Mountasser Joint Document**

The Libyan situation at the end of the XX century did not seem very rosy. Despite the various internal reforms, it became now clear that the only solution for an internal development of the country was represented by the end of the embargo and the following normalization of relations with the West, putting a stop to the Tripoli's isolation in the global scenario. In his project of Libyan rehabilitation and reintegration into the international community, Gaddafi, despite his personal resentment, considered it important to definitively close the colonial question with Italy and to be able to exploit a preferential relationship with the former colonial power in the dialogue with the West.

The basis of this new era of Italo-Libyan cooperation was represented by the *Joint Document*, stipulated on 4<sup>th</sup> July 1998 by Foreign Ministers Lamberto Dini and Omar-al Mountasser, with the common goal of developing bilateral relations based on mutual collaboration in order to create a future of peace and international stability. Italy expressed a great regret for what had happened in the past and undertook to provide special support for the Libyan development in the cultural and economic fields. Among the various points, it accepted the request for reclamation of colonial minefields in Libyan territory: the Italian government offered not only to remove them, but also to establish training courses for special units designated for the mine removal and to build a specialized hospital for the treatment of victims of landmines. For its part, Libya recognized only the right of the Italians expelled in 1970 to return to their lands, but without making any reference to the value of confiscated assets<sup>110</sup>.

In general, the agreement was particularly unbalanced in favour of the former colony, repeatedly pointing out the abuses suffered by Libyan population, underlining how the country needed a substantial Italian compensation in order to definitively close the matter.

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<sup>110</sup> E. Rivis, *Relazioni tra Italia e Libia: 1911-2011*, tesi di Laurea Magistrale in Relazioni Internazionali Comparate, A.A. 2011-2012, Venezia, pp. 71-72

However, the Dini-Mountasser Join Document represented the first step of a progressive intensification of bilateral relations between Italy and Libya, especially after Gaddafi's delivery of the alleged Lockerbie attackers and the (real?) Libyan departure from international terrorism. Several agreements followed one another on various areas of collaboration, such as tourism<sup>111</sup>, investment<sup>112</sup> and cultural cooperation<sup>113</sup>. The XXI century appeared as the beginning of a new era for the relations between Libya and the international community and, in this political and economic context, Italy played a major role, not only as a privileged partner with regard to the supply of oil, but also as an interlocutor and intermediary in diplomatic relations between Libya and the West. First of all, Italy fostered the lifting of United Nations sanctions on Libya and the conclusion of an agreement to fight against illegal immigration<sup>114</sup>.

### **3.3 The general agreement on terrorism, organized crime and illegal migration**

The first agreement to mention migration explicitly was signed on 13<sup>th</sup> December 2000 by the Italian Minister of Foreign Affairs, Lamberto Dini, and the Libyan Secretary of the General Popular Committee for the Foreign Affairs and International Cooperation, Abdurrahman Mohamed Shalgam. The treaty, which came into force in December 2002, provided for cooperation in the fight against terrorism, organized crime, drug trafficking and undocumented migration<sup>115</sup>.

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<sup>111</sup> *Accordo per la cooperazione nel settore del Turismo, Roma, 4 luglio 1998*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

<sup>112</sup> *Accordo sulla promozione e protezione degli Investimenti, Roma, 13 dicembre 2000*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

<sup>113</sup> *Accordo di cooperazione culturale, scientifica e tecnologica, Tripoli, 5 giugno 2003*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

<sup>114</sup> Rivis, *Relazioni tra Italia e Libia: 1911-2011*, p. 72

<sup>115</sup> Ivi, p. 73

In particular, the preamble stressed the importance of international cooperation against organized crime, which threatened "*l'ordine e la sicurezza pubblica, nonché il benessere e l'integrità fisica dei propri cittadini*"<sup>116</sup>. In the art. 1 the parties undertook to jointly fight organized crime, mainly through the exchange of information on international criminal organizations engaged in terrorist activities, drug and arms trafficking and illegal immigration, and on the bodies that financed such activities. As regards the fight against illegal immigration, the parties agreed on an intense exchange of information regarding illegal immigration flows and the itineraries followed, the criminal organizations that favour this phenomenon and their modus operandi, and also those organizations specialized in the falsification of documents and passports. In addition, the two states were committed to offering mutual assistance and collaboration in this regard<sup>117</sup>.

This agreement mentioned also police cooperation, and, in particular, education and training to promote collaboration between the police education institutions of the two countries (art. 2). Indeed, a range of training courses for Libyan police staff have been co-funded and managed by Italy. Moreover, in art. 5, the parties agreed on the need to carry out regular consultations regarding the issues set out in the agreement; these meetings would be held whenever necessary and would be chaired by the Italian Interior Minister and the Libyan Secretary of the General Committee for Justice and Public Safety, while periodic meetings would bring together experts from the sectors pertaining to the treaty, in order to evaluate the progress and results of bilateral cooperation<sup>118</sup>.

Particularly relevant was the art. 7, which allowed each party to reject the request for assistance or cooperation from the other state, in the event that this request undermined the exercise of national sovereignty or the security or fundamental interests of the state.

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<sup>116</sup> “[...]Public order and safety of the two states, as well as the well-being and physical integrity of its citizens” translated from *Accordo per la collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e di sostanze psicotrope ed all’immigrazione clandestina*, Roma, 13 dicembre 2000, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale (see Appendix C), preamble

<sup>117</sup> Ivi, art. 1

<sup>118</sup> Ivi, art. 2, 5

This clause offered the parties an escape from treaty obligations<sup>119</sup>. This treaty was followed by two protocols of 29 December 2007, which were never implemented.

### **3.3 The other Italo-Libyan joint measures on Migration and the International Organization for Migration in Libya (IOM)**

Although in the first decade of the new millennium very few formal agreements on migration were signed by the parties, the negotiations have continued, and a set of concrete actions has been enacted, regarding, in particular, three different areas of collaboration: information sharing, equipment provision and coast patrolling. In July 2003, an informal agreement provided for an exchange of information about migrant flows and for a supply to Libya of specific apparatus for sea and land borders' control. Shortly after, Italy agreed to spend €15 million over three years for the provision of further equipment and it committed to build a radar system on Libya's southern border<sup>120</sup>. In September 2006, a further settlement was signed by Prodi government and Gaddafi, according to which Libya pledged "to control its 2,000 km coastline and 7,000 km land borders and to put in place barriers against immigration from the south<sup>121</sup>" and it undertook "to accept the readmission of illegal migrants from Italy<sup>122</sup>". In turn, Italy committed once again to provide material assistance in terms of boats, planes and other vehicles, together with the support of officers from the *Servizio Centrale Operativo* (SCO), "the security agency charged with coordinating the intervention squads and special units in the fight against organized crime"<sup>123</sup>.

As far as the coast patrolling is concerned, it is particularly relevant the agreement on the joint patrolling of littoral and ports in northern Libya, signed on 28 December 2007. Italy

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<sup>119</sup> *Accordo per la collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e di sostanze psicotrope ed all'immigrazione clandestina*, (see Appendix C), art. 7

<sup>120</sup> E. Paoletti, *Power Relations and International Migration: the Case of Italy and Libya*, in *Political Studies*, 2011, VOL 59, p. 275

<sup>121</sup> S. Coluccello, S. Massey, *Out of Africa: The human trade between Libya and Lampedusa*. in "Trends in Organized Crime", 10, 2007, p. 84

<sup>122</sup> *Ibidem*

<sup>123</sup> *Ibidem*

pledged to provide six patrolling boats and it approved the grant of over €6 million to execute the agreement. The first three boats were delivered to Libya on 14 May 2009<sup>124</sup>. After the allocation of these funds, Italy has repeatedly asked Libyan assistance during the process of interception of boats carrying migrants across the Mediterranean. While a practice that should not be confused with joint patrolling is that of so-called “push-backs”, that is, “intercepting ships carrying asylum seekers and undocumented migrants and forcing them back into the territorial waters of the country whence they came”<sup>125</sup>. According to Human Rights Watch and the available records, this measure was first implemented on May 2009, when 471 migrants were intercepted on international waters and shipped to Libya by Italian police guards; after two months, 89 other foreign nationals were “pushed back” to Libya<sup>126</sup>. As for the exchange of information, on September 2006 this practice was implemented with the establishment of a liaison officer from Libyan Interior Ministry in Rome.

Another aspect of the cooperation on migration regards the returned flights to Libya and third countries. In this respect, between October 2004 and March 2006, Italy financed the returned flights of over 3.000 irregular third-country nationals to Libya, who were subsequently repatriated to third countries by Libyan authorities, either by air or land. This practice seems to have been stopped since March 2006 presumably as a consequence of an intense international and internal pressure concerning the dubious legality and respect of human rights of this activity; indeed, Italy was asked to justify the repatriations before the European Court of Human Rights and the Italian Ministerial Tribunal. However, Italy-financed returned flights from Libya to third countries have been reported between January 2003 and August 2006: according to Libyan authorities, in this period, almost 9,000 foreign nationals were repatriated from Libya to third countries with Italian support<sup>127</sup>.

Moreover, it is important to mention that Italy had even planned to finance the construction of four camps to detain migrants, in Gharyan, Sebah and two in Kufra,

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<sup>124</sup> E. Paoletti, *Power Relations and International Migration: the Case of Italy and Libya*, p. 274

<sup>125</sup> Ivi, p. 276

<sup>126</sup> Ibidem

<sup>127</sup> Ivi, p. 275

although the government subsequently backtracked. Libyan and Italian officials in Tripoli between 2007 and 2008 declared that these centres were no longer intended for confining “illegal migrants” but rather for police training and providing humanitarian assistance. However, no more precise information is available on the issue<sup>128</sup>.

Another important step in the cooperation on migration was represented by the opening, on 9 August 2005, of the International Organization for Migration (IOM) office in Tripoli<sup>129</sup>. Established in 1951, IOM is the leading inter-governmental organization in the field of migration, aiming at ensuring the humane management of migration flows, promoting international cooperation on migration issue and helping countries in the search of practical solutions to address migration problems. Furthermore, IOM provides humanitarian assistance to migrants in need, including asylum-seekers, refugees and internally displaced people, working closely with governmental, intergovernmental and non-governmental partners. Nowadays, IOM counts 173 member states, and 8 states holding observer status, it has offices in over 100 countries, in which it provides services and advice to governments and migrants<sup>130</sup>. In particular, it works in the major areas concerning migration management: migration facilitation and regulation and issues concerning forced migration; in particular its activities are focused on “the promotion of international migration law, policy debate and guidance, protection of migrants' rights, migration health and the gender dimension of migration”<sup>131</sup>.

Moreover, IOM is equipped with a Displacement Tracking Matrix, which monitors displacement and migration trends, providing data and analysis useful to easily target humanitarian interventions and to tailor a comprehensive response to the needs of asylum-seekers, refugees and migrants<sup>132</sup>.

In Libya, IOM has implemented a number of projects, partly funded by Italy, responding to the urgent need of humanitarian assistance related to the country’s migration crisis.

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<sup>128</sup> Paoletti, *Power Relations and International Migration: the Case of Italy and Libya*, pp. 275

<sup>129</sup> Ivi, p. 276

<sup>130</sup> From the website of International Organization on Migration (IOM), information available at: <https://www.iom.int/about-iom>

<sup>131</sup> Ibidem

<sup>132</sup> From the website of Displacement Tracking Matrix, information available at: <https://dtm.iom.int>

On the ground, IOM provides health and psychosocial support for rescued migrants, collaborates with Libyan authorities to enhance living conditions for detained migrants, and also assists the IDPs, returnees and host communities. Moreover, it is also improving its Voluntary Humanitarian Return Program, in order to support those migrants, who decided to be voluntarily returned to their own countries<sup>133</sup>.

### **3.4 The Treaty of Friendship, Partnership and Cooperation**

The Treaty of Friendship, Partnership and Cooperation between Italy and Libya marked the conclusion of long negotiations aiming at a diplomatic normalization of the relations between the two countries. This treaty was signed on 30 August 2008 by the Italian prime Minister Silvio Berlusconi and Muammar Gaddafi with the common purpose of continuing and renewing the cooperation in different sectors, including the prevention of illegal migration, and of closing definitely with the past and the disputes deriving from the colonial period<sup>134</sup>.

The first part of the treaty was dedicated to the declaration of norms and principles deriving from the UN Charter and the international law, as respect for sovereign equality and non-interference in internal affairs, prohibition of the threat or use of force and respect for human rights and fundamental freedoms. Secondly, the treaty dealt with the closure of all the past disputes, defining a common line and the basis for the future cooperation. In particular, Italy was committed to building basic infrastructure for a total of \$5 billion, with an annual expenditure of \$250 million over 20 years. However, no funds would be transferred to Libya, but the work would be carried out by Italian companies with fund managed directly from Italy<sup>135</sup>.

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<sup>133</sup> From the website of IOM Libya Office, information available at: <https://libya.iom.int>

<sup>134</sup> N. Ronzitti, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: new prospects for cooperation in the Mediterranean?*, Istituto Affari Internazionali, Genova, 2009, pp. 4-7

<sup>135</sup> *Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista, Benghazi, 30 Agosto 2008*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale (see Appendix D), art. 8

Moreover, Italy undertook to fund special initiatives for the wellness of Libyan population, such as building several housing units or allocating scholarships for undergraduate and postgraduate Libyan students.<sup>136</sup>

Thus, Italy's commitments were substantial, while, from the Libyan side, the treaty did not provide any compensation for the 20,000 Italians driven out from Libya in July 1970, but it only obliged Libya to grant this Italian community, including those citizens who voluntarily left the country, visas for tourism, work or other purposes<sup>137</sup>.

The third part, which was the most ambitious one, was focused on bilateral cooperation, envisaged in many sectors, such as culture, economy, energy, defense and the fight against terrorism and illegal immigration. The treaty did not allocate any funds, except for the fight against illegal immigration, that was one of the most relevant point from the Italian side<sup>138</sup>. In this respect, art. 19 of the Treaty called for three things:

1. The implementation of the previous agreement and protocols on immigration, in particular of those stipulated in 2007;
2. The creation of a control system for Libyan land borders to be entrusted to Italian companies equipped with the necessary technological skills. In this regard, the Italian government took charge of supporting 50% of the costs, while the two sides would ask the EU to take over the remaining 50%<sup>139</sup>.
3. The commitment of both parties to collaborate in defining initiatives, both bilateral and regional, to prevent the phenomenon of illegal immigration in the origin countries of the migratory flows.

The part of the treaty relating to bilateral cooperation on fighting against the illegal migration raised serious human rights concerns, in particular about the fate of immigrants turned back to Libya. Even if both parties had signed the 2000 UN Protocol against

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<sup>136</sup> *Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista*, (see Appendix D), art. 10

<sup>137</sup> *Ivi*, art. 11

<sup>138</sup> Ronzitti, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: new prospects for cooperation in the Mediterranean?*, p. 6

<sup>139</sup> *Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista*, (see Appendix D), art. 19



organized crime and trafficking of human beings, but we cannot forget that Libya has never been party to the 1951 Convention on Refugees<sup>140</sup>.

Since the treaty involved serious commitments that would have to be further defined, it provided also for the setting up of some management bodies, such as:

- A Partnership Committee, constituted by the Prime Minister of Italy and the Secretary of the General People's Committee in Libya, which would meet annually, to settle all the provisions needed to implement the treaty;
- An Implementation Committee, which would meet annually with the aim of monitoring the implementation of the treaty and of the other collaboration agreements<sup>141</sup>.

In conclusion, despite being substantially costly for Italy, the Treaty of Friendship, Partnership and Cooperation contributed to creating a new favourable climate between the two parties and to improving bilateral relation, closing definitely with the colonial heritage. Indeed, not only did the agreement provide a new frame of reference for cooperation in many sections, but also it helped to improve the new relations between Libya and the West and to promote within the North-African country the spread of western type democracy, the adoption of a modern Constitution and the development of policies caring to the protection of human rights and fundamental freedoms<sup>142</sup>.

The signing of the treaty was followed by a series of official visits by the Libyan leader to Italy, definitively sanctioning the overcoming of any colonial dispute. In particular, Gaddafi's visit to Rome in August 2010 was an opportunity to take stock of bilateral relations between the two states, but also to discuss Italian-Libyan and Euro-Libyan cooperation on irregular immigration. We have already seen how, during the first decade of 2000, Italy made a strong commitment to provide Libya with funds and tools to deal with this phenomenon; however, on the occasion of the meeting in Rome with Prime Minister Berlusconi, Gaddafi once again claimed the fundamental role of his

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<sup>140</sup> Ronzitti, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: new prospects for cooperation in the Mediterranean?*, p. 6

<sup>141</sup> *Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista*, (see Appendix D), art. 14

<sup>142</sup> Ronzitti, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: new prospects for cooperation in the Mediterranean?*, pp. 7-8

country as a “migrant filter” and asked for 5 billion euros to continue its work in the fight against illegal immigration. The Libyan premier had understood that the issue had a strong impact in Europe, and especially in Italy, and was ready to exploit this card as much as possible<sup>143</sup>.

However, both the Treaty of Friendship and Gaddafi's strategy did not last long, due to the outbreak of the Libyan internal conflict of 2011. The situation that developed in the country since the Benghazi uprisings of 15<sup>th</sup> and 16<sup>th</sup> of February turned very soon in a real civil war that saw Gaddafi's loyal forces against the insurgents. The use of force and the violation of human rights by the Libyan regime against rebel civilians aroused great concern in the international community, and the progressive intensification of the crisis led to the approval by the UN Security Council of the resolution S/Res/1970. Promoted by France, Germany, the United Kingdom and the United States and unanimously approved on 26 February 2011, this resolution outlined a series of measures aimed at tackling the violence suffered by the population, as the imposition of a series of sanctions. According to art. 9, “*All Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories [...]*”<sup>144</sup>.

The UN Security Council, therefore, imposed an arm embargo against Libya, which, although excluding non-lethal military equipment for humanitarian or protective use, effectively canceled the settlements envisaged by the Italian-Libyan treaty of 2008. Furthermore, the resolution was fully accepted on 11 March 2011 by the European

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<sup>143</sup> Ronzitti, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: new prospects for cooperation in the Mediterranean?*, pp. 7-8

<sup>144</sup> UN Security Council Resolution S/Res/1970, New York, 26 February 2011, (see Appendix E), art.

Council, which met in Brussels in exceptional circumstances in order to discuss about the developments in Libya and neighboring countries. The art. 6 of the Extraordinary European Council Declaration stated: “*We welcome UN Security Council Resolution 1970 and the referral of the situation in Libya to the International Criminal Court. The use of force, especially with military means, against civilians is unacceptable and must stop immediately. The safety of the people must be ensured by all necessary means. The European Council expresses its deep concern about attacks against civilians, including from the air. In order to protect the civilian population, Member States will examine all necessary options, provided that there is a demonstrable need, a clear legal basis and support from the region. Those responsible will be held accountable and face grave consequences. We will work with the United Nations, the Arab League, the African Union and our international partners to respond to the crisis. We call for the rapid holding of a summit between the Arab League, the African Union and the European Union*”<sup>145</sup>.

### **3.5 The Tripoli Declaration and the Memorandum of Understanding**

The end of sanctions on Libya was only announced in mid-December 2011, about a month after the defeat of the regime's affiliated forces and the killing of Gaddafi, followed by the birth of a new Libyan government led by Abdurrahim el-Keib, an exponent of the opposition movement since the Seventies. Of particular relevance for the resumption of Italian-Libyan bilateral relations was the visit of the head of the Interim Transitional National Council, Mustafa Abdul Jalil, on 15 December 2011. On this occasion, following the meeting with Italian Prime Minister Mario Monti, the re-enactment of the 2008 Italian-Libyan Treaty of Friendship was announced, together with the release of 600 million euros of Libyan funds, previously frozen in Italy.

About a month later, on 21 January 2012, President Monti went to Tripoli to sign a new Declaration of Intent, with which the two countries pledged to further strengthen the bond of friendship and bilateral cooperation<sup>146</sup>. In particular, the agreement intended to continue “[...] *sulla strada degli accordi firmati, guardando al future con l’aiuto e il*

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<sup>145</sup> *Extraordinary European Council Declaration*, Brussels, 20 April 2011, (see Appendix F), art. 6

<sup>146</sup> (anonimo), *La missione di Monti a Tripoli. Libia-Italia, firmato nuovo trattato amicizia*, in “Avvenire”, 21 January 2012.

*contributo nelle varie attività, attraverso commissioni tecniche ad hoc nei vari settori nei due rispettivi Paesi*"<sup>147</sup>. The so-called Tripoli Declaration also ensured Italian support in the Libyan national pacification process.

The foundations were, therefore, laid for new relations between the two states after the end of the civil war and the fall of the Gaddafi regime. The agreement contained numerous references to the inspiring goals and principles of the February revolution, which had put an end to the 2008 Treaty of Friendship. During the press conference, both political leaders preferred to gloss over the fate of the old treaty, referring to the Tripoli Declaration as a new agreement between two new governments. The words of Libyan Prime Minister Abdel Rahim el-Kib were a clear example: *“Il professor Monti rappresenta un nuovo governo, un governo molto progredito, per loro come per noi è importante che rapporti siano stretti a tutti i livelli. Noi anche rappresentiamo una nuova visione e crediamo insieme che i rapporti saranno sicuramente forti dal momento in cui ci sarà un accordo con il rispetto della sovranità*"<sup>148</sup>.

The governments also announced a series of agreements on fishing and military training. However, the declaration and subsequent agreements did not mention the thorniest issues, such as the migration theme, which was exploited, albeit in a timid tone, even by the new Libyan government. The new authorities, in fact, repeatedly declared their inability to manage and control potential waves of migration to Europe, urgently requesting funding and means to ensure the border surveillance system and to be able to restructure the 19 provisional detention centers built under the Gaddafi regime<sup>149</sup>.

The migration issue was, however, addressed by the Memorandum of Understanding on cooperation in the field of development, fight against illegal immigration, trafficking in

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<sup>147</sup>“[...]Path of signed agreements, looking to the future with help and contribution in the various activities, through ad hoc technical commissions in the various fields in the two respective countries”, translated from: A. Settanta, B. Yezza, *Il lento emergere della nuova Libia*, C.N. T., 2011

<sup>148</sup> “Professor Monti represents a new government, a very advanced government, for them as for us it is important that relations are close at all levels. We also represent a new vision and we believe together that relations will surely be strong as soon as there is an agreement with respect for sovereignty” translated from: (anonimo), *La missione di Monti a Tripoli. Libia-Italia, firmato nuovo trattato amicizia*

<sup>149</sup> Ibidem

human beings, smuggling and on strengthening the security of the borders between the State of Libya and the Italian Republic, which in the preamble took up the 2008 Treaty of friendship and the Tripoli Declaration. This document, signed on 2 February 2017 by leaders Paolo Gentiloni and Fayeza Mustafa Serraj, enshrined the commitment by both states to jointly address all threats to peace, security and stability in the two countries and in the Mediterranean region in general, including illegal immigration, terrorism and human trafficking. In particular, in the preamble of the Memorandum, after referring to the Libyan transition phase and the need to work on national reconciliation, the common historical and cultural heritage and the strong bond of friendship between the two peoples were identified as the basis for addressing the problems deriving from the continuous and high flows of illegal migrants<sup>150</sup>.

To protect the North African state, the principles of sovereignty, independence, territorial integrity and national unity of Libya as well as non-interference were reaffirmed and it was recognized that "*le misure e le iniziative intraprese per risolvere la situazione dei migranti illegali ai sensi di questo Memorandum, non devono intaccare in alcun modo il tessuto sociale libico o minacciare l'equilibrio demografico del Paese o la situazione economica e le condizioni di sicurezza dei cittadini libici*"<sup>151</sup>

One of the primary objectives of the document was to underline the need to find urgent and shared solutions to solve the issue of illegal migrants who cross Libya to travel to Europe, and to work together on the control and security of Libyan borders, both land and sea, in order to reduce not only those migratory flows transiting through the country but also the trafficking of human beings promoted by international criminal organizations. In this regard, "*la parte italiana si impegna a fornire supporto tecnico e tecnologico agli*

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<sup>150</sup> M. Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, Franco Angeli, 2017, Milano, pp. 99-100

<sup>151</sup> "The measures and initiatives undertaken to solve the situation of illegal migrants, must in no way affect the Libyan social fabric or threaten the country's demographic balance or the economic situation and conditions of security of Libyan citizens" translated from: *Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, Roma, 2 febbraio 2017*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, (see Appendix G), preable

*organismi libici incaricati della lotta contro l'immigrazione clandestina, e che sono rappresentati dalla guardia di frontiera e dalla guardia costiera del Ministero della Difesa, e dagli organi e dipartimenti competenti presso il Ministero dell'Interno*"<sup>152</sup>.

It was also planned the establishment of temporary reception camps on Libyan territory to accommodate migrants awaiting repatriation or voluntary return to their countries of origin. These centres, under the exclusive control of the Libyan Ministry of the Interior, would be managed using Italian and European Union funds. In particular, the Italian government would also contribute to the health care of hosted migrants, through the supply of medicines and medical equipment, as well as through the training of Libyan staff operating within them<sup>153</sup>.

Additional funds would be allocated to promote growth and development programs in the Libyan regions most affected by illegal immigration, human trafficking and smuggling, in order to combat these phenomena through job creation initiatives and funding in various sectors, such as health, infrastructure, renewable energies, transport, etc<sup>154</sup>.

