



**TECHNIUM**  
**SOCIAL SCIENCES JOURNAL**

**Vol. 24, 2021**

**A new decade  
for social changes**

[www.techniumscience.com](http://www.techniumscience.com)

ISSN 2668-7798



9 772668 779000

# Irregular Migration on the Central Mediterranean: A Critical Analysis

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**Abstract.** This paper examines the human rights situation of irregular migrants on the Central Mediterranean. For this, it investigates the content and nature of the challenges involved in this migratory phenomenon. The studies conducted on this theme led to the existence of political, legal, and institutional challenges related to the protection of fundamental rights of irregular migrants who undertake unsafe crossing of the Mediterranean from Libya to the EU southern borders. In this context, it seemed useful to question the capacity of existing norms to grasp the nuances of a constantly changing reality that puts pressure on individuals, states, and international organizations set up to protect them. It further emphasizes worrying trends of shipwrecks, with over one thousand deaths recorded in the first seven months of 2021, a number that could well underestimate the true number of fatal accidents. At the same time, the security of EU southern borders must be respected in the face of unauthorized migrant entries across the Mediterranean. However, the obstacle to the rescue activities of NGOs, as well as decisions that delay the disembarkation of migrants rescued at sea, does not guarantee the minimum reverence for fundamental human rights. This paper aims, therefore, to highlight the dangers inherent in unsafe practices of trafficking and transport of irregular migrants by the Central Mediterranean. It further draws attention to both state and non-state actors to respect the rights of irregular migrants and to save lives on the Mediterranean. Nevertheless, the fragmentation of international migration law amid the absence of a sovereign enforcing body can be seen as a limitation constraining the effectiveness of safeguarding the fundamental rights of irregular migrants on the Central Mediterranean.

**Keywords.** Central Mediterranean, Human Rights, Irregular Migration, Libya, European Union.

## 1. Introduction

Migration remains a complex phenomenon in the search for better opportunities by many people (Castles & Miller, 2009). However, the process of migration inevitably exposes the subject to potential dilemmas. Most migrants move in an irregular manner rather than the legitimate way as a result of increasing restrictions on formal migration movement (Idemudia & Boehnke, 2020). Majority of migrants seeking protection, social security, and stability in the European Union (EU) resort to unsafe practices associated with unauthorized crossing of the Central Mediterranean, particularly through Libyan shores (European Commission, 2017). In fact, Libya have been a major entry point to the EU for those fleeing conflict, poverty, and displacement from the countries of Sub-Saharan Africa, North Africa, Middle East, and South Asia (Ajayi, Ajayi, Folarin, Tiamiyu, Nnajidema & Ogunnowo, 2020). As emphasized by Dauvergne (2014: 75), the Central Mediterranean route is by far the most important gateway for irregular migrants to reach Southern Europe. However, in the last decade, thousands of

migrants have lost their lives trying to cross the Mediterranean with the aim of entering the EU (International Organisation for Migration (IOM), September 2021).

Moreover, Libya has long been a destination country for migrants from neighbouring countries for social, political, and economic reasons (Ajayi et al., 2020). In line with IOM (2017) estimates, between seven hundred thousand and one million migrants linger in Libya. With the onset of the Arab Spring, the situation of migrants who lived and worked in Libya became much more difficult. Following the fall of Libya's historical leader Gaddafi, the country has witnessed opposing government factions and rival militias claiming control of the national territory and oil resources (Carboni & Moody, 2018). The war and the subsequent interruption in the administration of public institutions and services have put most of the migrants at risk, who, often undocumented, are subjected to arbitrary arrests and detentions (United Nations High Commissioner for Refugees (UNHCR), 2018). The climate of instability that has engulfed Libya's protracted civil war, has provided fertile ground for the growth of a dark economy, based on the pillage of resources and illicit activities such as human trafficking (Tinti & Westcott, 2016). Furthermore, the intensification of hostilities, anarchy, and socio-political chaos have also facilitated the commission of human rights violations by both state and non-state actors (Ajayi, Ajayi, Folarin, Tiamiyu, Nnajidema & Ogunnowo, 2020; Clapham, 2006). The United Nations (UN) backed Government of National Accord has struggled to assert its authority as the country remains divided across political, tribal, and ideological lines (Lisa, 2019). Therefore, to elucidate the human rights situation of irregular migrants across the Central Mediterranean, section two presents the trajectories of international migration. Then, the third section reflects on the methodological approach of this paper before presenting the findings and discursions. The final section draws on the implications of irregular migration on the Central Mediterranean before concluding.

## **2. Trajectories of International Migration**

The movement of people from one country to another has been a constant feature of history (Dauvergne, 2014). However, the recent pace of international migrations has unleashed challenges that are scarcely addressed. Migration is a phenomenon resulting from a plurality of factors that affects the societies of departure, transit, and destination (Castles and Miller, 2009). Here, the variables represented by the migratory flows are the contexts of departure and that of arrival. From these contexts it is possible to identify two major factors in the choice of emigrating from one country to another. Firstly, the drive to abandon the place of origin can be identified as the push factors. Secondly, elements that attract people into the destination societies are designated as the pull factors. Among the reasons behind the push factors of international migration, particularly from Sub-Saharan Africa, are poverty, lack of work, lower income, the absence of professional prospects, overpopulation, wars, famines, environmental disasters, oppressive regimes, and internal conflicts. These push factors usually trigger the search for both protection and economic security (Flahaux & De Haas, 2016).

Furthermore, the pull factors that make destination societies more attractive to potential migrants includes the need for labour, the possibility of economic development, civil and political liberties, religious freedom, security, and the provision of social services (Castles & Miller, 2009: 22). These elements can be real or imagined (Ibid). The potential migrant evaluates these options and undertakes a cost-benefit analysis, deciding whether to migrate and to which country to emigrate. Hence, migration occurs when the expected net returns of migrating have a positive value to the individual migrant. A parallel push to international migration is caused by globalization in which national borders appear to have lost their significance (Mathias & De Haas, 2014; Reubens, 1983). Globalization has widened, deepened,

and speeded up worldwide interconnectedness in all aspects of contemporary social life (Reubens, 1983). The spread of ideas, information, and technology seems to influence the voluntary mobility of people to destination societies with the objective of improving living conditions (Borjas, 1989). The cultural, economic, political, and linguistic exchanges between people contribute to the creation of transnational social spaces of interaction which push people in the origin states to seek better economic opportunities in receiving societies (Borjas, 1989; Reubens, 1983). Hence, globalization has intensified migrant networks and transnational ties by making it simpler to communicate with family and friends between receiving and sending societies, which have also boosted irregular migration (Czaika & De Haas, 2014). In addition, while most destination societies have observed significant slowdowns in the pace of demographic growth, the origin states have witnessed the opposite (Aaron, April 2021). This demographic imbalance has also been a major driving force of international migration. Therefore, migration has become much more complex in terms of backgrounds, origin states, and destinations of migrants (Arango, 2000). Each epoch offers us cases of migrations, linked to the contingencies of the period. A change in the interdependence circuit is likely to have repercussions on the