At the international level, the parties undertook to support the activities of international organizations operating in Libya and aiming primarily at coordinating and protecting the return of migrants to their home countries. In this regard, Italy and Libya would also work to support development projects in these regions, in order to improve living standards and health conditions and to contribute to the reduction of poverty and unemployment<sup>155</sup>.

*"Al fine di conseguire gli obiettivi di cui al presente Memorandum, le parti si impegnano a istituire un comitato misto composto da un numero di membri uguale tra le parti, per individuare le priorità d'azione, identificare strumenti di finanziamento, attuazione e*

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<sup>152</sup>"The Italian government undertook to provide technical and technological support to the Libyan bodies in charge of the fight against illegal immigration, which are represented by the border guard and the coast guard of the Ministry of Defense, and by the organs and departments competent at the Ministry of the Interior" translated from *Art.1, Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana*, (see Appendix G), art. 1

<sup>153</sup> Ivi, art. 2

<sup>154</sup> Ivi, art. 1

<sup>155</sup> Ivi, art. 2

*monitoraggio degli impegni assunti*”<sup>156</sup> and the Italian government would finance all the initiatives proposed by this committee, also making use of funds made available by the European Union<sup>157</sup>.

This memorandum, therefore, represented a new turning point in the Italian-Libyan cooperation on migration issues. Although it was Italy, as usual, to go out on a limb and to provide for the allocation of relevant funds, it was possible to perceive a new Libyan attitude towards real collaboration. In addition, this Memorandum contained a recognition by the parties of how the migratory phenomenon is to be addressed not only in a bilateral coordinated manner but also and above all in a global way, relying on the various international organizations present in the territory and on the funds allocated by the European community.

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<sup>156</sup>“In order to achieve the objectives set out in this Memorandum, the parties undertake to establish a mixed committee composed of an equal number of members between the parties, to identify the priorities for action and the instruments of funding, implementation and monitoring of the undertaken commitments” translated from: *Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana*, (see Appendix G), art. 3

<sup>157</sup> Ivi, art. 4

## **CHAPTER 4**

### **THE ITALIAN MIGRATION POLICY: A CASE OF EXTERNALIZATION?**

In the previous chapter, I have analyzed the cooperation on migration between Libya and Italy during the new millennium. Starting from here, I will now try to understand whether this cooperation represents a case of externalization or not and whether it is possible to talk about delegation of sovereignty by Italy. Before, I will quickly focus on the new challenges set out by current migration flows and on how this phenomenon has been misinterpreting by governments and media.

#### **4.1 Migration as a “new” challenge for the international community**

Since the earliest time people has been moving. The causes can be several and different, such as escaping conflict, persecution and human rights violence, or looking for work or better economic opportunities. Until the second half of the 1970s, most European governments have treated migration policy as a secondary aspect of the political debate and management of migration flows was dealt with mainly through domestic measures. However, since the 1980s migration has increasingly become a salient issue on the international agenda, and in particular, on the European one<sup>158</sup>.

Even the implicit association between the concepts of migration and security is not recent: the crossing of borders has always been seen in terms of law transgression and since the Peace of Westphalia in 1648 the state’s border protection and control has been a prerogative of its power. Indeed, according to the international law, borders define the space in which the state can (and must) exercise its sovereignty<sup>159</sup>.

However, with the end of the Cold War and the advent of globalization, the world began to develop beyond these borders: the first talks about free movement have started, the first customs barriers have been broken down and worldwide countries have intensified relations and trade. Likewise, moving has also become increasingly simpler and cheaper

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<sup>158</sup> Paoletti, *Power Relations and International Migration: The case of Italy and Libya*, p. 269

<sup>159</sup> Ivi, p. 272



and migratory flows have started to grow. The development of communication media and the arrival of internet have allowed a huge part of the global population to have a look on the rest of the world, giving the “south” the possibility to dream about the “north”.

Nevertheless, the removal of custom barriers and the development and the spread of liberal and democratic principles have not gone in parallel with freedom of movement for people, but on the contrary, in the late 1990s, the international community started talking about security threats posed by the migratory phenomenon. The attack of 11 September 2001, then, was seen as a clear sign of failure of the US government’s border control. From now on, although most of the attackers had entered the United States through legal channels, the risk of terrorist plots has justified the tightening of border control measures across Europe on the basis of a need for greater security<sup>160</sup>. However, the question remains: security for whom? Of course, the very concept of security has changed over time: initially it was the life of the state itself that had to be protected from attacks, especially military ones, that undermined its sovereignty. While, recently, it has begun to catch on the concept of *soft security*, which aims to protect the country from all those risks of a basically non-military nature, but which can undermine the internal stability and the economy of a country<sup>161</sup>. In this sense, it is not difficult to understand how Myron Weiner<sup>162</sup> managed to identify five different ways in which migrants can represent a threat to state security:

1. “As opponents of the home regime;
2. As hostages, risks for the sending country;
3. As a political risk to the host country;
4. As a threat to cultural identity;
5. As a social or economic burden”<sup>163</sup>.

In particular, the last three categories are those most widespread and used by Western political authorities to describe the problem. The concept of political risk undoubtedly

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<sup>160</sup> M. Collyer, *Migrants, Migration and the Security Paradigm: Constraints and Opportunities*, in “Mediterranean Politics”, vol. 11, n. 2, 2006, pp. 256-257

<sup>161</sup> Ivi, p. 258

<sup>162</sup> Myron Weiner was an American political scientist and scholar of internal and international migration, ethnic conflict, and the politics and policies of developing countries.

<sup>163</sup> Collyer, *Migrants, Migration and the Security Paradigm: Constraints and Opportunities*, p. 259

refers to the idea of security and the fear of terrorist attacks from cells infiltrated in the country, giving the host state the right alibi for the intensification of border controls and the decrease in entry visas granted. Instead, the last two categories refer more to the social aspect, describing the migrant as “the other who has entered a harmonious world and just by having entered it, has disturbed the harmony”<sup>164</sup>.

With globalization the disparity between rich and poor countries has increased and the gap between the two poles of the globe has become even more evident. Thus, a migrant from a poorer country began to be seen as an element capable of jeopardizing the stability of the system in which it arrives. Since, by definition, the state tends to pursue its own interests to protect its survival, the migration policies of the host countries will reflect those same socio-economic interests that society considers of vital importance. Therefore, if migratory flows initially represented one of the consequences of economic and political disparities between states, they have also become the cause of these differences. It should also be borne in mind that, precisely because of the difficulty of entering industrialized countries through legal channels, a certain number of migrants tend to settle in neighboring countries, which are generally not much richer than the countries of origin. The *Migration Data Portal*<sup>165</sup> gathered data about international migrant stocks, which refer to “all foreign-born residents in a country regardless of when they entered the country”<sup>166</sup>. According to this data, migration flows all around the world have been increasing, starting from 153 million people counted in 1990 up to almost double in 2019 with a peak of 271,6 million people<sup>167</sup>.

Of course, many of these migrants have been moving to Europe, but a great number of people, in particular in Asia, preferred to settle in nearer countries. The choice can depend on linguistic, cultural and social causes, or can just be dictated by the impossibility of affording a long journey toward Europe.

The graphic below, for instance, shows the distribution of migrants in the world in 2019.

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<sup>164</sup> Collyer, *Migrants, Migration and the Security Paradigm: Constraints and Opportunities*, p. 259

<sup>165</sup> The Migration Data Portal is the IOM’s portal which aims at gathering comprehensive, updated and reliable data, statistics and information about migration.

<sup>166</sup> From Migration Data Portal’s website, information available at: [https://migrationdataportal.org/data?i=stock\\_abs\\_&t=2019](https://migrationdataportal.org/data?i=stock_abs_&t=2019)

<sup>167</sup> Ibidem

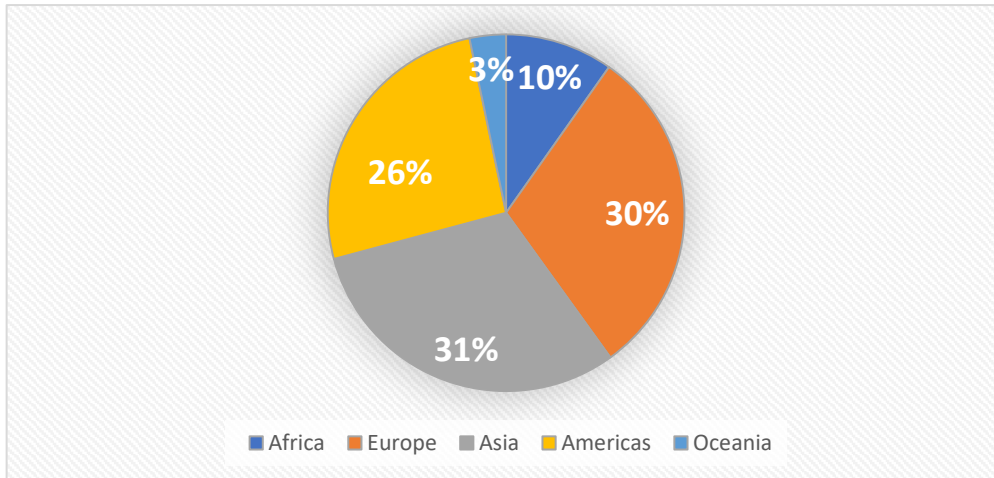


Figure 4.1 - Total number of international migrants divided by continent of arrival (in 2019)

As we can see, the largest slices are represented by Europe and Asia, which welcomed respectively 82.3 and 83.6 million people in 2019<sup>168</sup>. This figure is even more interesting if we consider that the Asian sub-region with the highest number of migrants from the beginning of 2000 to today is the Middle Eastern area. The Syrian crisis caused the escape of more than 6 million refugees, of whom only a little percentage succeeded in reaching Europe, while the majority is located in Turkey (65%), Lebanon (16%) and Jordan (12%)<sup>169</sup>. The same thing happened in Africa where the 26.5 million registered migrants fled from war and internal unrest and took refuge in neighboring countries. Somalia War alone has generated 3 million internally displaced persons, located in neighboring countries, such as Yemen, Ethiopia and Kenya, where it is located the Dadaab Refugee complex, the biggest refugee camp, which hosts more than 200,000 people<sup>170</sup>.

Libya itself has also experienced an exponential increase in the number of migrants arriving in the country: from 457,000 in 1990, the number has almost doubled, exceeding

<sup>168</sup> From Migration Data Portal's website, information available at: [https://migrationdataportal.org/data?i=stock\\_abs\\_&t=2019&m=1](https://migrationdataportal.org/data?i=stock_abs_&t=2019&m=1)

<sup>169</sup> From Syria Regional Refugee Response on UNHCR Operational Portal Refugee Situation, information available at: <https://data2.unhcr.org/en/situations/syria>

<sup>170</sup> From UNHCR Kenya website, <https://www.unhcr.org/ke/dadaab-refugee-complex>

818,000 in 2019<sup>171</sup>. Indeed, despite the more restrictive migration policies put in place in recent years, the country has been seen by many from neighboring countries as a point of arrival and not a simple stage in the journey to Europe. The idea of Europe as a travel destination for all those who leave their country is a purely western construction and, as we will see in the next paragraph, it is only one of the various misrepresentations of migratory flows coming to Europe and, in particular, to Italy<sup>172</sup>.

## 4.2 The misrepresentation of migratory flows to Italy

As previously seen, the state's soft security has become increasingly important, in particular as far as migration issue is concerned.

The very concept of security is a social construction and works as a means of social cohesion: having a common enemy certainly contributes to the union of a people, but to an excessive extent it can prove to be counterproductive. In particular, the security paradigm can pose a threat to security itself, if it alters those principles that are thought to be threatened<sup>173</sup>. It is precisely for this reason that the false idea of "invasion" that is nowadays spreading in Europe and the subsequent will of governments to close external borders actually represent a threat to the protection of those liberal and democratic ideals that the West boasts of promoting. On the contrary, the risk is that discussing the migratory phenomenon in terms of threats to national security could legitimize racist and xenophobic feelings and episodes capable of undermining the same *soft security* that governments desire to protect. Migrants are seen as potential dangers as individuals from another country or continent and this potential danger becomes sufficient to allow for total closure by the state and by nationals as well<sup>174</sup>.

The Libyan *Open Door policy* has certainly contributed to opening a new migratory route directed to Libyan territory. This flow, initially made up mostly by North African migrants, then went on to grow, bringing together the most disparate African nationalities.

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<sup>171</sup> From Migration Data Portal's website, information available at: [https://migrationdataportal.org/data?i=stock\\_abs\\_&t=2019&cm49=434](https://migrationdataportal.org/data?i=stock_abs_&t=2019&cm49=434)

<sup>172</sup> Collyer, *Migrants, Migration and the Security Paradigm: Constraints and Opportunities*, pp. 258-259

<sup>173</sup> Ivi, p. 260

<sup>174</sup> Ibidem

The unrest, wars and poverty that raged on the continent certainly contributed to increase the phenomenon. However, most migrants arriving in Libya from African countries did not aim to cross the Mediterranean. The idea of this country as a mere leg of the journey toward Europe, in fact, misunderstands these migration flows. Migrants in transit for Libya are only a minority and since the '90s the country has become a place where foreigners wanted to settle, seek employment and create new economic activities. Certainly, the 2000 repressive migration policy and current situation in the region has prompted many people, even some long-established migrant, to seek greater stability in Europe, but Libya's migratory situation is far from being a transit gate from Africa to the West<sup>175</sup>. On the contrary, the country "is in the first place a destination country and the major country of immigration in the Maghreb. Foreign nationals constitute approximately 25-30% of Libya's total population"<sup>176</sup> and most of them have come to settle and start new economic activities, rather than to continue their journey toward Europe. For instance, a report of European Commission has gathered and analyzed data about migrants living in Italy. The table below contains the five countries from which most migrants have come. Romania and Albania rank first, while the only African country appearing in the top5 rank is Morocco, with 416,500 migrants (around 8% of the total population living in Italy). Therefore, according to this data, Moroccans constitute only 1/3 of foreign nationals coming from Romania. Even if we assumed that all Moroccans arrived in Italy passing through Libya, and this is a quite absurd assumption since the journey from Morocco to Spain would be easier, we could not talk about "invasion".

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<sup>175</sup> Bredeloup, Pliez, *The Libyan Migration Corridor*, p. 6

<sup>176</sup> R. Andrijasevic, *How to Balance Rights and Responsibilities on Asylum at the EU's Southern Border of Italy and Libya*. COMPAS, University of Oxford, Oxford, 2006, p. 17

Country of origin	Foreign nationals living in Italy	
	(thousand)	%
Romania	1190.1	23.1
Albania	440.5	8.6
Morocco	416.5	8.1
China	290.7	5.7
Ukraine	237.0	4.6

Table 4.1 – Main countries of origin of foreign nationals living in Italy (1 January 2018)<sup>177</sup>.

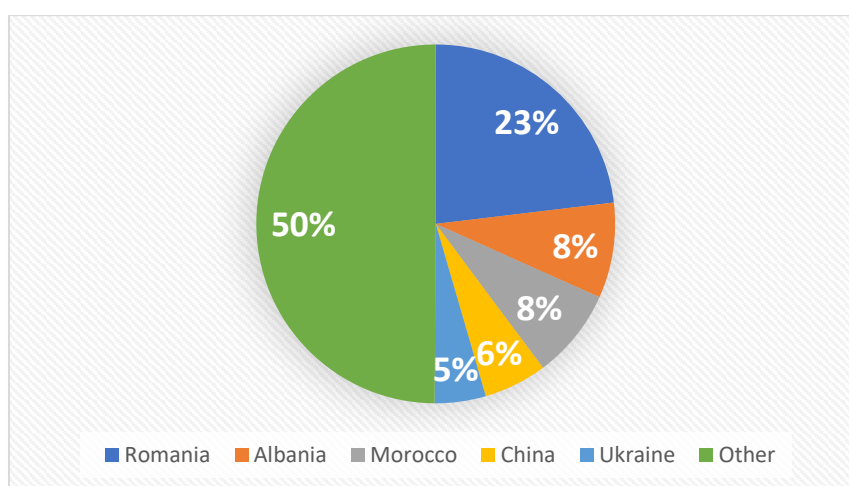


Figure 4.2 – Main countries of origin of foreign nationals living in Italy (1 January 2018)<sup>178</sup>.

The image of " migrant invasion" from Libya is therefore more a fantasy than reality. The migratory flow passing through this route is, in fact, often mis-interpreted or misused by governments and media for propaganda purposes, leading to general confusion and suspicion among local population. Nowadays, there is the tendency to identify all migrants with smugglers' victims or terrorist cells' affiliates, while it is central to reaffirm

<sup>177</sup> From Eurostat, *Migration and migrant population statistics*, Statistics Explained, information available at: <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/1275.pdf>

<sup>178</sup> Ibidem

the variety of different migrant types, of the reasons and purposes that led them move to Europe, the diversity of their backgrounds and educational and professional careers<sup>179</sup>. Furthermore, in Italy, most migrants are confusedly included in that group of *clandestino*, a term devoid of any legal meaning, useful only to create suspicion and prejudice. According to the 1951 Refugee Convention<sup>180</sup>, indeed, the asylum seeker is not an illegal migrant, even if he arrives undocumented or irregularly. Contrary to the collective imagination, in fact, most of the irregular migrants are not those who arrive on makeshift boats, but overstayers, that is, all those foreigners who entered the country regularly but remain after the expiry of the visa or residence authorization. There are no reliable data on irregular immigrants in Italy, but the most accredited estimates, dating back to the end of 2010, speak of about 443 thousand foreigners residing illegally in Italy, which means less than one in every ten regular ones. Immigrants who irregularly enter Italy are a clear minority (36%) within which the share of those who came by sea (13%) is even less<sup>181</sup>.

Within the recent migration policies there is a frequent referring to irregular migrants within security-related speeches, reinforcing the idea that “undocumented migrant” means criminal, danger. However, what most frightens Western governments is not some empirical evidence that suggests that this category is more involved in criminal activities, but it is simply the difficulty of tracking down these individuals that increases their potential threat<sup>182</sup>. Furthermore, some political leaders tend to exploit this migratory emergency as a scapegoat for their government's political, economic and social failures, trying to shift the focus of citizenship to different problems. However, the migration-security paradigm is likely to be counterproductive for the state itself and society. The risk is to create a climate of tension, mistrust and internal suspicion that generates

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<sup>179</sup> E. Paoletti, *The Migration of Power and North-South Inequalities. The case of Italy and Libya*, Palgrave MacMillan, 2010, London, pp. 62-63

<sup>180</sup> The 1951 Refugee Convention defines the term ‘refugee’ and outlines the rights of the displaced, as well as the legal obligations of States to protect them. It has been ratified by 145 State parties and it is the key legal document as far as this issue is concerned.

<sup>181</sup> AA. VV, *Comunicare l’immigrazione. Guida Pratica per gli operatori dell’informazione*, Coop. Momo, Centro Studi e Ricerche Idros, Bologna, 2012

<sup>182</sup> Collyer, *Migrants, Migration and the Security Paradigm: Constraints and Opportunities*, p. 266

insecurity and crises that could damage the work and the stability of the government itself<sup>183</sup>.

Given such tense atmosphere within the country, and more in general the European Union, it is not so surprising that European countries have been trying to close their borders and "defend" themselves from this migratory invasion. One of the strategies implemented by governments involves the process of externalization.

### 4.3 The process of externalisation

According to UNHCR Executive Committee Conclusion No. 97 of 2003, “the State within whose sovereign territory, or territorial waters, interception takes place has the primary responsibility for addressing any protection needs of intercepted persons”<sup>184</sup>. The process of externalization refers to those policies aiming at shifting this responsibility and border control functions outside the state’s territory. These policies, indeed, “include arrangements where responsibility for processing is transferred from the intercepting State to another State, as well as where the intercepting State retains responsibility for undertaking processing itself but conducts this outside of its territory”<sup>185</sup>. The UN High Commissioner for Refugees has considered four different models of externalisation (or as called in the UNHCR’s paper, of extraterritorial processing):

1. **Third state processing.** It occurs when claims for international protection are “processed in and by a State other than the State that has carried out an interception operation (a third state), if the third State is a party to the 1951 Refugee Convention and has a fair and effective asylum system in place. This may be particularly appropriate where the third State also has concurrent jurisdiction over the intercepted persons, in addition to the intercepting State”<sup>186</sup> or “during

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<sup>183</sup> Ivi, p. 260

<sup>184</sup> UN High Commissioner for Refugees (UNHCR), *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, November 2010, available at: [shorturl.at/wyU47](http://shorturl.at/wyU47), part C, para 1, art. 39

<sup>185</sup> Ivi, part C, art. 37

<sup>186</sup> Ivi, part C, para 1, art. 39



rescue at sea operations taking place in the search-and-rescue area of the third State”<sup>187</sup>.

2. **Out of country processing.** “It involves processing by an intercepting State on the territory of another State or on part of the intercepting State’s own territory that has been delineated as ‘extraterritorial’ for migration or other purposes under national law”<sup>188</sup>. In contrast to Third state processing, this model “does not involve the transfer of responsibility for processing to another state. Rather responsibility under international law is retained by the intercepting State itself”<sup>189</sup>.
3. **Regional processing.** “It could involve joint processing carried out by several transit or destination States. It could be appropriate in the event of large numbers of claims being made in several States but arising from the same situations or particular migratory routes. It could also be appropriate where there is a concern about managing responsibility for asylum processing and solutions more evenly between, or with more consistency among, destination States in a particular region”<sup>190</sup>.
4. **Processing onboard maritime vessels.** This is an exceptional method, consisting only in an initial profiling onboard the maritime vessel of the intercepting state and it can be useful “to ensure that persons with international protection needs are identified and protected against refoulement”<sup>191</sup>.

In this thesis, I will focus on the practice of externalisation as related to “the propensity of several EU Member States to establish centres for processing asylum application outside the EU’s external borders”<sup>192</sup>. The idea, promoted by Great Britain

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<sup>187</sup> Ibidem

<sup>188</sup> UNHCR, *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, part C, para 2, art. 44

<sup>189</sup> Ibidem

<sup>190</sup> Ivi, part C, para 3, art. 50

<sup>191</sup> Ivi, part C, para 4, art. 55

<sup>192</sup> Andrijasevic, *How to Balance Rights and Responsibilities on Asylum at the EU’s Southern Border of Italy and Libya*, p. 18

and Denmark in 2003, should have been the answer to the increase in migratory flows from North Africa and a solution to the continuous deaths of asylum seekers in the Mediterranean. Delocalizing, or more properly externalizing, the asylum application practices in transit countries could represent, according to some European countries, a valid solution to deal with the so-called migratory emergency.

In general, according to the UN High Commissioner for Refugees (UNHCR), externalization is intended to have three different purposes: profiling or pre-screening, refugee status determination, or temporary protection. In the first case, that is profiling or pre-screening, extraterritorial processing is aimed to “identify and differentiate between categories of arrivals (e.g. persons who are seeking international protection, victims of trafficking, unaccompanied children, irregular economic migrants)”<sup>193</sup>, gathering information and creating a preliminary profile for each migrant. The institutions responsible for conducting this activity should be capable of recognizing potential international protection needs and providing information, advice and assistance. The process of refugee status determination, meanwhile, is far more complex. Since effective access to a fair and efficient asylum procedure and the full respect of the non-refoulement principle should be guaranteed to asylum seekers, a fair externalization of this procedure requires the settlement of specialized and professional body, capable of identifying actual eligible people. Conversely, states can grant a temporary protected status to a particular group of people, instead of conducting individual refugee status determination. This can be the most appropriate measures in those cases “involving groups that are assessed generally as being in need of international protection, but where there is an expectation that their protection needs are only of short duration”<sup>194</sup>.

The 2003 UK proposal included all those purposes, mainly providing for the establishment and implementation of two tools:

1. The Regional Processing Areas (RPAs), located in regions close to asylum seekers’ countries of origin: they “would be safe areas to which people could flee

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<sup>193</sup> UNHCR, *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, part B, para 4, art. 15

<sup>194</sup> Ivi, part B, para 4, art. 21

and remain until either return home or resettlement elsewhere was possible”<sup>195</sup>; they would be useful to strengthen the accommodation and reception capacities of regions close to crisis areas.

2. Transit Processing Centres (TPCs), located in countries just outside the EU, in which “Asylum seekers arriving in, or intercepted in route to, EU Member States would be transferred for processing, according to burden-sharing principles”<sup>196</sup>. In these centres, asylum seekers could submit their application for international protection and wait for the answer. In this way, only those who had obtained refugee status could have crossed the borders of the European Union.

According to the states that supported this idea, through this mechanism, thousands of migrants could have been prevented from embarking on illegal and dangerous journeys to European coasts, but, on the contrary, they could have been assisted near their countries of origin. In addition, such a migration policy would certainly contribute to greater “burden sharing” between EU member states and to a more homogeneous and coordinated asylum system. Currently, within the EU territory, there are some de facto Regional Processing Areas and Transit Processing Centers, located by natural geography on the transit routes of migratory flows: Italy, Greece and Malta, for example, have to manage most part of the flows from North Africa without having legislation to protect and support them in this work. The externalization proposal, therefore, would also allow more efficient sharing of resources among member countries, which could exchange knowledge, experience, as well as provide more tools and infrastructures. Furthermore, according to the United Kingdom and Denmark, this policy could also prove positive for asylum seekers, avoiding them to embark on dangerous boat journeys in search of protection: they would therefore have the opportunity to stay in neighboring countries and wait for their own practice to be processed, to then be able to get to Europe quickly and safely once the necessary documents have been obtained<sup>197</sup>. Therefore, the creation of an externalized asylum processing would allow to provide greater protection to asylum

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<sup>195</sup> J. McAdam, *Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?*, The Andrew & Renata Kaldor Centre for International Refugee Law, UNSW Australia, 2015, p. 5

<sup>196</sup> Ibidem

<sup>197</sup> Ivi, pp. 5-6

seekers and greater support to the countries of transit and origin engaged in these processes, as well as to establish a more integrated and cohesive asylum system to better manage direct migratory flows in Europe.

It is important to keep in mind that, unlike the collective imagination, these considerations are not only a response to the migratory emergency of recent years. Since 1986, in fact, Denmark had proposed to the United Nations General Assembly the establishment of special UN Processing Centers, which, under the direction of the United Nation High Commissioner for Refugees, would have the task to “coordinate the resettlement of refugees among all States, recognizing that the care for and the interest of the individual refugee must at all times be the primary concern”<sup>198</sup>.

Thanks to this mechanism, migratory flows around the world could have been better managed, transforming a regional process, submitted and dependent on the various regional laws, into an externalized process with shared and more homogeneous legislative systems and protected by a competent body such as UNHCR. In this way, humanitarian emergencies would have been run in a global way and without leaving all the responsibilities and burdens to a few countries forced to deal with the issue because of mere geographical reasons. This proposal was discussed in several sessions of the UN General Assembly, but without ever reaching a formal realization, since the worldwide actual implementation of this project was quite utopian, considering the gap among the different parts of the world, both as regards political, economic and social development and at institutional and legal level<sup>199</sup>.

However, at regional level, the proposal was subsequently repeated several times, starting from the mid-90s, when the Netherlands pursued the idea of European Regional Processing Centers during an *Intergovernmental Consultation on Migration, Asylum and Refugees* (IGC)<sup>200</sup>. Although it was considered both practically and legally unfeasible and

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<sup>198</sup> McAdam, *Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?*, p. 4

<sup>199</sup> Ivi, pp. 7-9

<sup>200</sup> “The IGC is an informal, non-decision making forum for intergovernmental information exchange and policy debate on issues of relevance to the management of international migratory flows, which brings together the participating states, the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the European Commission.” From

it went nowhere, the project was never completely abandoned, and, some years later, the UK proposed the establishment of Regional Protection Areas and Transit Processing Centers for asylum seekers, supporting its idea with the obvious failure of the current asylum system on one hand, and with the United States' policy of processing Haitian and Cuban asylum seekers on the other. In order to reduce flows to European coasts, not only did the UK initial proposal provide for the possibility for asylum seekers to apply for protection within the Regional Protection Areas close to their countries of origin, but it also dared all asylum seekers who reached the European Union to return to those areas. As expected, the proposal was supported by the Netherlands and Denmark, and in particular the latter suggested that any regional protection area should have guaranteed respect for physical and social protection, for the principle of non-refoulement and that refugee status determination should have been in accordance with EU asylum procedures. Italy and Spain were also in favor of the proposal, which instead found the opposition of Sweden, Germany and France. Although it had been re-proposed over the years, this idea lacked accurate data and practical details. Who would have taken responsibility for running this system? In which states would these centers have been established? Not to mention all the issues regarding legal arrangements and procedural rules necessary to manage the system. How to integrate national laws with EU legislation, international law and the Convention on Human Rights?<sup>201</sup>

Furthermore, many EU members were skeptical about the real results that this project would have brought in terms of lasting solutions to the immigration problem, since, according to them, the externalization of asylum system was more intended as a containment strategy, designed to restrict access to EU territory and to promote a resettlement process. In fact, in spite of the principles underlying the theory of asylum system externalization, it is not possible to ignore the interests of the different states, which inevitably end up weighing more than international law principles and human rights concerns. It is no coincidence that Italy and Greece have welcomed the idea of a

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European Commission's website: [https://ec.europa.eu/knowledge4policy/organisation/igc-intergovernmental-consultations-migration-asylum-refugees\\_en](https://ec.europa.eu/knowledge4policy/organisation/igc-intergovernmental-consultations-migration-asylum-refugees_en)

<sup>201</sup> McAdam, *Extraterritorial processing in Europe. Is 'regional protection' the answer, and if not, what is?*, pp. 5-6

regional system for processing and allocating refugees throughout the EU, while other states have not looked upon it. If the former, as frontline European countries, want to share burden and responsibility of asylum seekers' management, the latter are quite reluctant to commit to resettling a certain quota of refugees.

However, resettlement can (and should) be enhanced even without the establishment of externalized processing arrangements, since there are millions of refugees already registered with the UNHCR who could be resettled now, if only States were willing to take them<sup>202</sup>.

Since states rationally tend to pursue their own interests, it would be legitimate to believe that, in the process of asylum practices externalization, European countries would tend mainly to shift the burden to North African countries, without then proceeding with an actual adequate resettlement of the refugees. Such a mechanism would probably end up transferring to countries, with quite different legislative system, competences and responsibilities that are not their own. Development of such an externalized processing regime would represent a delegation of EU decision-making power abroad and a paradigm shift in EU asylum and migration policies, which would hardly comply with EU Member States' obligations under international and EU law. Indeed, for any externalized area to be lawful, human rights of all asylum seekers and refugees should be respected. It means that the treatment of asylum seekers and all the refugee status determination procedures should be in accordance with international law, while some North African countries, such as Libya, have never ratified the 1951 Refugee Convention. According to UNHCR the asylum practices externalization can be acceptable if used “as part of a burden-sharing arrangement to more fairly distribute responsibilities and enhance available protection space”<sup>203</sup>. Furthermore, it acknowledges that processing in North Africa or in the Middle East might be useful and necessary to prevent death in the Mediterranean and that it could be an effective way to help people from those countries suffering from humanitarian emergence. However, the UNHCR states also that “transfer

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<sup>202</sup> McAdam, *Extraterritorial processing in Europe. Is 'regional protection' the answer, and if not, what is?*, pp. 3-4

<sup>203</sup> UNHCR, *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, part A, art. 3

of responsibility for processing to a third State is acceptable only if that State is a party to the 1951 Convention and has an asylum system in place that meets international standards”<sup>204</sup>, thus protecting asylum seekers’ rights and actually excluding Libya from the list of possible countries in which transferring Italian and European asylum practices. Indeed, as for international law is concerned, states cannot simply transfer asylum seekers elsewhere, but if they decide to get involve in externalization process they should accept “responsibility for implementing it in accordance with their international, regional and national legal obligations”<sup>205</sup>. In particular, among minimum preconditions that states should ensure, it is important to mention the following:

- Legal assistance;
- A fair and impartial status determination procedure;
- The right to family unity;
- The principle of non-refoulement<sup>206</sup>.

In particular, the principle of non-refoulement, according to the 1951 Refugee Convention, prohibits to contracting states to “expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”<sup>207</sup> This principle basically prevents refugees from any form of forced removal to an unsafe country. In addition, the European Courts of Human Rights has applied this principle anytime, regardless of whether the person has been recognized as a refugee and / or whether the latter has formalized or not formalized a request for such recognition. Moreover, the European Charter of Fundamental Rights guarantees the right to seek asylum within the European Union, as stated by art. 18: “The right to asylum shall

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<sup>204</sup> UNHCR, *Protection Policy Paper: Maritime interception operations and the processing of international protection claims: legal standards and policy considerations with respect to extraterritorial processing*, part C, para 1, art. 43.

<sup>205</sup> McAdam, *Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?*, pp- 7-9

<sup>206</sup> Ibidem

<sup>207</sup> *Convention Relating to the Status of Refugees*, Geneva, 28 July 1951, art. 33, available at: [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.23\\_convention%20refugees.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.23_convention%20refugees.pdf)

be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community”<sup>208</sup>.

Therefore, even if External Processing Centres outside the European Union were established, migrants could still come to Europe and ask for asylum, continuing to embark on dangerous and long journeys. As long as asylum practices in countries like Libya remain arbitrary, many asylum seekers will continue to prefer the sea route over staying in a country where their rights are not protected, and their refugee status is not recognized, since Libya has never signed the 1951 Refugee Convention.

Of course, preventing people from taking dangerous journeys is a praiseworthy aim, but it is useless as long as alternative safe protection pathways are not created. Any regional framework should foster better asylum systems within the region as a whole, and not deflect responsibilities on to other States. It is possible to claim that the European Union is moving in this direction, if we take into account the current implementation of *Regional Protection Programmes* (RPPs), through which the EU is trying to enhance the capacity of non-EU countries to provide durable solutions to refugees, promoting local integration or resettlement. The RPPs involve different types of activities, including training decision makers, improving reception conditions and national asylum systems. These RPPs represent a part of *Europe’s Global Approach to Migration and Mobility* (GAMM)<sup>209</sup>, which has different objectives, such as promoting international protection and improving the asylum policy, organizing and facilitating legal migration and preventing irregular migration and trafficking in human beings.

However, RPPs and GAMM are long-term projects and implementation strategies that are unlikely to bring immediate results to cope with the migration crisis of recent years,

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<sup>208</sup> *European Charter of Fundamental Rights*, Nice, 7 December 2000, art. 18, available at: [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>209</sup> GAMM is “the overarching framework of the European Union’s external migration policy based on genuine partnership with non-EU countries and addressing all aspects of migration and mobility issues in an integrated, comprehensive and balanced manner” from European Commission’s website: [https://ec.europa.eu/home-affairs/what-we-do/networks/european\\_migration\\_network/glossary\\_search/global-approach-migration-and\\_enttps://ec.europa.eu](https://ec.europa.eu/home-affairs/what-we-do/networks/european_migration_network/glossary_search/global-approach-migration-and_enttps://ec.europa.eu)



as European states had expected to achieve through the creation of Regional Processing Areas or Centers<sup>210</sup>. The failure of the various proposals in this regard and the impossibility of proceeding with externalization at European level has led states to act autonomously through bilateral agreements, as Italy has done with regard to Libya. Can this bilateral cooperation on migration be considered a case of externalization? Are we dealing with a case of delegation of sovereignty?

#### **4.4 Externalization: delegation of sovereignty or bilateral cooperation?**

Previously, we have seen how the EU countries have over the time tried to relocate refugee status determination outside their own borders; but, how is the externalization process perceived by those countries that should take charge of it? It is no coincidence that states expected to host some Refugees' Processing Areas are often excluded from discussions, with proposals presented to them as a *fait accompli*. Then, to persuade host countries to embrace them, EU members can leverage their bargaining power or some economic reward. The host countries' need for foreign aid may encourage them to accept arrangements for financial reasons rather than because they regard them as sound policy. However, externalization to neighbouring countries, might probably reinforce North-South disparities by shifting the responsibility for providing assistance and hosting migrants to the latter and leaving migrant-sending countries powerless and unable to manage the process in a profitable and correct way. The risk may be to create a sense of alienation which could lead to unwillingness to cooperate in regional solutions over the long term<sup>211</sup>.

Starting from the cooperation on migration between Libya and Italy during the new millennium, which has already been analyzed and explained in the third chapter, now I will try to understand whether this cooperation represents a case of externalization or not and whether it is possible to talk about delegation of sovereignty by Italy.

There are some important elements to keep in mind during the analysis: firstly, Libya is an anomalous case because of its considerable economic resources, a particular politic

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<sup>210</sup> McAdam, *Extraterritorial processing in Europe. Is 'regional protection' the answer, and if not, what is?*, p. 6

<sup>211</sup> Ivi, p. 10

system and its strategic geopolitical location. It is a rentier state, whose economy is based almost exclusively on the export of oil, an economic activity that has allowed it to become one of the richest countries in the entire African continent. From a political point of view, it is a practically failed state, without a central government capable of governing the country, but with numerous sides in perpetual struggle for power. Moreover, Libya differs from other migrant-sending countries, since most of asylum seekers reaching Italy from Libya are not Libyans but foreign nationals<sup>212</sup>.

The second element that we should take into consideration is that Libya has never signed the 1951 Refugee Convention and consequently does not even have a structured and defined asylum system for the welcoming of asylum seekers and the management of all procedures relating to the recognition of the refugee status.

Moreover, we should consider that the externalization process is not defined by a single and ad hoc set of measures, but it has developed by policies that can vary significantly from state to state and which have also considerably changed over time. However, according to Emanuela Paoletti<sup>213</sup>, it is possible to identify three main elements that define the externalization process:

1. The relocation of border control functions from the migrants' country of arrival to somewhere within the states either of origin or of transit;
2. "The collaborative arrangements based on cross-border networks of security experts, police and military officials addressing putative transnational security threats;
3. Control practices operating outside the purview of the rule of law, because of the lack of shared mechanisms ensuring compliance with international norms"<sup>214</sup>.

The analysis of the Italian–Libyan cooperation has been measured against these three criteria.

Certainly, Italy has tried to improve the existing Libyan police apparatus and to establish a cross-border system based on different security and military networks in order to jointly

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<sup>212</sup> Paoletti, *Power Relations and International Migration: The case of Italy and Libya*, p. 271

<sup>213</sup> Emanuela Paoletti is Associate Editor at Migration Studies and Research Associate at the Refugee Studies Centre at Oxford

<sup>214</sup> Paoletti, *Power Relations and International Migration: The Case of Italy and Libya*, p. 274

deal with migratory flows directed to Italy. As seen in the previous chapters, police cooperation and military training were mentioned in various agreements between the two countries, in which Italy has also undertaken to finance courses and to provide equipment for the control of coastline and land borders.

With the aim of combating illegal immigration, Italy has committed to provide material assistance and military equipment (boats, planes, radar, etc.) together with Italian security agencies support; in turn, Libya has pledged to help with the interception of boats carrying migrants across the Mediterranean, taking part in the joint patrolling of its northern coasts. In addition, both sides have undertaken to create a shared control system for Libyan borders, equipped with the necessary technological tools, and to collaborate in defining initiatives to prevent and fight against the phenomenon of illegal immigration and in information sharing. The latter, in particular, has increased during recent years, especially with the establishment of a liaison officer from Libyan Interior Ministry in Rome. Another important step in the cooperation on migration was represented by the establishment in Tripoli of IOM, which has implemented several Italy-funded projects in order to help migrants and asylum seekers in the region, enhance their living conditions and support those who decided to be voluntarily returned to their own countries. Certainly, the Italian-Libyan cooperation has been based on building up a security apparatus which goes beyond state borders, with the aim of enhancing cross-border police cooperation on both Italian and Libyan soil, and of establishing common standards in migration management by intense information exchange and the recognition of shared principles. In both Italy and Libya, security and police cooperation are perceived as a central step in the fight against the alleged transnational threat put in place by migration flows.

However, none of the aforementioned practices have involved the relocation of borders beyond Italian territorial jurisdiction. It is true that Italy had planned to finance the construction of four camps to detain migrants in Libya, but the government subsequently backtracked and no precise information is available in this respect. We cannot therefore argue whether it was an attempt to create Regional Processing Centers for asylum seekers' management. But actually, Libyan and Italian officials have declared that these centres were at first intended for confining illegal migrants and in a second time they turned into places for police training and provision of humanitarian assistance. Thus,

considering these camps as an example of the re-location of Italian border controls is misleading since they do not represent measures involving the transfer of responsibilities to Libya. As for the return flights of undocumented migrants, similar conclusion can be drawn. We are aware that Italy has financed more than 3,000 returned flights of irregular third-country nationals to Libya and almost 9,000 flights from Libya to third countries between 2003 and 2006, but these practices have not involved any shift of the border functions' place<sup>215</sup>.

In addition, looking carefully at Italian-Libyan negotiations during the time, it is quite evident that Italy has made significant compromises and that agreements have often been more in favour of Libya, demonstrating that it is far from a mere European migration gatekeeper. With the development of bilateral cooperation, indeed, Italy has increasingly committed to the collaboration and it has been involved further and further with the task of managing migration flows from Libya. Italy has continued to finance several projects in Libya and it is difficult to label the Italian migration policy as "burden shifting". By contrary, the countries have started to share responsibilities and cooperate in border control activities<sup>216</sup>.

However, we cannot avoid considering the legality of the bilateral measures, that represent the third feature characterizing the process of externalization. As previously seen, Italy has taken part on several security operations outside its borders, sharing techniques, equipment and military skills, but without exporting any legal frameworks in which the measures could have been decided and implemented. Thus, since Italian commitments and operations have remained outside the rule of law, without shared mechanisms ensuring compliance with international norms, the third parameter defining externalization is confirmed<sup>217</sup>.

In conclusion, if the first feature of externalization cannot be attributed to the Italian-Libyan cooperation on migration, the other two can be confirmed: "although border control responsibilities have not been relocated from Italy to Libya, the measures undertaken lack transparency and accountability, and involve the institutionalization of

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<sup>215</sup> Paoletti, *Power Relations and International Migration: The Case of Italy and Libya*, pp. 276-278

<sup>216</sup> *Ibidem*

<sup>217</sup> *Ibidem*

extended zones of police cooperation' at the intersection of Italian and Libyan territories"<sup>218</sup>. Thus, we cannot properly talk about externalization of Italian asylum practices to Libya, but about an intense bilateral cooperation between these countries, aiming at eliminating, or at least reducing, migration flows from Libya to Italy<sup>219</sup>.

It is true that, in doing so, Italy has not relocated its border functions beyond its territorial jurisdiction, but it has, however, violated many international law principles. One example is represented by the so-called "push-backs", a practice consisting in "intercepting ships carrying asylum seekers and undocumented migrants and forcing them back into the territorial waters of the country whence they came"<sup>220</sup>. According to Human Rights Watch, only in 2009 more than 500 migrants were intercepted on international waters and shipped back to Libya by Italian police guards, a practice considered unlawful by the European Court of Human Rights. Indeed, the latter has frequently repeated that States' non-refoulement obligations apply both inside a State's territory and outside it, including on the high seas, and the practice of intercepting boats carrying migrants and pushing them back to Libya clearly violates this principle. Actually, if we consider Italian migration policy in Libya from a legal point of view, even the attempt of externalization is quite difficult to justify, since it goes against the non-refoulement obligation, stated by the 1951 Refugee Convention and extended, by the European Court of Human Rights, to all people living in the European Union, who cannot be expelled to a state where they could be subjected to death, torture or inhuman or degrading treatment. Thus, states cannot lawfully send an individual to other territories unless it can be shown, on a case-by-case basis, that the particular territory is safe. However, this implies the necessity of establishing ad hoc procedures to examine the legality of the decision to transfer an asylum seeker to a processing centre and this activity needs time, money and resources. Would it be worth it? Would it be more convenient to put such a structure in place rather than to process asylum application practices within the Italian territory?<sup>221</sup>

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<sup>218</sup> Paoletti, *Power Relations and International Migration: the Case of Italy and Libya*, p. 279

<sup>219</sup> *Ibidem*

<sup>220</sup> Ivi, pp. 269–289

<sup>221</sup> McAdam, *Extraterritorial processing in Europe. Is 'regional protection' the answer, and if not, what is?*, pp. 12-14

In addition, if the asylum application examination takes place outside the Italian borders, this means that the state will then have to take the final decision for granted, and this implies transferring part of its decision-making competence to bodies that are located within another country and which, although representing the Italian state, might be subjected to various external influences<sup>222</sup>.

We should also take into account that externalization process does not necessary mean that no more migrants are coming to Europe by sea. By contrary, until “standards [in Libya E.D.] remain lower, processing times longer, or durable solutions less forthcoming, then asylum seekers will continue to weigh up the risk of entering and residing in the EU irregularly, against being transferred elsewhere for processing”<sup>223</sup>. Therefore, if European countries wish to reduce migratory flows to their coasts, minimum standards of living and treatment must be observed in the regional centres, not only for accordance and respect with international and European human rights laws, but also to discourage asylum seekers to embark on dangerous boat journeys.

For instance, we can consider the European Dublin system as a sort of “internal externalization”, since asylum seekers are forced to remain (or to come back if they have tried to move) in the country of arrival and to undertake there their application for asylum. The Dublin Regulation states: “Where it is established [...] that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection. [...]”<sup>224</sup>. Thus, this regulation entitles the countries of first entrance as the only responsible for the management of the asylum practice and allows other EU member states to transfer back asylum seekers found within their own territories. In doing so, however, the responsibility for this management remains on the shoulders of the European frontline countries, which have become a sort of filter for the other EU member states. Those migrants who have obtained asylum status acceptance

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<sup>222</sup> McAdam, *Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?*, pp. 12-14

<sup>223</sup> Ivi, p. 8

<sup>224</sup> European Commission, *Dublin III Regulation* (No. 604/2013), 26 June 2013, Brussels, art. 13, available at: in <https://www.asylumlawdatabase.eu/en/content/en-dublin-iii-regulation-council-regulation-ec-no-6042013-26-june-2013-recast-dublin-ii>.

can move around Europe and arrive in France, Norway and the Netherlands, while the others are stuck wandering around Italy, Greece or Malta without documents and almost without identity<sup>225</sup>.

In this perspective, therefore, the externalization process to Libya could shift this burden further south, with the difference that the current Libyan situation is already difficult to manage and charging the country with such a responsibility would plunge Libyan society even more into the chaos, with serious repercussions for both asylum seekers and the local population.

#### **4.5 Conclusions**

As Jane McAdam<sup>226</sup> stated in his article about extraterritorial processing in Europe, “Displacement is an age-old phenomenon that can at best be managed, not solved”<sup>227</sup>. Mobility is a universal feature of mankind: people has always been moving and they will continue doing so, due to several reasons that can be negative, such as poverty, wars, discrimination, or positive, such as peace, security or new opportunities. These reasons mix and overlap in a complex system that too often tends to be simplified. To best meet the needs of those who move, it is necessary to establish a set of coordinated and forward-looking strategies, aimed at long-term and coherent responses to the refugee movements. Certainly, the process of externalization, whether at a European level, can be useful as a basis for improving EU member states’ participation and responsibility distribution with regard to the provision of protection and assistance to refugees, both inside and outside their territories. It might, thus, represent an attempt of international cooperation and equitable responsibility-sharing, capable of support an international regime focused on the migration flows.

However, so far, the attempt of externalization that we have previously analyzed has not been developed with the aim of establishing a fairer responsibility-sharing system among

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<sup>225</sup> European Commission, *Dublin III Regulation*

<sup>226</sup> Jane McAdam is Scientia Professor of Law and Director of the Andrew & Renata Kaldor Centre for International Refugee Law at the University of Sidney

<sup>227</sup> McAdam, *Extraterritorial processing in Europe. Is ‘regional protection’ the answer, and if not, what is?*, p. 12

EU countries, but it has appeared more as a quite desperate try made by an Italian government, incapable of successfully managing the current migration situation. In this respect, externalization cannot be the proper tool to manage migration flows, or at least it cannot be the only instrument to deal with the current situation, but it should be included in a set of measures capable of providing adequate assistance and protection to asylum seekers respecting international laws and human rights.

As previously pointed out, indeed, relying on Libya is not the correct way to deal with this issue, since this country cannot ensure the fulfillment of the practices of recognition of the right of asylum. On the contrary, externalization can consist in a mere re-location of the “migration burden” from Italy to Libya, with the almost certain risk of worsening an already very precarious situation, such as the Libyan one.

In the next chapter I will focus on the current situation in the North African country and on the results that the Italian migration policy has reached so far.



## CHAPTER 5

### THE RESULTS OF THE ITALIAN MIGRATION POLICY

#### 5.1 The current situation in Libya: Chaos after Gaddafi

Since 2011 Libya has been living in a chaotic situation, without a government able to manage the country. The uprising against the Gaddafi regime broke out on 17 February 2011 in Benghazi, al-Bayda' and other cities of Cyrenaica and it is linked to the general framework of the revolutionary public disturbances that happened in those years in much of North African countries, known as the "Arab Spring". Although the protests had already flared up in Tunisia and Egypt, the western powers had not expected the Libyan insurrection against the government, whose survival was linked to important European interests, from oil supply to the containment of migratory flows from Africa, to repression of Islamic movements. The distorted view of Europeans and Americans was that of a Libyan regime that, despite the excesses, enjoyed substantial popular support, considering the moderate per capita income and the good level of schooling in the country. However, Human Rights Watch, between 2005 and 2008, had repeatedly denounced and documented human rights violations in the country: press freedom was practically non-existent, torture and arbitrary arrests were practiced<sup>228</sup>.

Soon, protests spread across the country and rebels began to arm themselves: on 24 February, Misrata was the first city to fall. The clashes rapidly took on the characteristics of a real civil war, with particular attention to the control of oil wells, ports and oil pipelines. Military operations were also accompanied by political action with the creation of an institutional body of rebel forces, the National Transitional Council (NTC), chaired by Mustafa 'Abd al-Jalil, the former justice minister of Jamahiriya. Since its official inauguration, which took place on 26 February, the NTC began to launch a series of appeals to the UN and the western powers, which then decided to intervene<sup>229</sup>. The UN Security Council with the resolution n.1970/2011 claimed that "*All Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or*

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<sup>228</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*

<sup>229</sup> Ibidem

*transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories [..]*<sup>230</sup>.

It was thus imposed an arms embargo on Libya, with the aim of stopping the civil war that was spreading all around the country. This embargo did not include non-lethal military equipment, technical assistance or training, protecting clothes and other materials intended for humanitarian purposes. At the end, the 1970 UN resolution encouraged all Member States to cooperate in the Libyan situation, provide humanitarian assistance for the local population and promote peace and security. These purposes were then resumed also in the UN Security Council Resolution n. 1973, which allowed the international community to “*take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory [..]*”<sup>231</sup>. Moreover, this resolution established a no-fly zone over Libya to end Gaddafi's bombing on the country, imposing a “*on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians*”<sup>232</sup>.

On July the rebels gained recognition as Libya's political authority and, with NATO support, entered Tripoli the following month. In October 2011 Gaddafi was captured and executed, leaving a country torn apart by grudges and intertribal conflicts. Those who, for convenience, had been called "anti-Gaddafi rebels", actually turned out to be an indefinable hodgepodge of different interest groups, driven to fight by personal motivations. Suffice it to say that at the fall of the regime there were about 800 different

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<sup>230</sup> UN Security Council Resolution S/Res/1970 (see Appendix E), art. 9

<sup>231</sup> UN Security Council, Resolution 1973 (2011), 17 March 2011, New York, available at: [https://www.undocs.org/S/RES/1973%20\(2011\)](https://www.undocs.org/S/RES/1973%20(2011)), art. 4

<sup>232</sup> Ivi, art. 6

fighting groups, which neither the National Transitional Council, nor the weak governments that succeeded one another after the Gaddafi's death, were able to control<sup>233</sup>.

For more than forty years, Libya had been held together not by the institutions, nor by the army, but by the personal power of the colonel. Right the absence of institutions contributed to the failure to build a national conscience. Libya itself was born from the aggregation of three very different territorial realities and from a tribal society. The various tribal groups had claims that remained dormant during the Gaddafi regime and then exploded once the system collapsed. The challenge of post-Gaddafi era was therefore to create a *nation* even before creating a *state*. But, Libya still remains a torn and divided country, where the power is the hands of the strongest and where the great western powers seem to ignore the fate of the society as long as the consequences do not affect their interests<sup>234</sup>.

However, in July 2012 consultations for the Libyan National Congress were held, leading to the victory of the National Forces Alliance (NFA), the party supported by the United States and many other western countries. There are two different ways of thinking about the NFA's success: some scholars believe that it was because the former Libyan Prime Minister Mahmoud Jibril belonged to the Warfalla tribe, the strongest and largest in Libya. On the contrary, other historians have suggested that there had been a push from outside, especially from the United States. In any case, the victory of the secular forces drove some political Islam components towards violence, up to the attack on the American consulate in Benghazi, which resulted in the death of the US ambassador and three other US diplomats<sup>235</sup>.

The absence of a strong central authority and the consequent strengthening of the militias has turned the latter into real political and justice bodies operating outside the formal legal system. The direct consequence has been the persistent absence of a system of shared legality in favor of summary justice activities perpetrated by the various power groups<sup>236</sup>.

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<sup>233</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, pp. 41-42

<sup>234</sup> Ivi, pp. 47-49

<sup>235</sup> Ivi, pp. 50-52

<sup>236</sup> Ibidem

Since the 10's, Libya has increasingly drifted, up to become a failed state, fragmented into a series of localized power centers, with a shattered economy, a non-existent security and legality system and institutions “split” in two governments of Tripoli and Tobruk<sup>237</sup>. One does rather wonder how it came to this.

Actually, already in 2011 it had emerged the rift between two of the main currents of the National Transitional Council: on the one side, there were those who wanted a clear break with the previous regime and, on the other, those who claimed the importance of maintaining a certain degree of continuity with the past. In particular, as far as security management was concerned, the former wanted to integrate the anti-Gaddafi militias into the new state structure, while the latter aimed to rebuild the army that Gaddafi had always kept in a situation of weakness to avoid any coup attempts. Over time the situation worsened, and these two factions never managed to reach a compromise, until, in 2014, General Khalifa Haftar<sup>238</sup> decided to launch a military campaign against the General National Congress of Libya, that had been formed with the election of July 2012. With the so-called "dignity operation", justified by the need for action against terrorist forces, general Haftar started his anti-Islamic campaign attacking the jihadist and Islamist militias that controlled the city of Benghazi.

The general has managed to gain power right by exploiting the emergence of radical groups, such as the Islamic State, and presenting itself as a bulwark in the fight against terrorism and Islamism, self-legitimizing in an anti-jihadist key. “Combatto il terrorismo nell’interesse del mondo intero. La prima linea passa per la Siria, per l’Iraq e per la Libia. Gli europei non capiscono la catastrofe che si rischia da questa parte di Mediterraneo. Attraverso l’immigrazione illegale ci arrivano jihadisti turchi, egiziani, algerini, sudanesi. Tutti fedeli ad Ansar al-sharia o all’Isis: quanti italiani sanno che davanti a casa loro, a

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<sup>237</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 52

<sup>238</sup> General Khalifa Haftar had taken part in the 1969 Young Officers Uprising and in the first two decades of the Gaddafi regime he was the Libyan armed forces’ Chief of Staff, leading the war against Chad (1983-1987) which ended in a sharp defeat for Libya and with the capture of Haftar. Since the Tripoli regime denied the presence of his soldiers in Chad and Gaddafi disregarded him, he then turned to be one of the main opponents of the regime and during the revolution came back to Libya to fight with the rebels.

Derna, è stato proclamato il califfato e si tagliano le teste? L'Europa deve svegliarsi”<sup>239</sup>, he claimed in a 2014 interview.

The situation further complicated in June 2014, when elections were held to renew the General National Congress: just over 500,000 voters went to the polls, decreeing the victory of the liberal forces. Obviously, Islamist forces did not recognize the result of the vote or the legitimacy of the new House of Representatives. Fierce clashes between the various factions began in the capital: at the end of 2014, according to Al Jazeera, the victims of two weeks of fighting in Tripoli and Benghazi were already more than 150<sup>240</sup>. All the country was at the mercy of militias and armed groups, capable of occupying institutional headquarters and conquering oil wells, with the sole aim of gaining money and power. In this climate of instability, the House of Representatives, chaired in those years by Aguila Saleh Issa<sup>241</sup>, decided to move its headquarters from Tripoli to Tobruk. In November 2014, Tobruk's parliament was called illegitimate by the Supreme Court, while Islamist militias reconstituted the General National Congress. From then on, Libya began to have two opposing "governments" which, with a bit of approximation, were often determined by the Islamist versus secular dichotomy. Indeed, despite differences and nuances within both sides, the Tripoli government is normally associated with roughly moderate components of local Islamism, while the Tobruk government has made the fight against Islam its main purpose<sup>242</sup>. Both these bodies enjoy a dense network of local and regional alliances and could count on the support of several militias: the

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<sup>239</sup> “I fight terrorism in the interest of the whole world. The first line passes through Syria, Iraq and Libya. Europeans do not understand the catastrophe that is likely in this part of the Mediterranean. Through illegal immigration, Turkish, Egyptian, Algerian and Sudanese jihadists arrive. All faithful to Ansar al-Sharia or Isis: how many Italians know that the caliphate was proclaimed in front of their house in Derna and many heads are being cut? Europe should wake up.” translated from F. Battistini, *Combatto il terrorismo anche per voi: se vince in Libia arriva in Italia*, in “Corriere della Sera”, 28 November 2014, available at: [https://www.corriere.it/esteri/14\\_novembre\\_28/combatto-terrorismo-anche-voi-se-vince-libia-arriva-italia-194b88b0-76c9-11e4-90d4-0eff89180b47.shtml?refresh\\_ce-cp](https://www.corriere.it/esteri/14_novembre_28/combatto-terrorismo-anche-voi-se-vince-libia-arriva-italia-194b88b0-76c9-11e4-90d4-0eff89180b47.shtml?refresh_ce-cp)

<sup>240</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 56

<sup>241</sup> Aguila Saleh Issa is a Libyan politician, he was Head of State of Libya from 2014 to 2016, as President of the House of Representatives and jurist.

<sup>242</sup>Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, pp.54-58

government of Tripoli, for instance, has on its side the Misrata brigades, which represented the strongest armed group in the country, with over 200 militias, for a total number of people ranging from 36,000 to 40,000 men<sup>243</sup>. Instead, the security of the Tobruk side was guaranteed, as well as by various armed groups, by the so-called Libyan National Army (LNA), composed of about 6,000 paramilitaries loyal to Khalifa Haftar and supported by various international sponsors, such as France, Russia, Egypt, United Arab Emirates<sup>244</sup>.

This rift had persisted until December 2015, when the Rome International Conference on Libya was held, leading to the formation of a unified government promoted by the United Nations. During this conference, efforts were made to establish guidelines for reaching the intra-Libyan settlement, strongly supported by Italy. The agreement between the two Libyan governments, signed on 17 December, provided for the formation of a Government of National Accord, composed of a Presidency Council and a Cabinet, as well as a House of Representatives and a Council of State. The Tobruk's House of Representatives would then have to vote confidence on this government and approve the constitutional amendment that would make the agreement operational<sup>245</sup>. Fayeze al-Sarraj was called to head the Presidency Council, and he sought to obtain the consent of several local tribes and groups, as well as of oil companies and banks. However, Sarraj has never managed to obtain Tobruk's trust, necessary to have legitimacy on the territory, nor the approval of the whole country. He has appeared as the head of a government that does not govern, which has not been able to resolve the economic crisis and has only done the interests of NATO and foreign governments. In this regard, even the government's victory over the Islamic State's militias in the stronghold of Sirte in December 2016 was worth almost nothing. In general, the Libyan militias scattered throughout the territory have continued acting undisturbed, sowing terror and deaths, as well explained by Khalifa Abo Khraisse: "Milizie diverse garantiscono la sicurezza in tutte le banche di Tripoli, e quando dico garantiscono la sicurezza intendo gestiscono l'attività. Poiché le milizie garantiscono la sicurezza per entrambi i governi a Tripoli, i funzionari non esercitano su di loro un vero

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<sup>243</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 42

<sup>244</sup> Ivi, p. 57

<sup>245</sup> Ivi, p. 59

potere né una vera autorità. Piuttosto, continuano a tollerare queste entità armate vagamente organizzate, sostenendo che operano seguendo le direttive dei ministeri come forze governative ufficiali. Le milizie sono leali ai loro comandanti, animati dalle più diverse motivazioni tribali, politiche e finanziarie»<sup>246</sup>.

In conclusion, since 2015 the country has been basically divided into three areas: Haftar and its self-proclaimed Libyan National Army (LNA) have consolidated its influence on Benghazi and on the eastern part of Libya, Prime Minister Fayez al Sarraj controls Tripoli and the rest of the country is in the hands of the militias.

In this chaotic situation, it should be added interference of regional and international powers, which, in order to pursue their own interests, have decided to support one or the other side, at the expense of Libyan stability. In this sense, foreign intervention has proved not only unsuccessful but also counterproductive for Libya's fate. Probably, the main error has been the lack of a common strategy, since the different powers have preferred to continue each on its own way, supporting the various factions in the field and following their mere interests. Moreover, it is important to consider that, if at international stage the alliances mainly reflect hegemonic policies dictated by economic and energy interests, at regional level the alignments are practically divided on a religious basis, in the clash between conservative Arabs, such as Saudi Arabia and the United Arab Emirates, and the reformist ones, such as Turkey and Qatar.

Therefore, the internal clash between the UN-recognised Tripoli-based Government of National Accord and general Haftar and his Libyan National Army has been increasingly taking on an international dimension. Libya is a really strategic country, both for its position and for its subsoil's resourcefulness; that is the reason why it is in the spotlight risking to become the new Syria. In spite of the arms embargo imposed by the UN

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<sup>246</sup> “Different militias guarantee security in all Tripoli banks, and when I say they guarantee security I mean they run the business. Since the militias ensure security for both governments in Tripoli, officials do not exercise real power or authority over them. Rather, they continue to tolerate these loosely organized armed entities, claiming that they operate under the directives of ministries as official government forces. The militias are loyal to their commanders, animated by the most diverse tribal, political and financial motivations” translated from: K. Abo Khraisse, *In Libia la nostra vita ormai è in mano alle milizie*, in “Internazionale”, 5 April 2017, available at: <https://www.internazionale.it/notizie/khalifa-abo-khraise-2/2017/04/05/libia-vita-milizie>

Security Council with resolution 1970/2011, in fact, international powers have favoured both sides by supplying equipment and war tools, as also reported by Amnesty International<sup>247</sup>.

In the front row in support of the Tripoli-based government we can find Turkey and Qatar, which endorse the expansion of a model of traditionalist and political Islam, and which seek, through the Libyan clash, to contrast their rivals, respectively Egypt and the United Arab Emirates. The latter countries, on the contrary, sponsor the possible international intervention led by the UN and support, together with Russia, LNA.

The United States, with NATO, has no great interest in meddling in the situation, its target for the moment remains only ISIS, against which it continues to conduct so-called "precision airstrikes" in the south and west of the Libyan territory. The European Union, on the other hand, is increasingly proving to be a marginal actor, unable to act in a structured way and to follow a common strategy. Indeed, European countries have different, and often conflicting, interests in the region and each state tends to make agreements autonomously to achieve its own interests<sup>248</sup>.

And in such context, Russia could thus carve out the role of hegemonic actor. Actually, there have recently been some assumptions about a possible partition of Libya into two areas of influence between Russia and Turkey, especially following the Turkish intervention in 2019. Ankara has indeed decided to massively support the GNA, after that General Haftar started his battle against Tripoli. After sending drones and military vehicles, in November 2019, Ankara signed with GNA a memorandum aimed at realizing military and maritime cooperation and few months later it undertook to supply Tripoli with vehicles, equipment and weapons for land, sea and air operations. Turkish President Erdoğan has claimed that he had started sending troops with the aim of supporting the internationally recognized government of al-Serraj and avoiding a humanitarian disaster. However, no details have emerged about the numbers, the composition and the actual

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<sup>247</sup> Amnesty International, *Violazione dell'embargo Onu sulle armi in Libia: un milione e 200 mila civili in grave pericolo a Tripoli*, 3 July 2019, available at: <https://www.amnesty.it/violazione-dellembargo-onu-sulle-armi-in-libia-un-milione-e-200-mila-civili-in-grave-pericolo-a-tripoli/>

<sup>248</sup> A. Camilli, *La debolezza dell'Italia e dell'Europa in Libia*, in "Internazionale", 18 December 2019, available at: <https://www.internazionale.it/bloc-notes/annalisa-camilli/2019/12/18/italia-libia-strategia>



extent of the Turkish military commitment in Libya, and it remains to be seen whether Ankara's forces will limit themselves to training troops avoiding involvement in combat actions or if there will be an extension of the conflict<sup>249</sup>.

The realist paradigm of international relations as a mere pursuit of state interests has never been so evident. Many states support a pacific and diplomatic resolution of the conflict, but they are the same that have repeatedly circumvented the UN arms embargo. If the mentioned actors denied any kind of military support, the internal factions would soon be forced to dialogue. But, unfortunately, this alternative appears to be little feasible today, while future seems to be marked by a protracted war, a humanitarian tragedy and an uncontrolled exploitation of the migratory flows that it is being addressed without truly effective measures and instruments by Europe.

In the next paragraphs we will see how Italy tries to face the situation and its role in the attempted peace process of Libya.

## **5.2 The Italian role in the Libyan situation**

We have already seen in the previous chapters that Italy and Libya have been linked for a long time, by up-and-down relations in which resentments for the colonial past alternate with impetus for cooperation in various sectors. Certainly, since the signing of the famous Dini-Mountasser Joint Document, Italy has increasingly relied on Libya as a trading partner, a privileged oil supplier and a counterpart for the fight against organized crime and illegal immigration. The various Italian ministers have repeatedly met Gaddafi and entered into several important diplomatic and commercial agreements directly with him. What happened after the colonel's fall?

On the economic-energetic level, Italy has managed the post-Gaddafi era quite good and ENI has succeeded in maintaining its hegemony in the country and it is currently the only international company able to produce and distribute oil and gas in the region. The others, on the contrary, such as the French Total or the Spanish Repsol, have gradually abandoned their activities in Libya, as a consequence to the continuous worsening of the situation. It suffices to think that in 2015 the Italian oil company produced 365.000 barrels

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<sup>249</sup> Camilli, *La debolezza dell'Italia e dell'Europa in Libia*

of oil per day, when the Libyan total production was around little more than 400.000<sup>250</sup>. For that matter, the Italian company has been in Libya since 1959, and it is very likely that it has managed to create useful contacts for coexisting now with Libyan militias<sup>251</sup>. On the political-diplomatic level, however, after Gaddafi's death, Italy found itself having to begin anew a privileged relation with Libya and it had to compete again with the other European powers, which in the meantime saw the colonel's fall as an excellent opportunity to pursue their interests in the region.

Since 2011, while other EU member states have funded Tobruk, Rome has maintained a well-considered foreign policy, intervening with support actions only at the explicit request of Prime Minister Sarraj. Italy has intelligently supported a political line that has allowed it to be at the forefront of mediation for the settlement of the unitary government<sup>252</sup>.

Our country has been consistently working with the GNA, but recently it understood the importance of a dialogue also with the various power groups in the territory. Indeed, with the *Hippocrates operation*, Italy started supporting some of the most important and numerous Libyan armed groups. This mission was in fact part of the humanitarian support activities provided for by the "Bilateral Assistance and Support Mission in Libya" and it involved the deployment of a field hospital structure in Misrata area starting from 2017<sup>253</sup>. Moreover, after the developments in 2019, with the advance of Haftar and the Turkish intervention, Italy, together with the other European administrations, has activated a diplomatic initiative. "*La soluzione militare è esclusa*"<sup>254</sup>, these were the words of the new Italian Foreign Minister Di Maio after his official trip to Libya on 17 December 2019, in which he first met the GNA premier al Sarraj and then General Haftar. The diplomatic intervention predominantly concerned the Berlin Conference, proposed by the German government and held on 19 January 2020, with the aim of reaching the ceasefire

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<sup>250</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 95

<sup>251</sup> Ibidem

<sup>252</sup> Ivi, p. 98

<sup>253</sup>Hippocrates Operation, Italian Defense Ministry, all information available at: [http://www.difesa.it/OperazioniMilitari/op\\_intern\\_corso/op\\_ippocrate/Pagine/default.aspx](http://www.difesa.it/OperazioniMilitari/op_intern_corso/op_ippocrate/Pagine/default.aspx)

<sup>254</sup> "The military solution is excluded" translated from: Camilli, *La debolezza dell'Italia e dell'Europa in Libia*

and resuming peace negotiations. During the conference, the main international actors approved the truce, but it will still have to be ratified by the parties involved, Prime Minister al-Serraj and General Haftar. In particular the latter should prove to have abandoned the dream of conquering Tripoli. In addition, in Berlin the heads of state have again committed themselves to respecting the 2011 UN Arms Embargo, which however has been repeatedly violated over the past few years.<sup>255</sup>

However, the risk is that this truce turns into a short break, useful for Haftar to further consolidate his military position before resuming the offensive towards Tripoli.

The European Union has always been the main supporter of a peace and stabilization process in Libya, which, however, has run aground several times in recent years; completely denying the possibility of a military solution could be counterproductive and lead to waste time. Haftar has repeatedly shown that he does not want to compromise and even on the GNA front it is difficult to identify a diplomatic perspective, since the Tripoli-based government is really weak and dependent on the support of the militias. The latter have no interest in pacifying the region, since disarmament would put an end to all those illegal activities (such as arms and oil trafficking and people smuggling) that represent an important part of their income. *“Per questo l’Europa e l’Italia si sono concentrate su due aspetti marginali nel contesto libico e più facili da risolvere nel breve periodo, come la lotta al traffico di esseri umani e quella al terrorismo. Si è negoziato con le milizie: interlocutori parastatali, presi singolarmente e scelti per la loro capacità di controllare una zona specifica”*<sup>256</sup>, Luca Raineri, researcher at Sant’Anna School of Advanced Studies in Pisa, explained. This means that for the fight against human trafficking, Rome had to make informal agreements with those militias that control the migrants' ports of departure. *“Il temporeggiare di Roma nel conflitto libico è legato alle garanzie evidentemente ottenute sul fatto che chiunque vinca non metterà in discussione gli*

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<sup>255</sup> E. Dacrema, *Libia: due conseguenze della conferenza di Berlino*, in “ISPI online”, 20 January 2020, available at: <https://www.ispionline.it/it/pubblicazione/libia-due-conseguenze-della-conferenza-di-berlino-24878>

<sup>256</sup> "For this reason, Europe and Italy have focused on two marginal aspects easier to solve in the short term, such as the fight against human trafficking and against terrorism. It was negotiated with the militias: parastatal interlocutors, individually taken and chosen for their ability to control a specific area" translated from: Camilli, *La debolezza dell’Italia e dell’Europa in Libia*

*interessi economici italiani. Per questo l'Italia svolge il ruolo di mediatrice, con un profilo basso e con i piedi in due scarpe*"<sup>257</sup>. However, this procrastination could prove to be counterproductive for Italy's future role in the region. Indeed, Rome may have made its own calculations without taking into account the new role played by Turkey and Russia and the possibility of an agreement between them about the future of Libya. After the recent developments in the region, the Berlin Conference has shown a downsized Italian position. If Rome had succeeded in carving out a dominant role in the political process with the UN negotiations that led to the formation of the GNA, the hesitations after the military escalation of Haftar has deteriorated its position. On the one hand, al-Serraj has now found his most important ally in Turkey, the only one willing to give him the military support he needs. On the other hand, if Italy decided to move to the Haftar's side, it would be the last of a long line of sponsors, after the Emirates, Egypt, France and Russia. Furthermore, supporting the entry of Haftar's forces in Tripoli would mean sponsoring a civil conflict on the streets of the capital, subjecting more than one million Libyans to disastrous consequences and provoking the country's political, economic and financial paralysis, with a resultant blockade of the extraction of energy resources from the subsoil. This interruption would cause a drastic drop in the revenues from the oil and gas annuity, which in 2018 represented around 90% of total state revenues<sup>258</sup>. In this scenario, it would be very difficult to pay the salaries of public workers. This block of production would also have serious repercussions for ENI, which as we have seen represents the main international energy company in the country<sup>259</sup>.

The best solution in the Italian scenario is therefore the opening of negotiations and in this perspective the government is trying to involve the countries of the area and the other European states. In addition, Italian Defense Minister Guerini advanced the hypothesis of increasing the Italian presence in Libya and the possible participation in a naval

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<sup>257</sup> "Rome's procrastination in the Libyan conflict is linked to the guarantee that whoever wins, he will not question the Italian economic interests. For this reason, Italy plays the role of mediator, with a low profile and with two feet in the same hoof" translated from: Camilli, *La debolezza dell'Italia e dell'Europa in Libia*

<sup>258</sup> M. Colombo, E. Dacrema, *Il futuro della Libia passa da Berlino*, in "ISPI online", 17 January 2020, available at: <https://www.ispionline.it/it/pubblicazione/il-futuro-della-libia-passa-da-berlino-24867>

<sup>259</sup> Ibidem

mission to implement the arms embargo in the country. Another alternative could instead be that of an interposition mission in the form of a UN mandate or a European initiative to preserve the truce and facilitate negotiation.

What is certain is that Italy do not dare remain a taillight nor in the negotiation process or current developments regarding the future of Libya, also considering the importance of cooperation on migration with the North African country.

### **5.3 The Libyan migratory route toward Europe and the current Italian situation**

As we have seen in the previous chapters, cooperation on migration has always been an important topic in the Italian-Libyan dialogue. However, since the Gaddafi's fall, and in particular in recent years, migration issue has become increasingly relevant, given that the crisis situation in the country has inevitably caused the increase in migratory flows from Libya to the European coasts.

Let us take a step back until 18 April 2015, when a fishing boat carrying over 800 migrants sank in the Mediterranean waters<sup>260</sup>. This episode, the biggest disaster of the new millennium, led the European Union to hurry to find a solution in order to avoid other tragedies. A few days later, at a joint meeting of Foreign and Interior Ministers it has been presented a 10 Point Action Plan on migration, aiming at responding to the crisis in the Mediterranean and fighting against trafficking of human beings. Here the 10 points of the Action Plan:

1. The improvement of Triton and Poseidon, the already-existing joint operations in the Mediterranean, by increasing the financial resources and the number of assets, together with the following enlargement of their operational area;
2. “A systematic effort to capture and destroy vessels used by the smugglers”<sup>261</sup>;

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<sup>260</sup> Data gathered from the Italian Defense Ministry website: [http://www.difesa.it/OperazioniMilitari/op\\_intern\\_corso/eunavfor\\_med/Pagine/default.aspx](http://www.difesa.it/OperazioniMilitari/op_intern_corso/eunavfor_med/Pagine/default.aspx)

<sup>261</sup> Joint Foreign and Home Affairs Council, *Ten point action plan on migration*, European Commission – Press Release, 20 April 2015, Brussels, available at: [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_15\\_4813](https://ec.europa.eu/commission/presscorner/detail/en/IP_15_4813)

3. Regular meetings among EUROPOL, FRONTEX, EASO and EUROJUST in order to work closely and coordinately to gather information on smugglers' modus operandi and funds;
4. Deployment of EASO teams in Italy and Greece for joint processing of asylum applications;
5. Ensured fingerprinting of all migrants;
6. Possibility of an emergency relocation mechanism;
7. "An EU wide voluntary pilot project on resettlement, offering a number of places to persons in need of protection"<sup>262</sup>;
8. The establishment of "a new return programme for rapid return of irregular migrants coordinated by Frontex from frontline Member States"<sup>263</sup>;
9. "Engagement with countries surrounding Libya through a joined effort between the Commission and the EEAS"<sup>264</sup>;
10. Deployment of "Immigration Liaison Officers (ILO) in key third countries, to gather intelligence on migratory flows and strengthen the role of the EU Delegations"<sup>265</sup>.

A practical and rapid application of this Action Plan and, in particular of points 2 and 3, was represented by EUNAVFOR MED Operation Sophia, the first European maritime security military operation in the central Mediterranean, which started on 22 June 2015. This mission was "the first example of high integration of European military and civilian (police forces) components, capable of operating in a complex international scenario represented by a large number of military and civilian, governmental and non-governmental actors"<sup>266</sup>. Among the various objectives of Operation Sophia there were:

- To contribute to the collection of information on smugglers and to fight against human trafficking;
- To maintain security in the Mediterranean;

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<sup>262</sup> Joint Foreign and Home Affairs Council, *Ten point action plan on migration*

<sup>263</sup> Ibidem

<sup>264</sup> Ibidem

<sup>265</sup> Ibidem

<sup>266</sup> Translated from the Italian Defense Ministry website

- To train and monitor the Coast Guard and the Libyan Navy;
- To improve the exchange of information between member countries and Law enforcement agencies;
- To support the UN Arms Embargo on Libya<sup>267</sup>.

In addition, since the beginning of the Operation, the European Task Force vessels have given their support to the Italian operation *Mare Sicuro*, and to the European one Triton in the rescue and lifesaving activities at sea, that represent an unavoidable obligation of international law.

One month later the presentation of the 10 Points Action Plan, a European Agenda on Migration was settled in order to address the structural challenges and problems regarding this phenomenon. In the introduction of the *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions*, it was declared that “the immediate imperative is the duty to protect those in need”<sup>268</sup> and that EU member states should have supported the previous Action Plan, committing to concrete steps in order to avoid, or at least reduce, deaths in the Mediterranean. Unfortunately, “the response was immediate but insufficient”<sup>269</sup> since the migration issue could not be treated as an emergence, but it should have been dealt with in a coherent and coordinated manner, using useful tools and knowledge to address the root causes of migration. EU member states needed a set of core measures and a clear common policy that this Agenda tried to offer. First of all, this Agenda aimed at providing an immediate action in response to the human tragedy happening in the Mediterranean. In particular, European Union should have proceeded in these directions:

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<sup>267</sup> From the Italian Defense Ministry website

<sup>268</sup> European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, a European Agenda on Migration*, 13 May 2015, Brussels, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf)

<sup>269</sup> Ibidem

- Improving Search and Rescue efforts to restore the level of intervention previously provided by Italian Mare Nostrum Operation, together with tripling the budget for Triton and Poseidon Operations.
- Targeting criminal smuggling networks, with the proposal of the creation of Common Security and Defence Policy (CSDP) operations to identify, target and capture smugglers' vessels.
- Relocation in order to properly respond to high-volumes of arrivals within the EU and to ensure a fair participation of all Member States to this common effort. The redistribution would be based on criteria such as GDP, size of population, unemployment rate, past numbers of asylum seekers and of resettled refugees and the receiving Member State would be responsible for the refugee status application process in accordance with established rules and guarantees.
- Resettlement, in order to help displaced persons in need of international protection. About this point, the Commission have also made a special recommendation proposing a resettlement scheme to offer 20,000 places and providing dedicated funding of EUR 50 million in 2015/2016 to support this scheme.
- Cooperation and partnership with third countries to intervene upstream in regions of origin and of transit and prevent dangerous journeys. In particular, this Agenda aimed at setting up or improving Regional Development and Protection Programmes in Africa and Middle East, providing dedicated funding of EUR 30 in 2015/2016. With regard to Libya, this Agenda supported the UN efforts to promote the establishment of a Government of National Unity.
- New 'Hotspot' approach, where the EASO, Frontex and Europol would work on the ground to help frontline Member States to identify and register migrants. In this regard, the Commission would provide dedicated funding of EUR 60 million "to support the reception and to provide healthcare to migrants in the Member States under particular pressure"<sup>270</sup>.

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<sup>270</sup> European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, a European Agenda on Migration*



In addition, the Agenda underlined the importance of a cohesive and common management of migration. The European Union should continue to offer protection to those in need, but, on the other side, it should also reduce push factors of irregular migration and promote security of European borders as well as safety of migratory flows. “This Agenda sets out four levels of action for an EU migration policy which is fair, robust and realistic. When implemented, they will provide the EU with a migration policy which respects the right to seek asylum, responds to the humanitarian challenge, provides a clear European framework for a common migration policy, and stands the test of time”<sup>271</sup>.

The first level concerns the incentives for irregular migration that should be reduced. In this regard, it is important to address the root causes of migration, which often lie in global issues, such as wars, persecution poverty or global change. To deal with these challenges European Union should forge partnerships with countries of origin and transit and cooperate with local authority and civil society, not only to support the economic development of the region, and favour the implementation of return practices, but also to fight together against smugglers and traffickers. The second point is linked to the border management and security. It provides for some measures that would support this activity, such as: strengthening Frontex’s role and capacity, improving EU coordination of coast guard functions and the capacity of third countries to manage their borders<sup>272</sup>.

Another aspect really important that has been addressed in this Agenda was the need of a strong common asylum policy, since a new common monitoring and evaluation system can help to better standards on reception conditions and to faster asylum status application procedures. A proposal was that of externalization, with the shifting of the processing of asylum applicants to other countries. The last level concerns the creation of a new policy on legal migration, since EU is facing new long-term challenges, such as economic and demographic ones. In particular, European population is aging and the European Commission has estimated that “without migration the EU's working age population will

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<sup>271</sup> European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, a European Agenda on Migration*

<sup>272</sup> Ibidem

decline by 17.5 million in the next decade”<sup>273</sup>. This is the reason why the same Commission have presented in 2015 a new Labour Mobility Package and a new Initiative on Skills, “to build up its own skills base and equip people for inclusion in today's labour market”<sup>274</sup>.

The European Agenda on Migration, therefore, represented a step forward in European cooperation on the subject in question, highlighting the will of the EU bodies to find concrete solutions to an expanding phenomenon that closely concerns the Union itself. However, the purposes and proposals reported in the Agenda are not easy to apply and, above all, they require times. But nowadays Europe, and Italy in particular, has no time. In 2016, around 180,000 people arrived by sea in Italy, of which more than 90% had departed from the Libyan coast<sup>275</sup>.

The migration issue is central to our country and the problem should be solved at least in Libya, without forgetting that stopping the flows in the places of departure is only a buffer solution which risks, if poorly managed, to prove to be a boomerang for transit countries but also for destination ones. Thus, Italy decided to manage the phenomenon directly with the Libyan counterpart: on 2 February 2017 the Italian Prime Minister Paolo Gentiloni and the GNA leader, Fayez al-Sarraj signed the Memorandum of Understanding on cooperation in the field of development, fight against illegal immigration, trafficking in human beings, smuggling and on strengthening the security of the borders between the State of Libya and Italy. In the art. 1, the parties undertook to start new cooperation activities aimed precisely at curbing the flows of irregular migrants. Italy committed to providing “*sostegno e finanziamento a programmi di crescita nelle regioni colpite dal fenomeno dell'immigrazione illegale [...] e supporto tecnico e tecnologico agli organismi libici incaricati della lotta contro l'immigrazione clandestina, e che sono rappresentati*

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<sup>273</sup> European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, a European Agenda on Migration*

<sup>274</sup> Ibidem

<sup>275</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p.99

*dalla guardia di frontiera e dalla guardia costiera del Ministero della Difesa, e dagli organi e dipartimenti competenti presso il Ministero dell'Interno”*<sup>276</sup>.

The memorandum also provided for the improvement of the already existing reception centres and the training of Libyan staff operating within these centres, using Italian and EU funding. Furthermore, a part of the agreement concerns the conditions of the countries of origin of the migrants and, in this regard, the parties also agreed to "*Proporre, entro tre mesi dalla firma [...], una visione di cooperazione euro-africana più completa e ampia, per eliminare le cause dell'immigrazione clandestina, al fine di sostenere i paesi d'origine dell'immigrazione nell'attuazione di progetti strategici di sviluppo, innalzare il livello dei settori di servizi migliorando così il tenore di vita e le condizioni sanitarie, e contribuire alla riduzione della povertà e della disoccupazione*"<sup>277</sup> and, in order to achieve these objectives, Italy and Libya promise their support to international organizations operating on the ground.

In summary, Italy, with European support, has undertaken to provide financial and technical assistance to Libyan bodies in order to help them act autonomously to limit migrant smuggling and improve reception centres. Although in theory it would seem an excellent deal, this memorandum presents several criticalities in terms of practical

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<sup>276</sup> "Assistance and financing for development programs in the regions affected by the phenomenon of illegal immigration [...] and technical and technological support to the Libyan bodies in charge of the fight against illegal immigration, which are represented by the border guard and the coast guard of the Ministry of Defense, and by the competent bodies and departments at the Ministry of the Interior" translated from: *Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, Roma, 2 febbraio 2017*, (see Appendix G), art. 1

<sup>277</sup> "To propose, within three months after the signing [...], a vision of more comprehensive and broader Afro-European cooperation, to eliminate the causes of illegal immigration, in order to support the countries of origin in the implementation of strategic development projects, and to help them increase service sectors' level, improve the standard of living and health conditions, and contribute to the reduction of poverty and unemployment" translated from: *Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, Roma, 2 febbraio 2017*, (see Appendix G), art. 2

application. Firstly, we cannot forget that Italy is dealing with a Libyan government which basically does not govern, which does not even control the capital, and which has no power over the militias, but, on the contrary, it is almost subordinated to them. The 2017 Memorandum requires active and widespread control over the territory, while in Libya the militias are ruling the roost and enriching themselves thanks to the trafficking of human beings<sup>278</sup>. Why should they give up a very profitable activity by submitting to the will of Al-Sarraj?

In addition, the signed agreement has established the allocation of funding by Italy and the EU for the project implementation. But who in Libya is able to guarantee that these funds will actually be used for those planned activities and will not end up in the pockets of some militia or to finance the purchase of weapons and military equipment<sup>279</sup>?

Secondly, we should consider that most of the planned cooperation actions have been undertaken together with the Libyan coastguard. The latter, however, is far from being a unitary body of chosen subjects: it is made up of a heterogeneous group of individuals, often corrupt ex-militiamen colluded with the traffickers. It is no coincidence that the coastguard commander in Zawiya (a city located a few kilometers from Sabratha, the port of departure of many migrants) is Abdurahman al-Milad, undisputed chief of migrant smuggling, accused of violent incidents and included in the list of persons subjected to sanctions according to UN Security Council Resolution n° 1970. Moreover, according to the Italian admiral Enrico Credendino, commander of EUNAVFOR Med, the migrant trafficking guarantees an annual turnover of 300 million euros<sup>280</sup>. In an almost economically failed country, where the recovery of oil production is blocked by the general insecurity, trafficking in human beings has become for many one of the only livelihoods<sup>281</sup>.

But now we will put aside the coastguard and the phenomenon of human trafficking for a moment. In the 2017 memorandum, Italy has also committed to providing support and funding for the improvement of reception centres and for training of staff operating within

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<sup>278</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 99-103

<sup>279</sup> Ibidem

<sup>280</sup> Ivi, p.101

<sup>281</sup> Ibidem

them. If this worked, one could hope in a decrease in the number of migrants willing to attempt the sea route. Even in this utopian hypothesis, however, we find a hitch. In Libya in 2017, it has counted 34 reception centres, welcoming 4,000 to 7,000 people<sup>282</sup>. Of these structures, 24 would be managed by the NGA while the rest would be in the hands of criminal groups. As it will be explored later, these centers unfortunately represent places of imprisonment and atrocious human rights violations<sup>283</sup>.

In conclusion, this Italo-Libyan agreement on migration flows is based on labile assumptions which risk making its application impossible. Although the intentions are good enough on both sides, no agreement in Libya will ever be truly achievable without a preliminary stabilization of the country, and the 2017 Memorandum appears to be almost a mere exchange between money and migrant containment. However, paying a country to keep migrants, in addition to being morally condemnable, can increase the state's bargaining power, capable of blackmailing the counterpart, threatening to "flood" it with migrants at any time.

#### **5.4 The migratory “emergence” and the new Libyan bargaining power**

Since the beginning of the new millennium, the migration issue has become central in the Italian political debate. Some refer to it as a real emergency to deal with soon. But is it really so? Are we really facing a migration crisis and an *invasion* from the south of Mediterranean? Certainly, there is no denying that since 2007 there has been an increase in the inflows of foreign population, as shown in the following graph.

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<sup>282</sup> Mercuri, *Incognita Libia. Cronache di un Paese sospeso*, p. 102

<sup>283</sup> UNSMIL, OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, 20 December 2018, available at: <https://www.ohchr.org/Documents/Countries/LY/LibyaMigrationReport.pdf>

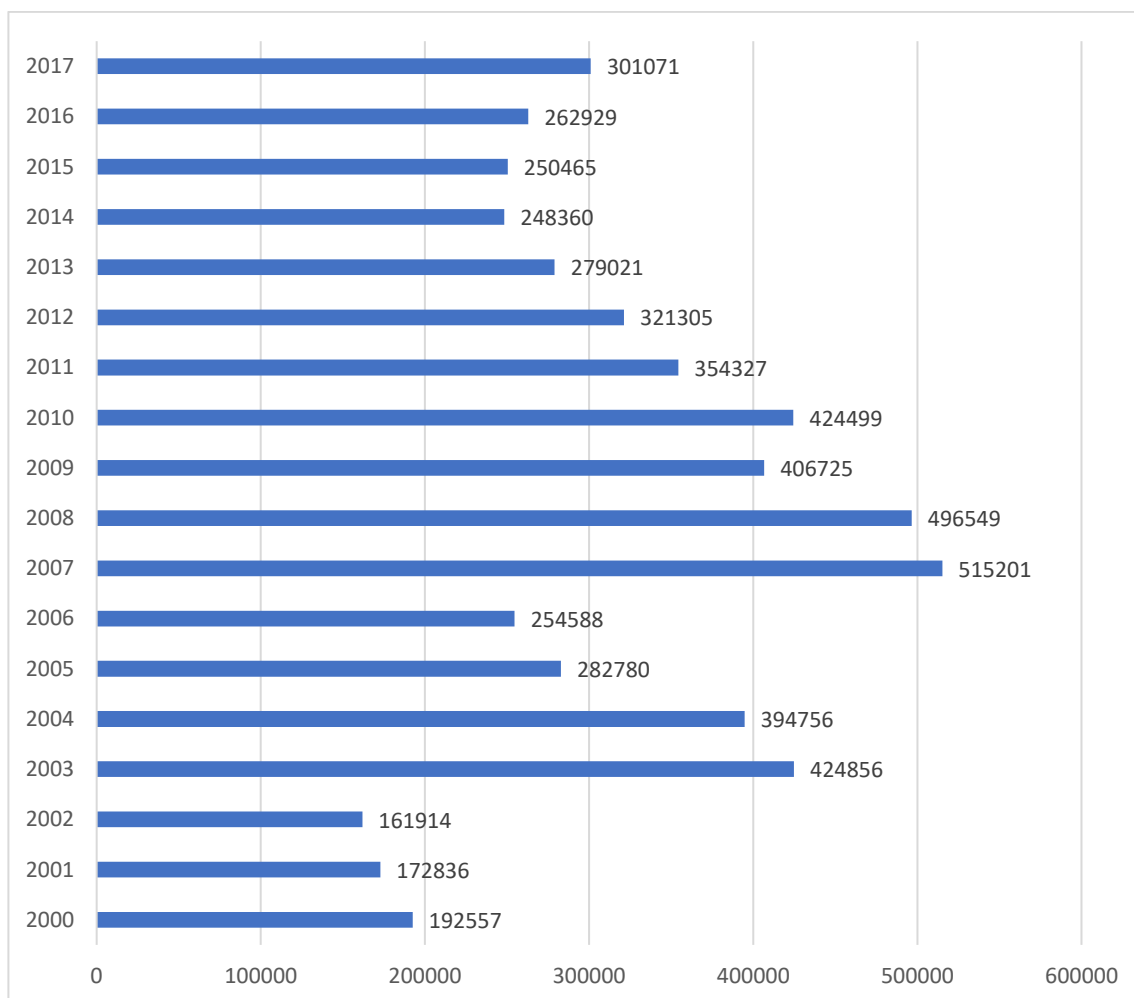


Fig. 5.2 – Inflows of foreign population in Italy (2000-2017)<sup>284</sup>

Right 2007 witnessed the absolute peak, exceeding 500,000 immigrants entering the country. If we consider this data in itself, even the nearly 200,000 of 2017 can frighten. But, to properly understand how much these migratory flows actually affect our society, these numbers should be compared at least with the country's population density. In 2007 the Italian population exceeded 58 million inhabitants, this means that the component of immigrants in the country was less than 1% (precisely 0.86%)<sup>285</sup>. In 2017, the value even drops below 0.5%, given the decrease in the number of immigrants and the increase in

<sup>284</sup> Data gathered by Organization for Economic Cooperation and Development (OECD), available at: <https://stats.oecd.org/Index.aspx?DataSetCode=MIG#>

<sup>285</sup> Ibidem

the Italian population, which exceeds 60 and a half million.<sup>286</sup> It is important to underline that these data do not refer only to asylum seekers from the south of the world, but include any foreign citizen who arrived in Italy.

These data can make us abandon the hypothesis of the invasion, but to convince even the most skeptical we can compare the Italian situation with that of other European countries. The table below reported the eight EU member states with the highest 2017 immigration density, calculated on the basis of the number of registered migrant entries and the country's population density. It may be surprising, but Luxembourg ranks in the first place, with more than 20 thousand immigrants and a population that does not reach 600 thousand inhabitants<sup>287</sup>.

Country	Nationals	Inflows of Foreign population	
			%
Luxembourg	596337	23147	3,9%
Germany	82656997	1384018	1,7%
Austria	8795073	139329	1,6%
Slovenia	2066161	27660	1,3%
Sweden	10057695	124976	1,2%
Ireland	4792490	57200	1,2%
Netherlands	17131295	183856	1,1%
Spain	46532869	454424	1,0%

Table 5.1 – Local population and inflows of foreign population in the eight EU member states with the highest immigration density (2017)<sup>288</sup>

Of course, we have to consider that these countries, Luxembourg and the Netherlands in particular, are home to several international organizations and multinational companies that attract countless workers and students from all over the world. However, if we go

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<sup>286</sup> Data gathered from Organization for Economic Cooperation and Development (OECD)

<sup>287</sup> Ibidem

<sup>288</sup> Ibidem

into the specific merit and deal with refugees, we still find Germany, Sweden and Austria in the top 5. In particular, In 2016, a year that saw a general increase to over 600 thousand people in OECD countries, “Germany was by far the main destination for refugees and received almost half of the total, followed by the United States (17%), Sweden (8%), Canada (6%) and Austria (3%)”<sup>289</sup>.

Currently, at least in Europe, the “immigration peak” seems to have been overcome: in 2018 irregular migrations to the EU returned to 2013 levels, decreasing to 150,000 people, compared to almost 1.5 million in 2015<sup>290</sup>.

However, European public opinion still reserves great attention (and concern) to the migration phenomenon, as evidenced by a survey by the European Commission: 38% of the interviewees, in fact, believe that *immigration* is the most important issue facing the EU at the moment, followed by terrorism (29%) and economic situation (18%)<sup>291</sup>. The migratory phenomenon therefore becomes a burning issue, especially because of political rhetoric that feeds a general feeling of disorientation.

In Italy, in particular, there is a distorted perception of the immigrant presence, which tend to be significantly overestimated. The Cattaneo Institute<sup>292</sup> has carried out a study on the gap between perception and reality regarding “the numbers of migration”. After researches and interviews conducted in 2017, it reported that the EU member state with the highest perception error is right our country: the immigrant presence’s percentage,

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<sup>289</sup> Data gathered from Organization for Security and Cooperation in Europe (OSCE), in D. Mancino, *L'emergenza migranti non è più una emergenza. Il caso Italia*, in “Il sole 24 ore”, 5 July 2018, available at: <https://www.infodata.ilsole24ore.com/2018/07/05/lemergenza-migranti-non-piu-emergenza-caso-dellitalia/>

<sup>290</sup> M. Villa, E. Corradi, F. Parola, *Le parole dell'Europa: migrazioni*, in “ISPI online”, 10 May 2019, available at: <https://www.ispionline.it/it/pubblicazione/le-parole-delleuropa-migrazioni-23056>

<sup>291</sup> European Commission, *Public Opinion in the European Union. First Results*, Standard Eurobarometer 89 – Spring 2018, Brussels, March 2018

<sup>292</sup> The Institute of studies and research Carlo Cattaneo was established in January 1965 with the aim of promoting “research, studies and any other cultural and educational activity aimed at deepening and disseminating knowledge of contemporary Italian society”, from the Institute’s website: <https://www.cattaneo.org/missione-governance/>



which in reality is around 7% of the total population, was estimated by our compatriots to be around 25%<sup>293</sup>.

This overestimation is one of the causes of the feeling of “fear of invasion” that linger among the Italian population. We have seen, however, that there are no preconditions for creating alarmism in this regard, and this artificial climate of emergency, as well as being useless, risks proving to be counterproductive, both internally and internationally. In fact, if at a social level an attitude of closure towards the foreigner undermines the process of integration of the latter, making his insertion in society much more difficult, at an international level Italy risks falling into the hands of those countries who can play the “migration card”.

Let us return to the 2017 Italo-Libyan memorandum for a moment. Italy has committed to providing assistance, military equipment and training for millions of euros, only to obtain a more efficient "filtering" action for migrants from Libya. The fact that this phenomenon represents such a big problem, greatly increases the bargaining power of the North African country, that has been acquiring increasingly more control over the ongoing negotiations. Indeed, since migration is a burning issue for Italy, “in the negotiations on migration now Libya is the privileged player who must be persuaded to collaborate, while Italy has little choice but to cooperate”<sup>294</sup>. In this regard, Italy needs to talk at any costs, and this allows Libya to obtain greater concessions from the counterparty. The North African country has reached a privileged position in discussions with Italy and the European Union, which has allowed it to obtain greater gains in terms of material and economic resources<sup>295</sup>.

Even if the reality is quite different, Libya continues to describe itself as a migrant-transit country and to describe a situation in which all those who arrive in Libya do it with the sole purpose of crossing the Mediterranean and reaching the Italian coasts. The Libyan government therefore needs huge resources to stop this flow of people, since without such

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<sup>293</sup> M. Valbruzzi, *Immigrazione in Italia: tra realtà e percezione*, Fondazione di ricerca Istituto Carlo Cattaneo, 27 August 2018, available at: <https://www.cattaneo.org/wp-content/uploads/2018/08/Analisi-Istituto-Cattaneo-Immigrazione-realtà-e-percezione-27-agosto-2018-1.pdf>

<sup>294</sup> Paoletti, *The Migration of Power and North-South Inequalities. The Case of Italy and Libya*, p. 195

<sup>295</sup>Ivi, pp. 192-195

aid it would not be able to cope with the problem and Italy would find itself even more "invaded" by migrants. This is the rhetoric already used by Gaddafi at the beginning of the new millennium. Over time, the increasing importance of migration issue has benefited Libya and "the rising cost to Italy of ensuring Libya's commitment has created a situation of vulnerability for the former"<sup>296</sup>.

In addition, not only is Italy in a disadvantageous position towards Libya, but also it is in the unenviable condition of having to choose between internal security and human right protection.

### **5.5 The Italy's dilemma: security versus human rights concerns**

Unfortunately, the repeated human rights violations in Libya are no secret to anyone: between January 2017 and August 2018 the United Nations Support Mission in Libya (UNSMIL) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have collected 1300 testimonies and prepared a document regarding atrocities and abuses committed by public officials, militiamen and traffickers inside refugee centres in Libya<sup>297</sup>.

*"Migrants and refugees interviewed by UNSMIL repeatedly emphasize their vulnerability to killings, extreme violence, torture, rape, and forced labour by smugglers or traffickers. They were systematically held captive in abusive conditions with the aim of extorting money from their families through a complex system of money transfers, extending to a number of countries. They were frequently "sold" from one criminal gang to another and asked to pay ransoms multiple times before being set free or taken to coastal areas to await the Mediterranean Sea crossing"*<sup>298</sup>. This report describes in detail all the abuses suffered by migrants, who are generally held in overcrowded makeshift detention centres, such as warehouses, unfinished buildings or farms, without any attention to compliance with the minimum hygiene conditions, such as access to washing and sanitation facilities, ventilation or lighting. These conditions lead to the proliferation of illnesses and

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<sup>296</sup> Paoletti, *The Migration of Power and North-South Inequalities. The Case of Italy and Libya*, p. 195

<sup>297</sup> UNSMIL, OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*

<sup>298</sup> Ivi, p. 26

infections, such as scabies, malnutrition or respiratory and gastro-intestinal problems. Access to medical assistance is generally limited to what is provided by humanitarian organizations, such as UN and MSF, which however are not always permitted to enter these centres. The lack of medical treatment leads to frequent preventable deaths and smugglers often force other detained migrants to take away the corpses and abandon them in the desert<sup>299</sup>. Even pregnant women are forced to give birth in such conditions, risking dying or suffering complications. And to get pregnant in such centres is not so rare: “the overwhelming majority of migrant and refugee women and older teenage girls interviewed by UNSMIL in 2017-2018 reported either being raped by smugglers or traffickers in Libya or witnessing others being taken out of collective accommodations and returning distraught, physically hurt and/or with torn clothes”<sup>300</sup>.

Many women claimed that they also suffered group violence and repeated rape repeated, even in front of their children and husbands. *“I left my country to search for a better life for me and my children; instead, I was tortured and raped. If a woman refuses to sleep with the smugglers, she does not eat, she gets beaten, and she doesn’t travel (cross the sea), even if she already paid”*<sup>301</sup>, this is the witness of a 30-year-old woman from Côte d’Ivoire, who had been held captive in Sabha and Sabratah for seven months, beaten and raped by smugglers.

Moreover, “Migrant women and girls, particularly those travelling without male relatives, are further vulnerable to forced prostitution and sexual exploitation. [...] They are compelled to engage in sexual acts against their will and are under the absolute power and control of their captors”<sup>302</sup>. But it is not only women who are victims of rape and sexual exploitation, but also men and boys; and those who do not suffer sexual abuses are however subjected to starvation and severe beatings and ill-treatment, such as burned with hot metal objects or electrocuted.

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<sup>299</sup> UNSMIL, OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, pp. 42-43

<sup>300</sup> Ivi, p. 31

<sup>301</sup> Ivi, p. 32

<sup>302</sup> Ivi, p. 33

Libya has never signed the 1951 Refugee Convention and it lacks any law measures to protect migrants and refugees from abuses, thus they are reluctant to report and denounce these situations to Libyan authorities, which however have too often proven to be unable or unwilling to address these crimes. Moreover, some state officials are openly corrupted and colluded with smugglers and traffickers. In 2012, under the Libyan Ministry of Interior, The Department of Combatting Illegal Migration (DCIM) was established with the duty to manage the immigration detention centres, but the situation did not change. Thousands of migrants are arbitrarily detained at DCIM centres without due process or access to lawyers to challenge the legality of their detention<sup>303</sup>. Some of them are even captured on the street by private individuals and brought to detention centres without a clear reason or guilt. “Arrests are frequently accompanied by violence and the confiscation of all belongings, including documents, telephones, money and other valuables”<sup>304</sup>. In conclusion, When a migrant enters such a center, he is no longer certain if, when and how it will come out.

In light of this report, can our country really continue to make agreements with Libya and finance all this? We have seen on several occasions the inability (and the unwillingness) of the Libyan authorities to address this problem. The country's institutions are really weak and exhausted by conflict and internal power struggles. But what about Italy? UNSMIL and OHCHR had already published a report in 2016 on the violence perpetrated in the country but this did not prevent Italy from signing the famous 2017 memorandum and pledging to provide Libya with more equipment and vehicles to intercept those boats full of migrants fleeing the atrocities of Libyan detention centers. The OHCHR has estimated that since early 2017 approximately 29,000 migrants have been returned to Libya by the Coast Guard and consequently transferred to DCIM detention centres<sup>305</sup>. However, given the reported human rights abuses to which migrants risk of suffering, Libya cannot be considered a place of safety to which push back rescued migrants. The report, therefore, has called on EU Member States to “take all necessary legal, political

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<sup>303</sup> UNSMIL, OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, pp. 38-39

<sup>304</sup> Ivi, p. 40

<sup>305</sup> Ivi, p. 35

and diplomatic measures to ensure that any cooperation and/or support provided under bilateral or regional migration management agreements with Libyan institutions is consistent with international human rights, refugee and other relevant international law obligations”<sup>306</sup>. In line with this recommendation, if it wants to continue collaborating with Libya, Italy should ensure that all provided assistance, equipment and training comply with the respect of human rights. Our country should reconsider the human costs of its migration policy, which currently seems to give much more weight to internal security than to the protection of the human fundamental rights. It is then almost automatic to wonder: security from what?

## **5.6 Conclusions: the Libyan current situation and the Italian migration policy**

For more than forty years, Libya had been held together by the personal power of the colonel. Gaddafi, succeeding in eliminating any sort of institutions, concentrating power in his hands and managing it through the loyalty of the different tribes. Since the fall of the regime, in 2011, Libya has increasingly drifted: without any functioning institution, without a national conscience, without a government that really manages to administer the country. Post-Gaddafi Libya is a torn and exhausted Libya, in which multiple armed groups reign, clashing for control of strategic points, fighting for money and power. Post-Gaddafi Libya is a country where the strongest wins. The question that quite spontaneously arises is whether foreign powers expected these results when they supported the rebels against the regime. Certainly, a brake on Gaddafi's despotism had to be put: even if the country recorded an acceptable per capita income, the protection of human rights was certainly something unknown. But could the situation be managed better?

Already in 2011, shortly after the fall of the Gaddafi regime, the National Transitional Council presented itself as an indefinite magma of armed groups. In 2015, the international community tried to solve the situation with the formation of a Government of National Accord headed by al-Serraj, but this was not enough to stop General Haftar's

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<sup>306</sup>UNSMIL, OHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya*, p. 58

race for power. After years of clashes and struggles, nowadays, the country is still essentially divided into three areas: Haftar and its self-proclaimed Libyan National Army (LNA) have consolidated its influence on Benghazi and on the eastern part of Libya, Prime Minister Fayez Al-Sarraj controls Tripoli while the rest of the country is in the hands of the militias. This internal conflict has increasingly taken on an international aspect, since several countries are involved to try to protect their interests in the region. Above all Italy plays (or rather tries to play) a front-line role, given the historical relations with the former colony and especially the burning migration issue. However, it is precisely these involvement and great concern about migration flows that risk jeopardizing the Italian position within the negotiations with Libya. Italy's need of talking "at any costs" is giving Libya a privileged position in discussions, allowing it to obtain greater gains in terms of material and economic resources. Now it is "Libya the privileged player who must be persuaded to collaborate, while Italy has little choice but to cooperate"<sup>307</sup>, if it does not want to be "flooded" with even more migrants. This threat therefore puts Italy in a vulnerable position in which it is forced to yield to Libyan blackmail in order to obtain its collaboration in curbing the migrants' flow. The 2017 Italo-Libyan memorandum is a striking instance, since our country has committed to financing the supply of military equipment, tools and vehicles and the provision of staff training for millions of euros. But this Italian migration policy is likely to be dangerous even at the human rights level. The conditions that migrants and asylum seekers are facing in Libya are now well known to the whole international community. The UNSMIL and OHCHR's Report has clearly painted the situation: thousands of men, women and children crammed into overcrowded makeshift buildings, without food and in poor hygienic conditions, forced to endure violence and torture of all kinds. Libya cannot be considered a place of safety and thus any push-back of rescued migrants or any proposal of externalization of the asylum application process to Libya should not even be taken into consideration. Our country should reconsider the human costs of such migration policy, giving the right weight to the protection of human rights.

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<sup>307</sup> Paoletti, *The Migration of Power and North-South Inequalities The Case of Italy and Libya*, p. 195

## CONCLUSIONS

As we have seen, the stories of Italy and Libya have been intertwined for a long time. Certainly, when, in September 1911, the Giolitti government decided on the invasion of Libya, it could not predict that the future of these two countries would remain tied for so long. If formally the Italian colonial period ended with the end of the Second World War, bilateral relations between these countries, despite the ups and downs, have never stopped. Libya have continued for many years to claim compensation and reparation for the colonial past, and actually the country was in a very critical situation. The international community had decided that the time had come for Libya to walk on its own feet, but it had no tools or means to do so. Staying attached to the former colonial power was the only way to survive until the first oil fields were discovered. Italy for its part has always found it difficult to renounce its privileged relationship with Libya, in particular after that the former colony had become a big oil supplier.

Then the 1990s, the Libyan Open Door Policy and the migration crisis of the new millennium came, and Libya started to be seen as the gateway to Europe and the door to close in order not to be "invaded" by African migrants. Just the fear of the invasion and the magnified numbers relating to the landings have fomented a whirlwind of a race to security, which, on the contrary, ended up undermining the stability of Italian society, going to affect also those same democratic values of which Europe, and the West in general, prides itself on being the best testimonial. The extreme need for security has, in fact, led the Italian governments of the new millennium to implement an unsuccessful migratory policy, which, in addition to risking to compromise the protection of fundamental human rights, even undermines the Italian role on the international scenario and the country's bargaining power in negotiations with Libya. Indeed, as for migration issue, Italy needs to talk at any costs and this has allowed Libya to obtain large concessions in exchange for a minimum collaboration. This result cannot surely surprise us, since "in the negotiations on migration now Libya is the privileged player who must be persuaded to collaborate, while Italy has little choice but to cooperate"<sup>308</sup>.

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<sup>308</sup> Paoletti, *The Migration of Power and North-South Inequalities. The Case of Italy and Libya*, p. 195

Therefore, Italy is in a disadvantageous position in discussions with Libya, as well as in the unenviable situation of having to choose between internal security and international protection of human rights.

The repeated violations of human rights in Libya, in fact, are not a secret and many NGOs have reported shocking news and testimonies. Thousands of people are crammed into overcrowded makeshift buildings, without food and in poor hygienic conditions, forced to endure violence and torture of all kinds. Libya cannot be considered a place of safety and thus any proposal of externalization of the asylum application process to Libya should not be considered. Yet it has been done: the externalization process has been repeatedly proposed and long discussed, not only in our country but also internationally. Certainly, in response to the growing migration flows arriving in our continent, it can be a useful basis for improving EU member states' participation and responsibility distribution with regard to the provision of protection and assistance to refugees, both inside and outside their territories. But would not a revision of the much-contested Dublin regulation suffice to this extend?

It is undeniable that responsibility for managing migrants currently falls almost entirely on Mediterranean countries, including Italy, but externalization appears almost as a try to shift the burden further South.

Nevertheless, as we saw earlier, we cannot properly describe Italian migration policy in Libya as an attempt of externalization. However, with the signing of the recent Italo-Libyan treaties, our country has shown a strong commitment to finance and support the activity and development of Libya and in particular of its coast guard, engaged in operations of search and rescue of migrants in the Mediterranean. That Italy is cooperating with Libya with the aim of reducing landings in its own country is no mystery to anyone, but at what price? We cannot forget the current situation in Libya: the country is literally in chaos, divided between two governments and at the mercy of the power games of countless militias scattered throughout the territory, who do not recognize anyone's authority follow only their mere economic interests. Can Italy really come to terms with such a country just to face an alleged threat of invasion? And invasion by whom? From where?

Mobility is a universal feature of mankind: people has always been moving. Just as Italians go to America in search of new opportunities, Somalis come to Europe with the



dream of better prospects. Why should it pose a threat? If well managed, migration flows represent a significant enrichment for the country. Certainly, to best meet the needs of those who move, and to allow a fruitful integration into the social fabric of the destination country, it is necessary to establish a set of coordinated and forward-looking strategies, aimed at long-term and coherent responses to the refugee movements. In this sense, bettering the cooperation between the countries of origin and those of destination is fundamental. Without a doubt, it is necessary to combat the negative push factors that cause the desperate and illegal escapes of thousands of inhabitants (such as violence, war, degrading conditions) and to promote the spread of fundamental freedoms and rights, security and prosperity.

Moreover, it is also central the deepening of the collaboration within EU member states: it is necessary to develop a distribution scheme that allows to share responsibility for refugees and asylum seekers. European countries should understand that migration does not affect each state individually, but it is an issue that can be tackled profitably and efficiently only together. Only it can be possible to find a solution that would be valid for both European countries and countries of origin. And only in this way it is possible to safeguard human rights and protect the lives of those thousands of human beings who travel every day with the hope of a better future, without knowing if they will ever see that future. Because unfortunately, unless states create measures to allow people to seek protection lawfully and safely, dangerous journeys will never stop.

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Archivio dei Trattati internazionali online del Ministero degli Affari Esteri e della Cooperazione Internazionale: <http://itra.esteri.it>

Centro Studi di Geopolitica e Relazioni Internazionali: <https://www.geopolitica.info>

Community of Sahel-Saharan States (CEN-SAD): <http://www.cen-sad.org>

Corriere della Sera: <https://www.corriere.it>

European Commission: <https://ec.europa.eu>

European Database of Asylum Law (EDAL): <https://www.asylumlawdatabase.eu>

European Parliament: <https://www.europarl.europa.eu>

Eurostat, Statistics Explained, *Migration and migrant population statistics*:  
<https://ec.europa.eu/eurostat/statistics-explained/pdfscache/1275.pdf>

Il Sole 24 ore: <https://www.infodata.ilsole24ore.com>

International Organization on Migration (IOM): <https://www.iom.int>

Internazionale: <https://www.internazionale.it>

IOM Displacement Tracking Matrix: <https://dtm.iom.int>

IOM Libya Office: <https://libya.iom.int>

Istituto Cattaneo: <https://www.cattaneo.org>

Istituto per gli Studi di Politica Internazionale (ISPI): <https://www.ispionline.it>

Migration Data Portal: <https://migrationdataportal.org>

Ministero della Difesa italiano: <http://www.difesa.it>

Organization for Economic Cooperation and Development (OECD):  
<https://stats.oecd.org>

Refworld: <https://www.refworld.org>

UNHCR Operational Portal Refugee Situation: <https://data2.unhcr.org>

UNHCR Kenya: <https://www.unhcr.org/ke>

United Nations: <https://www.un.org>

United Nations Economic Commission for Africa: <https://www.uneca.org>

## APPENDIX

I consider appropriate to report in full the texts of the main treaties and resolutions analyzed during this thesis. They can be found in this section following the order in which they were mentioned during the discussion.

### **A) UN Security Council Resolution n. 731/1992 (21 January 1992)<sup>309</sup>**

“The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Deeply concerned by all illegal activities directed against international civil aviation, and affirming the right of all States, in accordance with the Charter of the United Nations and relevant principles of international law, to protect their nationals from acts of international terrorism that constitute threats to international peace and security,

Reaffirming its resolution 286 (1970) of 9 September 1970, in which it called on States to take all possible legal steps to prevent any interference with international civil air travel,

Reaffirming also its resolution 635 (1989) of 14 June 1989, in which it condemned all acts of unlawful interference against the security of civil aviation and called upon all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives,

Recalling the statement made on 30 December 1988 by the President of the Security Council on behalf of the members of the Council strongly condemning the destruction of Pan Am flight 103 and calling on all States to

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<sup>309</sup> *UN Security Council Resolution n. 731/1992*, New York, 21 January 1992, available at: <http://unscr.com/en/resolutions/doc/731>

assist in the apprehension and prosecution of those responsible for this criminal act,

Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France, 162,185 the United Kingdom of Great Britain and Northern Ireland and the United States of America in connection with the legal procedures related to the attacks carried out against Pan Am flight 103 and Union de transports aériens flight 772;

Determined to eliminate international terrorism,

1. Condemns the destruction of Pan Am flight 103 and Union de transports aériens flight 772 and the resultant loss of hundreds of lives;

2. Strongly deplores the fact that the Libyan Government has not yet

responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan Am flight 103 and Union de transports aériens flight 772;

3. Urges the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;

4. Requests the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to those requests;

5. Urges all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests;

6. Decides to remain seized of the matter.

Adopted unanimously at its 3033<sup>rd</sup> meeting.”

## **B) UN Security Council Resolution n. 748/1992 (31 March 1992)<sup>310</sup>**

“The Security Council,  
  
Reaffirming its resolution 731 (1992) of  
21 January 1992,

Noting the reports of the Secretary-  
General of 11 February and 3 March  
1992 submitted pursuant to paragraph 4  
of Security Council resolution 731  
(1992),

Deeply concerned that the Libyan  
Government has still not provided a full  
and effective response to the requests in  
its resolution 731 (1992),

Convinced that the suppression of acts of  
international terrorism, including those  
in which States are directly or indirectly  
involved, is essential for the  
maintenance of international peace and  
security,

Recalling that, in the statement issued on  
31 January 1992 on the occasion of the  
meeting of the Security Council at the  
level of heads of State and Government,

the members of the Council expressed  
their deep concern over acts of  
international terrorism, and emphasized  
the need for the international community  
to deal effectively with all such acts,

Reaffirming that, in accordance with the  
principle in Article 2, paragraph 4, of the  
Charter of the United Nations, every  
State has the duty to refrain from  
organizing, instigating, assisting or  
participating in terrorist acts in another  
State or acquiescing in organized  
activities within its territory directed  
towards the commission of such acts,  
when such acts involve a threat or use of  
force,

Determining, in this context, that the  
failure by the Libyan Government to  
demonstrate by concrete actions its  
renunciation of terrorism and in  
particular its continued failure to respond  
fully and effectively to the requests in  
resolution 731 (1992) constitute a threat  
to international peace and security,

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<sup>310</sup> *UN Security Council Resolution n. 748/1992*, New York, 31 March 1992, available at:  
<http://unscr.com/en/resolutions/doc/748>

Determined to eliminate international terrorism,

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. Decides that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests addressed to the Libyan authorities by France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

2. Decides also that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. Decides that, on 15 April 1992, all States shall adopt the measures set out

below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

4. Decides also that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Security Council Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of airworthiness for Libyan aircraft, the payment of new claims against existing insurance contracts and the provision of new direct insurance for Libyan aircraft;

5. Decides further that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and

ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, maintenance, or use of the items in subparagraph (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. Decides that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. Calls upon all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992;

8. Requests all States to report to the Secretary-General by 15 May 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

9. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the

Council with its observations and recommendations:

- (a) To examine the reports submitted pursuant to paragraph 8 above;
- (b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 3 to 7 above;
- (c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 3 to 7 above and, in that context, to make recommendations to the Council on ways to increase their effectiveness;
- (d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 3 to 7 above and provide information on a regular basis to the Secretary-General for general distribution to Member States;
- (e) To consider and to decide upon expeditiously any application by States for the approval of flights on grounds of significant humanitarian need in accordance with paragraph 4 above;
- (f) To give special attention to any communications in accordance with Article 50 of the Charter of the United Nations from any neighboring or other State with special economic problems

that might arise from the carrying out of the measures imposed by paragraphs 3 to 7 above;

10. Calls upon all States to cooperate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

11. Requests the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

12. Invites the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

13. Decides that the Security Council shall, every one hundred and twenty days or sooner, should the situation so require, review the measures imposed by paragraphs 3 to 7 above in the light of the compliance by the Libyan Government with paragraphs 1 and 2 above taking into account, as appropriate, any reports provided by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992);



14. Decides to remain seized of the matter.

Adopted at the 3063rd meeting by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe).”

**C) Accordo per la collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e di sostanze psicotrope ed all'immigrazione clandestina (13 December 2000)<sup>311</sup>**

“Il Governo della Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista, chiamati in seguito “Parti”;

consapevoli che i fenomeni delittuosi commessi alla criminalità organizzata in ogni settore colpiscono entrambi i Paesi, mettendo in pericolo l'ordine e la sicurezza pubblica, nonché il benessere e l'integrità fisica dei propri cittadini; riconoscendo l'importanza della cooperazione internazionale nella lotta alla criminalità organizzata;

richiamando la Risoluzione n. 45/123 dell'Assemblea Generale delle Nazioni Unite, in data 14 dicembre 1990, in tema di cooperazione internazionale nella lotta contro il crimine organizzato, nonché la Convenzione Unica sugli stupefacenti del 25 marzo 1972, la

Convenzione sulle Sostanze Psicotrope del 21 febbraio 1971 e la Convenzione contro il Traffico Illecito di Stupefacenti e Sostanze Psicotrope del 20 dicembre 1988;

in attuazione di quanto indicato nei Processi Verbali della VI e VII Sessione della Commissione Mista italo-libica, firmate rispettivamente a Roma il 4 luglio 1998 e a Sirte il 5 agosto 1999;

CONVENGONO

Articolo 1

Le Parti, nel rispetto delle legislazioni nazionali, concordano di sviluppare la cooperazione in materia di lotta al terrorismo, alla criminalità organizzata, al traffico illecito di sostanze stupefacenti e psicotrope e all'immigrazione illegale secondo le modalità di seguito indicate:

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<sup>311</sup> *Accordo per la collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e di sostanze psicotrope ed all'immigrazione clandestina, Roma, 13 dicembre 2000*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

#### A - Lotta al terrorismo

1. Scambio di informazioni sulle tecniche, sui modus operandi delle organizzazioni terroristiche e sui reati da queste commessi anche per finalità di supporto logistico e finanziario.
2. Sviluppo della cooperazione di polizia per l'identificazione e la ricerca di persone responsabili di fatti delittuosi previsti dalle legislazioni nazionali dei due Paesi, ferma restando la collaborazione in ambito Interpol.
3. Scambio di informazioni e di esperienze sui metodi e le tecniche utilizzate ai fini della prevenzione e della lotta al terrorismo.

#### B - Lotta alla criminalità organizzata internazionale

1. Scambio di informazioni sulle organizzazioni criminali internazionali, i loro membri, i metodi, i mezzi e le attività illecite commesse in tale ambito.
2. Scambio di informazioni sulle organizzazioni dedite al traffico di armi ed esplosivi.
3. Scambio di informazioni e di esperienze sui metodi e le tecniche utilizzate nella lotta alla criminalità organizzata internazionale.

4. Scambio di informazioni circa gli organismi e le attività che finanziano le organizzazioni criminali.
5. Scambio di informazioni in materia di riciclaggio di denaro, beni o altra utilità di provenienza illecita.
6. Scambio di informazioni in materia di falsificazione di carta moneta e valori.

#### C- Lotta al traffico illecito di sostanze stupefacenti e psicotrope

1. Le sostanze stupefacenti, agli effetti del presente Accordo, sono quelle enunciate e descritte nella Convenzione Unica sugli Stupefacenti del 30 marzo 1961, emendata dal Protocollo del 25 marzo 1972; - sostanze psicotrope sono quelle enunciate e descritte nella Convenzione sulle Sostanze Psicotrope del 21 febbraio 1971; - come "traffico illecito" si definiscono le fattispecie contemplate nei paragrafi 1 e 2 dell'art. 3 della Convenzione delle Nazioni Unite contro il Traffico Illecito di Stupefacenti e Sostanze Psicotrope del 20 dicembre 1988. La collaborazione riguarda, nel rispetto delle legislazioni nazionali, anche i precursori e le sostanze chimiche essenziali.
2. Scambio di informazioni sulla produzione ed il traffico illecito di sostanze stupefacenti e psicotrope.

3. Scambio di tempestive informazioni per garantire il coordinamento delle consegne controllate. A tal fine le Parti indicheranno i rispettivi Uffici Nazionali competenti.

4. Scambio di informazioni in materia di perizie e di analisi sulle droghe sequestrate al fine di individuare le zone di coltivazione e di produzione.

5. Scambio di informazioni sui metodi, le tecniche utilizzate nella lotta al traffico illecito di sostanze stupefacenti e psicotrope e sulle rotte utilizzate verso le aree di consumo.

#### D - Lotta all'immigrazione illegale

1. Scambio di informazioni sui flussi di immigrazione illegale, nonché sulle organizzazioni criminali che li favoriscono, sui modus operandi e sugli itinerari seguiti.

2. Scambio di informazioni sulle organizzazioni specializzate nella falsificazione di documenti e di passaporti.

3. Reciproca assistenza e cooperazione nella lotta contro l'immigrazione illegale.

#### Articolo 2

Le Parti si impegnano a cooperare:

1. nel settore della formazione e dell'addestramento, in particolare nel settore della formazione specialistica, nonché a promuovere la cooperazione tra gli Istituti di istruzione di polizia dei due Paesi;

2. sullo scambio di informazioni, sulle conoscenze e l'utilizzazione dei mezzi tecnici impiegati nella lotta alla criminalità organizzata in tutte le sue forme.

#### Articolo 3

Le Parti convengono sulla necessità di procedere ad uno scambio di documentazione e di atti legislativi in materia di lotta contro tutte le forme di criminalità previste dalle rispettive legislazioni nazionali, nonché di consultarsi in ordine alla cooperazione in corso nei Fori internazionali a cui entrambe aderiscono.

#### Articolo 4

Le Parti si impegnano a superare tutti gli eventuali ostacoli per garantire la collaborazione in materia di lotta contro tutte le forme di criminalità organizzata.

#### Articolo 5

Le Parti convengono di effettuare consultazioni per quanto riguarda la

collaborazione nel settore della lotta al terrorismo, alla criminalità organizzata, al traffico illegale di stupefacenti e sostanze psicotrope ed all'immigrazione clandestina.

Il Ministro dell'Interno della Repubblica Italiana, o chi ne fa le veci, ed il Segretario del Comitato Popolare Generale per la Giustizia e la Sicurezza Pubblica della Grande Giamahiria Araba Libica Popolare Socialista, o chi ne fa le veci, presiederanno tali consultazioni, ogni qualvolta se ne presenti la necessità.

Saranno convocate riunioni periodiche congiunte da tenersi tra esperti della lotta al terrorismo, alla criminalità organizzata, all'immigrazione illegale, al traffico illegale di sostanze stupefacenti e psicotrope e al riciclaggio e falsificazioni, in modo da poter valutare la cooperazione bilaterale.

Saranno altresì individuati Punti di contatto tra le strutture competenti per le materie oggetto del presente Accordo. Le Parti si scambieranno tale informazione entro sessanta giorni dall'entrata in vigore del presente Accordo.

#### Articolo 6

Ciascuna Parte garantisce la tutela della riservatezza delle informazioni scambiate, in conformità alla legislazione nazionale della Parte che le fornisce.

È possibile comunicare a terzi le informazioni scambiate solo previo espresso consenso della Parte che le fornisce.

#### Articolo 7

Ciascuna Parte può respingere in tutto o in parte la richiesta di assistenza o di cooperazione, oppure subordinare il suo accoglimento al rispetto di talune condizioni, qualora detta richiesta limiti l'esercizio della sovranità nazionale o comprometta la sicurezza o gli interessi fondamentali dello Stato ovvero sia in contrasto con la propria legislazione nazionale.

In tal caso, la Parte richiesta si impegna a comunicare tempestivamente alla Parte richiedente il diniego di assistenza, specificandone i motivi.

#### Articolo 8

Le disposizioni del presente Accordo non pregiudicano gli impegni assunti con altri Trattati bilaterali o multilaterali stipulati dalle Parti.

#### Articolo 9

Il presente Accordo entrerà in vigore alla data di ricezione della seconda della due notifiche con cui le Parti si comunicheranno ufficialmente l'avvenuto adempimento delle procedure interne.

Possono essere apportati emendamenti al presente Accordo con l'approvazione delle parti, che saranno comunicati per via diplomatica.

#### Articolo 10

Il presente Accordo avrà una durata illimitata. Ciascuna Parte potrà denunciare il presente Accordo per via diplomatica con un preavviso scritto di sei mesi.

#### Articolo 11

Le Parti si impegnano a stabilire contatti diretti o per via diplomatica, ai fini dell'applicazione del presente Accordo.

In fede di che i sottoscritti Rappresentanti, debitamente autorizzati in conformità alle rispettive legislazioni nazionali, hanno firmato il presente Accordo.

Firmato a Roma, il 13 dicembre 2000, in due originali, ciascuno nelle lingue italiana ed araba, entrambi facenti fede.

Per la Repubblica Italiana,  
Lamberto Dini,  
Ministro degli Affari Esteri

Per la Grande Giamahiria Araba Libica  
Popolare Socialista,  
Abdurrahman Mohamed Shalgam,  
Segretario del Comitato Popolare  
Generale per il Collegamento Estero e la  
Cooperazione Internazionale.”

**D) Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista (30 August 2008)<sup>312</sup>**

**“PREAMBOLO**

La Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista, qui di seguito denominati “le Parti”, consapevoli dei profondi legami di amicizia tra i rispettivi popoli e del comune patrimonio storico e culturale; decise ad operare per il rafforzamento della pace, della sicurezza e della stabilità, in particolare nella regione del Mediterraneo;

impegnate, rispettivamente, nell'ambito dell'Unione Europea e dell'Unione Africana nella costruzione di forme di cooperazione ed integrazione, in grado di favorire l'affermazione della pace, la crescita economica e sociale e la tutela dell'ambiente;

ricordando l'importante contributo dell'Italia ai fini del superamento del periodo dell'embargo nei confronti della Grande Giamahiria;

tenendo conto delle importanti iniziative già realizzate dall'Italia in attuazione delle precedenti intese bilaterali;

esprimendo la reciproca volontà di continuare a collaborare nella ricerca, con modalità che saranno concordate tra le Parti, riguardante i cittadini libici allontanati coercitivamente dalla Libia in epoca coloniale;

ritenendo di chiudere definitivamente il doloroso “capitolo del passato”, per il quale l'Italia ha già espresso, nel Comunicato Congiunto del 1998, il proprio rammarico per le sofferenze arrecate al popolo libico a seguito della colonizzazione italiana, con la soluzione di tutti i contenziosi bilaterali e sottolineando la ferma volontà di costruire una nuova fase delle relazioni bilaterali, basata sul rispetto reciproco, la pari dignità, la piena collaborazione e su un rapporto pienamente paritario e bilanciato;

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<sup>312</sup> *Trattato di Amicizia, Partenariato e Cooperazione tra la Repubblica Italiana e la Grande Giamahiria Araba Libica Popolare Socialista, Benghazi, 30 Agosto 2008*, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)

esprimendo, pertanto, l'intenzione di fare del presente Trattato il quadro giuridico di riferimento per sviluppare un rapporto bilaterale "speciale e privilegiato", caratterizzato da un forte ed ampio partenariato politico, economico e in tutti i restanti settori della collaborazione;  
hanno convenuto quanto segue:

## **Capo I**

### **PRINCIPI GENERALI**

#### **Articolo 1**

##### **Rispetto della legalità internazionale**

Le Parti, nel sottolineare la comune visione della centralità delle Nazioni Unite nel sistema di relazioni internazionali, si impegnano ad adempiere in buona fede agli obblighi da esse sottoscritti, sia quelli derivanti dai principi e dalle norme del Diritto Internazionale universalmente riconosciuti, sia quelli inerenti al rispetto dell'Ordinamento Internazionale.

#### **Articolo 2**

##### **Uguaglianza sovrana**

Le Parti rispettano reciprocamente la loro uguaglianza sovrana, nonché tutti i diritti ad essa inerenti compreso, in particolare, il diritto alla libertà ed

all'indipendenza politica. Esse rispettano altresì il diritto di ciascuna delle Parti di scegliere e sviluppare liberamente il proprio sistema politico, sociale, economico e culturale.

#### **Articolo 3**

##### **Non ricorso alla minaccia o all'impiego della forza**

Le Parti si impegnano a non ricorrere alla minaccia o all'impiego della forza contro l'integrità territoriale o l'indipendenza politica dell'altra Parte o a qualunque altra forma incompatibile con la Carta delle Nazioni Unite.

#### **Articolo 4**

##### **Non ingerenza negli affari interni**

1. Le Parti si astengono da qualunque forma di ingerenza diretta o indiretta negli affari interni o esterni che rientrino nella giurisdizione dell'altra parte, attenendosi allo spirito di buon vicinato.
2. Nel rispetto dei principi della legalità internazionale, l'Italia non userà, né permetterà l'uso dei propri territori in qualsiasi atto ostile contro la Libia e la Libia non userà, né permetterà l'uso dei propri territori in qualsiasi atto ostile contro l'Italia.



## **Articolo 5**

### **Soluzione pacifica delle controversie**

In uno spirito conforme alle motivazioni che hanno portato alla stipula del presente Trattato di Amicizia, Partenariato e Cooperazione, le Parti definiscono in modo pacifico le controversie che potrebbero insorgere tra di loro, favorendo l'adozione di soluzioni giuste ed eque, in modo da non pregiudicare la pace e la sicurezza regionale ed internazionale.

## **Articolo 6**

### **Rispetto dei diritti umani e delle libertà fondamentali**

Le Parti, di comune accordo, agiscono conformemente alle rispettive legislazioni, agli obiettivi e ai principi della Carta delle Nazioni Unite e della Dichiarazione Universale dei Diritti dell'Uomo.

## **Articolo 7**

### **Dialogo e comprensione tra culture e civiltà**

Le Parti adottano tutte le iniziative che consentano di disporre di uno spazio culturale comune, ispirandosi ai loro legami storici ed umani. Le iniziative suddette si ispirano ai principi della tolleranza, della coesistenza e del

rispetto reciproco, della valorizzazione e dell'arricchimento del patrimonio comune materiale e immateriale, nel contesto bilaterale e regionale.

## **Capo II**

### **CHIUSURA DEL CAPITOLO DEL PASSATO E DEI CONTENZIOSI**

## **Articolo 8**

### **Progetti infrastrutturali di base**

1. L'Italia, sulla base delle proposte avanzate dalla Grande Giamahiria e delle successive discussioni intervenute, si impegna a reperire i fondi finanziari necessari per la realizzazione di progetti infrastrutturali di base che vengono concordati tra i due Paesi nei limiti della somma di 5 miliardi di dollari americani, per un importo annuale di 250 milioni di dollari americani per 20 anni.
2. Le aziende italiane provvederanno alla realizzazione di questi progetti previo un comune accordo sul valore di ciascuno.
3. La realizzazione di questi progetti avverrà nell'arco di 20 anni secondo un calendario temporale che verrà concordato tra le due Parti, libica ed italiana.
4. I fondi finanziari assegnati vengono gestiti direttamente dalla Parte italiana.
5. La Grande Giamahiria rende disponibili tutti i terreni necessari per

l'esecuzione delle opere senza oneri per la Parte italiana e le aziende esecutrici.

6. La Grande Giamahiria agevola la Parte italiana e le aziende esecutrici nel reperimento dei materiali accessibili in loco e nell'espletamento di procedure doganali e di importazione esentandole dal pagamento di eventuali tasse. I consumi di energia elettrica, gas, acqua e linee telefoniche, saranno pagati con l'esenzione delle tasse.

## **Articolo 9**

### **Commissione Mista**

1. È istituita una Commissione Mista paritetica, costituita da componenti designati dai rispettivi Stati. La Commissione Mista individua le caratteristiche tecniche dei progetti di cui al precedente Articolo e stabilisce l'arco temporale complessivo e le cadenze di realizzazione dei progetti, nel quadro degli importi di ordine finanziario contenuti nello stesso articolo.

2. La Gran Giamahiria si impegna a garantire, sulla base di specifiche intese a trattativa diretta con società italiane, la realizzazione in Libia, da parte delle stesse, di importanti opere infrastrutturali, progetti industriali ed investimenti. I progetti vengono realizzati ai prezzi da concordare fra le

Parti. Queste imprese, secondo le consuetudini esistenti, contribuiscono in maniera volontaria alle opere sociali ed alla bonifica ambientale nelle zone ove realizzano i loro progetti.

La Gran Giamahiria si impegna, inoltre, ad abrogare tutti i provvedimenti e le norme regolamentari che imponevano vincoli o limiti alle sole imprese italiane.

3. La Commissione Mista individua, su proposta della Parte libica, le opere, i progetti e gli investimenti di cui al paragrafo 2, indicando per ciascuno tempi e modalità di affidamento e di esecuzione.

4. La conclusione ed il buon andamento di tali intese rappresentano le premesse per la creazione di un forte partenariato italo-libico nel settore economico, commerciale, industriale e negli altri settori ai fini della realizzazione degli obiettivi indicati in uno spirito di leale collaborazione.

5. La Commissione Mista ha il compito di verificare l'andamento degli impegni di cui all'Articolo 8 e al presente Articolo e redige un processo verbale periodico che faccia stato degli obiettivi raggiunti o da raggiungere in relazione agli obblighi assunti dalle parti contraenti.

6. La Commissione Mista segnala ai competenti Uffici degli Affari Esteri delle due Parti eventuali inadempienze, proponendo ipotesi tecniche di soluzione.

## **Articolo 10**

### **Iniziative Speciali**

L'Italia, su specifica richiesta della Grande Giamahiria, si impegna a realizzare le Iniziative Speciali sotto riportate a beneficio del popolo libico. Le Parti concordano l'ammontare di spesa complessivo per la realizzazione di tali iniziative ed affidano ad appositi Comitati Misti la definizione delle modalità di esecuzione delle stesse ed il limite di spesa annuale da impegnare per ognuna di esse ad eccezione delle borse di studio di cui al punto b).

a) La costruzione in Libia di duecento unità abitative, con siti e caratteristiche da determinare di comune accordo.

b) L'assegnazione di borse di studio universitarie e post-universitarie per l'intero corso di studi a un contingente di cento studenti libici, da rinnovare al termine del corso di studi a beneficio di altri studenti. Con uno scambio di Lettere si precisa il significato di rinnovare, per assicurare la continuità.

c) Un programma di cure, presso Istituti specializzati italiani, a favore di alcune vittime in Libia dello scoppio di mine, che non possano essere adeguatamente assistite presso il Centro di Riabilitazione Ortopedica di Bengasi realizzato con i fondi della Cooperazione italiana.

d) Il ripristino del pagamento delle pensioni di guerra ai titolari libici, civili e militari, e ai loro eredi che, sulla base della vigente normativa italiana, ne abbiano diritto.

e) La restituzione alla Libia di manoscritti e reperti archeologici trasferiti in Italia da quei territori in epoca coloniale: il Comitato Misto di cui all'articolo 16 del presente Trattato individua i reperti e i manoscritti che saranno, successivamente, oggetto di un atto normativo ad hoc finalizzato alla loro restituzione.

## **Articolo 11**

### **Visti ai cittadini italiani espulsi dalla Libia**

La Grande Giamahiria si impegna dalla firma del presente Trattato a concedere senza limitazioni o restrizioni di sorta ai cittadini italiani espulsi nel passato dalla Libia, i visti di ingresso che gli interessati dovessero richiedere per

motivi di turismo, di visita o lavoro o per altre finalità.

## **Articolo 12**

### **Fondo sociale**

1. La Grande Giamahiria si impegna a sciogliere l'Azienda Libico-Italiana (ALI) e a costituire contestualmente il Fondo sociale, utilizzando i contributi già versati dalle aziende italiane all'ALI stessa.

2. L'ammontare del Fondo Sociale sarà utilizzato per le finalità che erano state previste al punto 4 del Comunicato Congiunto italo-libico del 4 luglio 1998 per avviare la realizzazione delle Iniziative Speciali, di cui all'articolo 10 lettere b) e c) del presente Trattato, fino a concorrenza di tale ammontare. In particolare, potranno essere finanziati progetti di bonifica dalle mine e valorizzazione delle aree interessate, programmi di cura in favore di cittadini libici danneggiati dallo scoppio delle mine, nonché altre iniziative a favore dei giovani libici nel settore della formazione universitaria e post-universitaria, sino ad esaurimento del credito del Fondo Sociale. Quindi continuerà il finanziamento dalla parte italiana, in attuazione del Trattato.

3. A tal fine, è istituito un Comitato Misto paritetico per la gestione del Fondo Sociale secondo le modalità previste dal Comunicato Congiunto.

4. Definite le modalità di gestione dell'ammontare già costituito del Fondo Sociale e le iniziative da finanziare, le due Parti considerano definitivamente esaurito il Fondo sociale.

## **Articolo 13**

### **Crediti**

1. Per quanto riguarda i crediti vantati dalle aziende italiane nei confronti di Amministrazioni ed Enti libici, le Parti si impegnano a raggiungere con uno scambio di lettere una soluzione sulla base del negoziato nell'ambito del Comitato Crediti.

2. Con il medesimo scambio di lettere, le Parti si impegnano a raggiungere una soluzione anche per quanto riguarda gli eventuali debiti di natura fiscale e/o amministrativa di aziende italiane nei confronti di Enti libici.

### **Capo III**

## **NUOVO PARTENARIATO BILATERALE**

### **Articolo 14**

#### **Comitato di Partenariato e consultazioni politiche**

1. Le due Parti imprimono nuovo impulso alle relazioni bilaterali politiche, economiche, sociali, culturali e scientifiche ed in tutti gli altri settori, con la valorizzazione dei legami storici e la condivisione dei comuni obiettivi di solidarietà tra i popoli e di progresso dell'Umanità.

2. Nel desiderio condiviso di rinsaldare i legami che le uniscono, le due Parti decidono la costituzione di un Partenariato all'altezza del livello di collaborazione e coordinamento cui ambiscono sui temi bilaterali e regionali e sulle questioni internazionali di reciproco interesse. A tale scopo, le due Parti decidono quanto segue:

a) una riunione annuale del Comitato di Partenariato, a livello del Presidente del Consiglio dei Ministri e del Segretario del Comitato Popolare Generale, da tenersi alternativamente in Italia e in Libia;

b) una riunione annuale del Comitato dei Seguiti, a livello del Ministro degli Affari Esteri e del Segretario del

Comitato Popolare Generale per il Collegamento Estero e la Cooperazione Internazionale, da tenersi alternativamente in Italia e in Libia, con il compito di seguire l'attuazione del Trattato e degli altri Accordi di collaborazione, che presenterà le proprie relazioni al Comitato di Partenariato. Qualora una delle Parti ritenga che l'altra Parte abbia contravvenuto ad uno qualsiasi degli impegni previsti dal presente Trattato, richiederà una riunione straordinaria del Comitato dei Seguiti, per un'analisi approfondita e al fine di trovare una soluzione soddisfacente;

c) il Comitato di Partenariato adotta tutti i provvedimenti necessari all'attuazione degli impegni previsti dal presente Trattato e le due Parti si adoperano per la realizzazione dei suoi scopi;

d) lo svolgimento di regolari consultazioni tra altri rappresentanti delle due Parti.

3. Il Ministro degli Affari Esteri e il Segretario del Comitato Popolare Generale per il Collegamento Estero e la Cooperazione Internazionale, ricevuta la segnalazione di cui all'Articolo 9 comma 6, si adoperano per definire una soluzione adeguata.

## **Articolo 15**

### **Cooperazione negli ambiti scientifici**

Le due Parti intensificano la collaborazione nel campo della scienza e della tecnologia e realizzano programmi di formazione e di specializzazione a livello post- universitario. Favoriscono a tal fine lo sviluppo di rapporti tra le Università e tra gli Istituti di ricerca e di Formazione dei due Paesi. Sviluppano ulteriormente la collaborazione nel campo sanitario e in quello della ricerca medica, promuovendo i rapporti tra enti ed organismi dei due Paesi.

## **Articolo 16**

### **Cooperazione culturale**

1. Le due Parti approfondiscono i tradizionali vincoli culturali e di amicizia che legano i due popoli ed incoraggiano i contatti diretti tra enti ed organismi culturali dei due Paesi. Sono altresì facilitati gli scambi giovanili e i gemellaggi tra città ed altri enti territoriali dei due Paesi.

2. Le due Parti danno ulteriore impulso alla collaborazione nel settore archeologico. In tale ambito è altresì esaminata, da un apposito Comitato Misto, la problematica concernente la restituzione alla Libia di reperti archeologici e manoscritti. Le due Parti

collaborano anche ai fini della eventuale restituzione alla Libia, da parte di altri Stati, di reperti archeologici sottratti in epoca coloniale.

3. Le due Parti agevolano, sulla base della reciprocità, l'attività rispettivamente dell'Istituto Italiano di Cultura a Tripoli e dell'Accademia Libica in Italia.

4. Le due Parti concordano sulla opportunità di rendere le nuove generazioni sempre più consapevoli delle conseguenze negative generate dalle aggressioni e dalla violenza e si adoperano per la diffusione di una cultura ispirata ai principi della tolleranza e della collaborazione tra i Popoli.

## **Articolo 17**

### **Collaborazione economica e industriale**

1. Le due Parti promuovono progetti di trasferimento di tecnologie e di collaborazione industriale, con riferimento anche a iniziative comuni in Paesi terzi.

2. Sviluppano la collaborazione nei settori delle opere infrastrutturali, dell'aviazione civile, delle costruzioni navali, del turismo, dell'ambiente, dell'agricoltura e della zootecnia, delle

biotecnologie, della pesca e dell'acquacoltura, nonché in altri settori di reciproco interesse, favorendo in particolare lo sviluppo degli investimenti diretti.

3. Esse sostengono le PMI e la costituzione di società miste.

4. Le due Parti si adoperano per concordare entro breve una Intesa tecnica in materia di cooperazione economica, scientifica e tecnologica nel settore della pesca e dell'acquacoltura e favoriscono Intese analoghe tra altri Enti competenti dei due Paesi.

#### **Articolo 18**

##### **Collaborazione energetica**

1. Le due Parti sottolineano l'importanza strategica per entrambi i Paesi della collaborazione nel settore energetico e si impegnano a favorire il rafforzamento del partenariato in tale settore.

2. Attribuiscono particolare rilievo alle energie rinnovabili ed incoraggiano la cooperazione tra enti ed organismi dei due Paesi, sia sul piano industriale che su quello della ricerca e della formazione.

#### **Articolo 19**

##### **Collaborazione nella lotta al terrorismo, alla criminalità organizzata, al traffico di stupefacenti, all'immigrazione clandestina**

1. Le due Parti intensificano la collaborazione in atto nella lotta al terrorismo, alla criminalità organizzata, al traffico di stupefacenti e all'immigrazione clandestina, in conformità a quanto previsto dall'Accordo firmato a Roma il 13.12.2000 e dalle successive intese tecniche, tra cui, in particolare, per quanto concerne la lotta all'immigrazione clandestina, i Protocolli di cooperazione firmati a Tripoli il 29 dicembre 2007

2. Sempre in tema di lotta all'immigrazione clandestina, le due Parti promuovono la realizzazione di un sistema di controllo delle frontiere terrestri libiche, da affidare a società italiane in possesso delle necessarie competenze tecnologiche. Il Governo italiano sosterrà il 50% dei costi, mentre per il restante 50% le due Parti chiederanno all'Unione Europea di farsene carico, tenuto conto delle Intese a suo tempo intervenute tra la Grande Giamahiria e la Commissione Europea.

3. Le due Parti collaborano alla definizione di iniziative, sia bilaterali, sia in ambito regionale, per prevenire il fenomeno dell'immigrazione clandestina nei Paesi di origine dei flussi migratori.

#### **Articolo 20**

##### **Collaborazione nel settore della Difesa**

1. Le due Parti si impegnano a sviluppare la collaborazione nel settore della Difesa tra le rispettive Forze Armate, anche mediante la finalizzazione di specifici Accordi che disciplinino lo scambio di missioni di esperti, istruttori e tecnici e quello di informazioni militari nonché l'espletamento di manovre congiunte.

2. Si impegnano altresì ad agevolare la realizzazione di forte ed ampio partenariato industriale nel settore della Difesa e delle industrie militari.

3. In tale ambito, l'Italia sosterrà nelle sedi internazionali la richiesta della Libia di indennizzi per i danni subiti da propri cittadini vittime dello scoppio delle mine e per la riabilitazione dei territori danneggiati, con tutti gli Stati interessati.

#### **Articolo 21**

##### **Collaborazione nel settore della non proliferazione e del disarmo**

Le due Parti si impegnano a proseguire e rinsaldare la collaborazione nel settore

del disarmo e della non proliferazione delle armi di distruzione di massa e dei relativi vettori e ad adoperarsi per fare della Regione del Mediterraneo una zona libera da tali armi, nel pieno rispetto degli obblighi derivanti dagli Accordi e Trattati internazionali in materia.

#### **Articolo 22**

##### **Collaborazione parlamentare e tra Enti locali**

Le due Parti favoriscono lo sviluppo di rapporti tra il Parlamento italiano ed il Congresso Generale del Popolo della Grande Giamahiria, nonché tra gli Enti locali, nella consapevolezza della loro importanza per una più intensa ed approfondita conoscenza reciproca.

#### **Articolo 23**

##### **Disposizioni finali**

1. Il presente Trattato, nel rispetto della legalità internazionale, costituisce il principale strumento di riferimento per lo sviluppo delle relazioni bilaterali. Esso è sottoposto a ratifica secondo le procedure costituzionali previste dall'ordinamento di ciascuna delle parti ed entra in vigore al momento dello scambio degli strumenti di ratifica.

2. Il presente Trattato sostituisce il Comunicato Congiunto del 4 luglio 1998



ed il Processo Verbale delle Conclusioni Operative del 28 ottobre 2002, che cessano pertanto di produrre effetti.

3. A partire dal corrente anno, il giorno del 30 Agosto viene considerato, in Italia e nella Grande Giamahiria, Giornata dell'Amicizia italo-libica.

4. Il presente Trattato può essere modificato previo accordo delle parti. Le eventuali modifiche entreranno in vigore alla data di ricezione della seconda delle due notifiche con le quali le Parti si comunicano ufficialmente l'avvenuto

espletamento delle rispettive procedure interne.

Fatto a Bengasi il 30 agosto 2008, in duplice esemplare in lingua italiana ed araba, entrambi i testi facenti fede.

Per la Repubblica Italiana,

Il Presidente del Consiglio dei Ministri  
Silvio Berlusconi

Per la Grande Giamahiria Araba Libica  
Popolare Socialista

Muammar El Gheddafi

Leader della Rivoluzione.”

## **E) UN Security Council Resolution S/Res/1970 (26 February 2011)<sup>313</sup>**

“The Security Council,

Expressing grave concern at the situation in the Libyan Arab Jamahiriya and condemning the violence and use of force against civilians,

Deploring the gross and systematic violation of human rights, including the repression of peaceful demonstrators, expressing deep concern at the deaths of civilians, and rejecting unequivocally the incitement to hostility and violence against the civilian population made from the highest level of the Libyan government,

Welcoming the condemnation by the Arab League, the African Union, and the Secretary General of the Organization of the Islamic Conference of the serious violations of human rights and international humanitarian law that are being committed in the Libyan Arab Jamahiriya,

Taking note of the letter to the President of the Security Council from the Permanent Representative of the Libyan Arab Jamahiriya dated 26 February 2011,

Welcoming the Human Rights Council resolution A/HRC/RES/S-15/1 of 25 February 2011, including the decision to urgently dispatch an independent international commission of inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, to establish the facts and circumstances of such violations and of the crimes perpetrated, and where possible identify those responsible,

Considering that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes against humanity,

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<sup>313</sup> *UN Security Council Resolution S/Res/1970*, New York, 26 February 2011, available at: [https://www.undocs.org/S/RES/1970%20\(2011\)](https://www.undocs.org/S/RES/1970%20(2011))

Expressing concern at the plight of refugees forced to flee the violence in the Libyan Arab Jamahiriya,

Expressing concern also at the reports of shortages of medical supplies to treat the wounded,

Recalling the Libyan authorities' responsibility to protect its population,

Underlining the need to respect the freedoms of peaceful assembly and of expression, including freedom of the media,

Stressing the need to hold to account those responsible for attacks, including by forces under their control, on civilians,

Recalling article 16 of the Rome Statute under which no investigation or prosecution may be commenced or proceeded with by the International Criminal Court for a period of 12 months after a Security Council request to that effect,

Expressing concern for the safety of foreign nationals and their rights in the Libyan Arab Jamahiriya,

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya.

Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations,

Acting under Chapter VII of the Charter of the United Nations, and taking measures under its Article 41,

1. Demands an immediate end to the violence and calls for steps to fulfil the legitimate demands of the population;

2. Urges the Libyan authorities to:

(a) Act with the utmost restraint, respect human rights and international humanitarian law, and allow immediate access for international human rights monitors;

(b) Ensure the safety of all foreign nationals and their assets and facilitate the departure of those wishing to leave the country;

(c) Ensure the safe passage of humanitarian and medical supplies, and humanitarian agencies and workers, into the country; and

(d) Immediately lift restrictions on all forms of media;

3. Requests all Member States, to the extent possible, to cooperate in the evacuation of those foreign nationals wishing to leave the country;

*ICC referral*

4. Decides to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court;

5. Decides that the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution and, while recognizing that States not party to the Rome Statute have no obligation under the Statute, urges all States and concerned regional and other international organizations to cooperate fully with the Court and the Prosecutor;

6. Decides that nationals, current or former officials or personnel from a State outside the Libyan Arab Jamahiriya which is not a party to the Rome Statute of the International

Criminal Court shall be subject to the exclusive jurisdiction of that State for all alleged acts or omissions arising out of or related to operations in the Libyan Arab Jamahiriya established or authorized by the Council, unless such exclusive jurisdiction has been expressly waived by the State;

7. Invites the Prosecutor to address the Security Council within two months of the adoption of this resolution and every six months thereafter on actions taken pursuant to this resolution;

8. Recognizes that none of the expenses incurred in connection with the referral, including expenses related to investigations or prosecutions in connection with that referral, shall be borne by the United Nations and that such costs shall be borne by the parties to the Rome Statute and those States that wish to contribute voluntarily;

*Arms embargo*

9. Decides that all Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their

territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories, and decides further that this measure shall not apply to:

(a) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee established pursuant to paragraph 24 below;

(b) Protective clothing, including flak jackets and military helmets, temporarily exported to the Libyan Arab Jamahiriya by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; or

(c) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee;

10. Decides that the Libyan Arab Jamahiriya shall cease the export of all arms and related materiel and that all Member States shall prohibit the procurement of such items from the Libyan Arab Jamahiriya by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the Libyan Arab Jamahiriya;

11. Calls upon all States, in particular States neighbouring the Libyan Arab Jamahiriya, to inspect, in accordance with their national authorities and legislation and consistent with international law, in particular the law of the sea and relevant international civil aviation agreements, all cargo to and from the Libyan Arab Jamahiriya, in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, transfer, or export of which is prohibited by paragraphs 9 or 10 of this resolution for the purpose of

ensuring strict implementation of those provisions;

12. Decides to authorize all Member States to, and that all Member States shall, upon discovery of items prohibited by paragraph 9 or 10 of this resolution, seize and dispose (such as through destruction, rendering inoperable, storage or transferring to a State other than the originating or destination States for disposal) items the supply, sale, transfer or export of which is prohibited by paragraphs 9 or 10 of this resolution and decides further that all Member States shall cooperate in such efforts;

13. Requires any Member State when it undertakes an inspection pursuant to paragraph 11 above, to submit promptly an initial written report to the Committee containing, in particular, explanation of the grounds for the inspections, the results of such inspections, and whether or not cooperation was provided, and, if prohibited items for transfer are found, further requires such Member States to submit to the Committee, at a later stage, a subsequent written report containing relevant details on the inspection, seizure, and disposal, and relevant details of the transfer, including a description of the items, their origin and

intended destination, if this information is not in the initial report;

14. Encourages Member States to take steps to strongly discourage their nationals from travelling to the Libyan Arab Jamahiriya to participate in activities on behalf of the Libyan authorities that could reasonably contribute to the violation of human rights;

#### *Travel ban*

15. Decides that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in Annex I of this resolution or designated by the Committee established pursuant to paragraph 24 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

16. Decides that the measures imposed by paragraph 15 above shall not apply:

(a) Where the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation;

- (b) Where entry or transit is necessary for the fulfilment of a judicial process;
- (c) Where the Committee determines on a case-by-case basis that an exemption would further the objectives of peace and national reconciliation in the Libyan Arab Jamahiriya and stability in the region; or
- (d) Where a State determines on a case-by-case basis that such entry or transit is required to advance peace and stability in the Libyan Arab Jamahiriya and the States subsequently notifies the Committee within forty-eight hours after making such a determination;

*Asset freeze*

17. Decides that all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities listed in annex II of this resolution or designated by the Committee established pursuant to paragraph 24 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decides further that all Member States shall ensure that any funds, financial

assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities listed in Annex II of this resolution or individuals designated by the Committee;

18. Expresses its intention to ensure that assets frozen pursuant to paragraph 17 shall at a later stage be made available to and for the benefit of the people of the Libyan Arab Jamahiriya;

19. Decides that the measures imposed by paragraph 17 above do not apply to funds, other financial assets or economic resources that have been determined by relevant Member States:

- (a) To be necessary for basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services in accordance with national laws, or fees or service charges, in accordance with national laws, for routine holding or maintenance of frozen

funds, other financial assets and economic resources, after notification by the relevant State to the Committee of the intention to authorize, where appropriate, access to such funds, other financial assets or economic resources and in the absence of a negative decision by the Committee within five working days of such notification;

(b) To be necessary for extraordinary expenses, provided that such determination has been notified by the relevant State or Member States to the Committee and has been approved by the Committee; or

(c) To be the subject of a judicial, administrative or arbitral lien or judgment, in which case the funds, other financial assets and economic resources may be used to satisfy that lien or judgment provided that the lien or judgment was entered into prior to the date of the present resolution, is not for the benefit of a person or entity designated pursuant to paragraph 17 above, and has been notified by the relevant State or Member States to the Committee;

20. Decides that Member States may permit the addition to the accounts frozen pursuant to the provisions of

paragraph 17 above of interests or other earnings due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that any such interest, other earnings and payments continue to be subject to these provisions and are frozen;

21. Decides that the measures in paragraph 17 above shall not prevent a designated person or entity from making payment due under a contract entered into prior to the listing of such a person or entity, provided that the relevant States have determined that the payment is not directly or indirectly received by a person or entity designated pursuant to paragraph 17 above, and after notification by the relevant States to the Committee of the intention to make or receive such payments or to authorize, where appropriate, the unfreezing of funds, other financial assets or economic resources for this purpose, 10 working days prior to such authorization;



*Designation criteria*

22. Decides that the measures contained in paragraphs 15 and 17 shall apply to the individuals and entities designated by the Committee, pursuant to paragraph 24 (b) and (c), respectively;

- (a) Involved in or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in the Libyan Arab Jamahiriya, including by being involved in or complicit in planning, commanding, ordering or conducting attacks, in violation of international law, including aerial bombardments, on civilian populations and facilities; or
- (b) Acting for or on behalf of or at the direction of individuals or entities identified in subparagraph (a).

23. Strongly encourages Member States to submit to the Committee names of individuals who meet the criteria set out in paragraph 22 above;

*New Sanctions Committee*

24. Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of

the Council (herein “the Committee”), to undertake to following tasks:

- (a) To monitor implementation of the measures imposed in paragraphs 9, 10, 15, and 17;
- (b) To designate those individuals subject to the measures imposed by paragraphs 15 and to consider requests for exemptions in accordance with paragraph 16 above;
- (c) To designate those individuals subject to the measures imposed by paragraph 17 above and to consider requests for exemptions in accordance with paragraphs 19 and 20 above;
- (d) To establish such guidelines as may be necessary to facilitate the implementation of the measures imposed above;
- (e) To report within thirty days to the Security Council on its work for the first report and thereafter to report as deemed necessary by the Committee;
- (f) To encourage a dialogue between the Committee and interested Member States, in particular those in the region, including by inviting representatives of such States to meet with the Committee to discuss implementation of the measures;

(g) To seek from all States whatever information it may consider useful regarding the actions taken by them to implement effectively the measures imposed above;

(h) To examine and take appropriate action on information regarding alleged violations or non-compliance with the measures contained in this resolution;

25. Calls upon all Member States to report to the Committee within 120 days of the adoption of this resolution on the steps they have taken with a view to implementing effectively paragraphs 9, 10, 15 and 17 above;

*Humanitarian assistance*

26. Calls upon all Member States, working together and acting in cooperation with the Secretary General, to facilitate and support the return of humanitarian agencies and make available humanitarian and related assistance in the Libyan Arab

Jamahiriya, and requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to this paragraph, and expresses its readiness to consider taking additional appropriate measures, as necessary, to achieve this;

*Commitment to review*

27. Affirms that it shall keep the Libyan authorities' actions under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution, including the strengthening, modification, suspension or lifting of the measures, as may be needed at any time in light of the Libyan authorities' compliance with relevant provisions of this resolution;

28. Decides to remain actively seized of the matter.”

## **F) Extraordinary European Council Declaration (20 April 2011)<sup>314</sup>**

“1. The European Council met today in an extraordinary session to discuss developments in Libya and the Southern Neighbourhood region and set the political direction and priorities for future EU policy and action.

2. Democratic uprisings are bringing dramatic changes to the Southern Neighbourhood, creating a new hope and opportunity to build a future based on democracy, pluralism, the rule of law, human rights, and social justice. Progress and democracy go hand in hand. The European Council salutes the courage demonstrated by the people of the region and reaffirms that it is for them to decide their future, through peaceful and democratic means.

3. All countries in the region need to undertake or accelerate political and economic reforms. The European Union will support all steps towards democratic transformation, political systems that allow for peaceful change, growth and prosperity, and a more proportionate

distribution of the benefits of economic performance. In this context, the European Council warmly welcomes the announcement by the King of Morocco of the establishment of a consultative committee to prepare a revision of the constitution, to be submitted to the approval of the Moroccan people. Progress by partners towards transformation will drive EU support. Developing strong democratic institutions being one of the key objectives, increased parliamentary links between Europe and the region are of paramount importance.

4. Concerning Tunisia, the European Council welcomes the announcement that elections for a constituent assembly will be held on 24 July 2011. In close consultation with the Tunisian authorities, the EU is ready to provide the necessary support in this regard, including through advanced status for Tunisia. As soon as the Tunisian authorities are ready, the EU is willing to offer support with tackling the economic

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<sup>314</sup> *Extraordinary European Council Declaration, Brussels, 20 April 2011*, available at: [https://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/119780.pdf](https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/119780.pdf)

and social challenges faced by Tunisia. The European Union will remain engaged in the long term, with the aim of promoting economic and social development. The solidarity shown by the Tunisian people with the people fleeing from Libya deserves the highest praise and support.

5. The European Council supports the democratic transition in Egypt. It welcomes the timely delivery of the first proposals for amending the constitution and encourages the Egyptian authorities to continue in their commitment to political reform and to create an environment for thorough democratic transition, including by lifting the state of emergency. The European Union is ready to mobilise its full support in line with the priorities of the Egyptian people and has started a dialogue with the recently appointed Egyptian government.

6. The situation in Libya remains a cause for grave concern. We express our strong solidarity with the Libyan people and the victims. We firmly condemn the violent repression the Libyan regime applies against its citizens and the gross and systematic violation of human rights. We

welcome UN Security Council Resolution 1970 and the referral of the situation in Libya to the International Criminal Court. The use of force, especially with military means, against civilians is unacceptable and must stop immediately. The safety of the people must be ensured by all necessary means. The European Council expresses its deep concern about attacks against civilians, including from the air. In order to protect the civilian population, Member States will examine all necessary options, provided that there is a demonstrable need, a clear legal basis and support from the region. Those responsible will be held accountable and face grave consequences. We will work with the United Nations, the Arab League, the African Union and our international partners to respond to the crisis. We call for the rapid holding of a summit between the Arab League, the African Union and the European Union.

7. Colonel Kadhafi must relinquish power immediately. His regime has lost all legitimacy and is no longer an interlocutor for the EU. The European Union has adopted restrictive measures against the country's leadership and against entities holding sizeable assets

controlled by the regime, and stands ready to adopt further sanctions.

8. The objective is for Libya to rapidly embark on an orderly transition to democracy through a broad-based dialogue. The European Union welcomes and encourages the interim transitional national council based in Benghazi, which it considers a political interlocutor. The European Union stands ready to help Libya build a constitutional state and develop the rule of law. It is ready to respond to requests from the Libyan people to assist the restart of the Libyan economy.

9. The humanitarian emergency in Libya and at its borders is reaching worrying proportions, aggravated by the massive migration movements resulting from the events. Ensuring the safe evacuation of EU citizens and other nationals wishing to flee the fighting remains a priority. The European Union and the Member States have mobilised humanitarian aid and are committed to further assist people in Libya and people crossing its borders, in close cooperation with the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs,

the International Organisation for Migration, the International Committee of the Red Cross / International Federation of Red Cross and Red Crescent Societies and non-governmental organisations. The European Union calls on all parties concerned to allow humanitarian agencies and operators access to any zone where aid is needed and stands ready to support their work. To this end, the European Union will enhance its coordination in order to provide coherent and effective use of assets and capabilities, in line with humanitarian principles.

10. The Member States most directly concerned by migratory movements require our concrete solidarity. The EU and the Member States stand ready to provide the necessary support as the situation evolves. The EU, in particular through the Frontex Hermes 2011 operation, will continue to monitor closely the impact of events on migratory movements both within and from the region. In particular, Member States are urged to provide further human and technical resources to Frontex, as required. The Commission is invited to make additional resources

available. The European Council calls for rapid agreement to be reached on the regulation enhancing the agency's capabilities.

11. The European Union will consult with the countries of the region concerned on financial and technical support to improve the control and management of borders and measures to facilitate the return of migrants to their countries of origin. The European Council invites the JHA Council to meet without delay. Furthermore, the Council, in cooperation with the Commission, is invited to submit, before the June European Council, a plan for the development of capacities to manage migration and refugee flows.

12. A comprehensive approach to migration should be promoted, consistent with the EU's Global Approach. In this context, the European Union must also respond to the challenge of mobility and promote people-to-people contacts, using such instruments as mobility partnerships with all partners sufficiently advanced in their reform processes and cooperating in the fight against human trafficking and irregular immigration. The Commission is invited

to make proposals to encourage exchanges between European and South Mediterranean youth.

13. On a more general level, existing partnership and assistance programmes will be rapidly reviewed, in close cooperation with our partners in the region, in order to better target present needs. In this context, the Commission and the High Representative should give priority to country-focused and performance-based approaches.

14. Looking to the medium term, the European Council calls for a new partnership with the region, in line with its declaration of 4 February 2011. In this context, it broadly welcomes the joint communication from the Commission and the High Representative proposing a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean, based on a differentiated and incentive-based approach bringing together all EU instruments. Such a partnership should also be founded on deeper economic integration, broader market access and political cooperation. It calls on the Council to rapidly examine the proposals contained in the communication and in particular the

conditions under which the EU's support to its partners could be enhanced. It looks forward to their forthcoming communication on the European Neighbourhood Policy.

15. It will also be crucial to provide the countries with the means to rebuild and modernise their economies. Economic development and job prospects, especially for youth, are of paramount importance to stabilise democracy. The Council should urgently agree on pending proposals on pan-Euro-Mediterranean rules of origin, and the Commission is invited to present proposals on further means to enhance trade and foreign direct investment in the region in the short, medium and long term. It is also urgent to revitalise the tourism sector in the region. The Council should rapidly consider the Commission's proposals on European Investment Bank reflows and look at

further possibilities to increase the EIB's overall financial support capacity. Coordination with other international financial institutions is important.

16. Drawing the lessons from what has happened, the European Union also stands ready to review the missions of the Union for the Mediterranean, with the objective of promoting democracy and fostering stability in the region. A new push should be given to concrete measures and projects so as to strengthen democratic institutions and freedom of expression, including unhindered access to the internet, reinforce civil societies, support the economy, reduce poverty and address social injustice.

17. The European Union is conscious of the wider political and economic impact of these events on the wider region and calls for reactivating the Middle East Peace Process.”

**G) Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana (2 February 2017)<sup>315</sup>**

“Il Governo di Riconciliazione Nazionale dello Stato di Libia e il Governo della Repubblica Italiana qui di seguito denominate "le Parti":

Sono determinati a lavorare per affrontare tutte le sfide che si ripercuotono negativamente sulla pace, la sicurezza e la stabilità nei due paesi, e nella regione del Mediterraneo in generale.

Nella consapevolezza della sensibilità dell'attuale fase di transizione in Libia, e della necessità di continuare a sostenere gli sforzi miranti alla riconciliazione nazionale, in vista di una stabilizzazione che permetta l'edificazione di uno Stato civile e democratico.

Nel riconoscere che il comune patrimonio storico e culturale e il forte legame di amicizia tra i due popoli costituiscono la base per affrontare i problemi derivanti dai continui ed elevati flussi di migranti clandestini.

Riaffermando i principi di sovranità, indipendenza, integrità territoriale e unità nazionale della Libia, nonché di non ingerenza negli affari interni.

Al fine di attuare gli accordi sottoscritti tra le Parti in merito, tra cui il Trattato di Amicizia, Partenariato e Cooperazione firmato a Bengasi il 30/08/2008, ed in particolare l'articolo 19 dello stesso Trattato, la Dichiarazione di Tripoli del 21 gennaio 2012 e altri accordi e memorandum sottoscritti in materia.

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<sup>315</sup> *Memorandum di intesa sulla cooperazione nel campo dello sviluppo, del contrasto all'immigrazione illegale, al traffico di esseri umani, al contrabbando e sul rafforzamento della sicurezza delle frontiere tra lo Stato della Libia e la Repubblica Italiana, Roma, 2 febbraio 2017, Archivio dei Trattati Internazionali online (ITRA), Ministero degli Affari Esteri e della Cooperazione Internazionale, available at: [http://itra.esteri.it/Ricerca\\_Documenti/wfrmRicerca\\_Documenti.aspx](http://itra.esteri.it/Ricerca_Documenti/wfrmRicerca_Documenti.aspx)*



Le Parti hanno preso atto dell'impegno che l'Italia ha posto per rilanciare il dialogo e la cooperazione con i Paesi africani d'importanza prioritaria per le rotte migratorie, che ha portato all'istituzione del "Fondo per l'Africa".

Tenendo conto delle iniziative che sono state messe in atto dalla parte italiana in attuazione degli accordi e dei memorandum di intesa bilaterali precedenti, nonché il sostegno assicurato alla rivoluzione del 17 febbraio.

Al fine di raggiungere soluzioni relative ad alcune questioni che influiscono negativamente sulle Parti, tra cui il fenomeno dell'immigrazione clandestina e il suo impatto, la lotta contro il terrorismo, la tratta degli esseri umani e il contrabbando di carburante.

Riaffermando la ferma determinazione di cooperare per individuare soluzioni urgenti alla questione dei migranti clandestini che attraversano la Libia per recarsi in Europa via mare, attraverso la predisposizione dei campi di accoglienza temporanei in Libia, sotto l'esclusivo controllo del Ministero dell'Interno libico, in attesa del rimpatrio o del rientro volontario nei paesi di origine, lavorando al tempo stesso affinché i paesi di origine

accettino i propri cittadini ovvero sottoscrivendo con questi paesi accordi in merito.

Riconoscendo che le misure e le iniziative intraprese per risolvere la situazione dei migranti illegali ai sensi di questo Memorandum, non devono intaccare in alcun modo il tessuto sociale libico o minacciare l'equilibrio demografico del Paese o la situazione economica e le condizioni di sicurezza dei cittadini libici.

Sottolineando l'importanza del controllo e della sicurezza dei confini libici, terrestri e marittimi, per garantire la riduzione dei flussi migratori illegali, la lotta contro il traffico di esseri umani e il contrabbando di carburante, e sottolineando altresì l'importanza di usufruire dell'esperienza delle istituzioni coinvolte nella lotta contro l'immigrazione clandestina e il controllo dei confini.

Tenuto conto degli obblighi derivanti dal diritto internazionale consuetudinario e dagli accordi che vincolano le Parti, tra cui l'adesione dell'Italia all'Unione Europea, nell'ambito degli ordinamenti vigenti nei due Paesi, le due parti confermano il desiderio di cooperare per

attuare le disposizioni e gli obiettivi di questo Memorandum, e concordano quanto segue:

**Articolo 1:**

Le Parti si impegnano a:

A) avviare iniziative di cooperazione in conformità con i programmi e le attività adottati dal Consiglio Presidenziale e dal Governo di Accordo Nazionale dello Stato della Libia, con riferimento al sostegno alle istituzioni di sicurezza e militari al fine di arginare i flussi di migranti illegali e affrontare le conseguenze da essi derivanti, in sintonia con quanto previsto dal Trattato di amicizia, partenariato e cooperazione sottoscritto tra i due paesi, e dagli accordi e memorandum d'intesa sottoscritti dalle Parti.

B) la parte italiana fornisce sostegno e finanziamento a programmi di crescita nelle regioni colpite dal fenomeno dell'immigrazione illegale, in settori diversi, quali le energie rinnovabili, le infrastrutture, la sanità, i trasporti, lo sviluppo delle risorse umane, l'insegnamento, la formazione del personale e la ricerca scientifica.

C) la parte italiana si impegna a fornire supporto tecnico e tecnologico agli organismi libici incaricati della lotta

contro l'immigrazione clandestina, e che sono rappresentati dalla guardia di frontiera e dalla guardia costiera del Ministero della Difesa, e dagli organi e dipartimenti competenti presso il Ministero dell'Interno.

**Articolo 2:**

Le Parti si impegnano altresì a intraprendere azioni nei seguenti settori:

1) completamento del sistema di controllo dei confini terrestri del sud della Libia, secondo quanto previsto dall'articolo 19 del Trattato summenzionato.

2) adeguamento e finanziamento dei centri di accoglienza summenzionati già attivi nel rispetto delle norme pertinenti, usufruendo di finanziamenti disponibili da parte italiana e di finanziamenti dell'Unione Europea. La parte italiana contribuisce, attraverso la fornitura di medicinali e attrezzature mediche per i centri sanitari di accoglienza, a soddisfare le esigenze di assistenza sanitaria dei migranti illegali, per il trattamento delle malattie trasmissibili e croniche gravi.

3) la formazione del personale libico all'interno dei centri di accoglienza summenzionati per far fronte alle condizioni dei migranti illegali,

sostenendo i centri di ricerca libici che operano in questo settore, in modo che possano contribuire all'individuazione dei metodi più adeguati per affrontare il fenomeno dell'immigrazione clandestina e la tratta degli esseri umani.

4) Le Parti collaborano per proporre, entro tre mesi dalla firma di questo memorandum, una visione di cooperazione euro-africana più completa e ampia, per eliminare le cause dell'immigrazione clandestina, al fine di sostenere i paesi d'origine dell'immigrazione nell'attuazione di progetti strategici di sviluppo, innalzare il livello dei settori di servizi migliorando così il tenore di vita e le condizioni sanitarie, e contribuire alla riduzione della povertà e della disoccupazione.

5) sostegno alle organizzazioni internazionali presenti e che operano in Libia nel campo delle migrazioni a proseguire gli sforzi mirati anche al rientro dei migranti nei propri paesi d'origine, compreso il rientro volontario.

6) avvio di programmi di sviluppo, attraverso iniziative di *job creation* adeguate, nelle regioni libiche colpite dai fenomeni dell'immigrazione illegale, traffico di esseri umani e contrabbando, in funzione di "sostituzione del reddito".

### **Articolo 3:**

Al fine di conseguire gli obiettivi di cui al presente Memorandum, le parti si impegnano a istituire un comitato misto composto da un numero di membri uguale tra le parti, per individuare le priorità d'azione, identificare strumenti di finanziamento, attuazione e monitoraggio degli impegni assunti.

### **Articolo 4:**

La parte italiana provvede al finanziamento delle iniziative menzionate in questo Memorandum o di quelle proposte dal comitato misto indicato nell'articolo precedente senza oneri aggiuntivi per il bilancio dello Stato italiano rispetto agli stanziamenti già previsti, nonché avvalendosi di fondi disponibili dall'Unione Europea, nel rispetto delle leggi in vigore nei due paesi.

### **Articolo 5:**

Le Parti si impegnano ad interpretare e applicare il presente Memorandum nel rispetto degli obblighi internazionali e degli accordi sui diritti umani di cui i due Paesi siano parte.

**Articolo 6:**

Le controversie tra le Parti relative all'interpretazione o all'applicazione del presente Memorandum saranno trattate amichevolmente per via diplomatica.

**Articolo 7:**

Il presente Memorandum d'intesa può essere modificato a richiesta di una delle Parti, con uno scambio di note, durante il periodo della sua validità.

**Articolo 8:**

Il presente Memorandum entra in vigore al momento della firma. Ha validità triennale e sarà tacitamente rinnovato alla scadenza per un periodo equivalente,

salvo notifica per iscritto di una delle due Parti contraenti, almeno tre mesi prima della scadenza del periodo di validità.

Elaborato e sottoscritto a Roma il 2 febbraio 2017 in due copie originali, ciascuna in lingua araba e italiana, tutti i testi facenti egualmente fede.

Per il Governo della Repubblica Italiana,  
Paolo Gentiloni, Presidente del  
Consiglio dei Ministri;

Per il Governo di Riconciliazione Nazionale dello Stato di Libia, Fayez Mustafa Serraj, Presidente del Consiglio Presidenziale.”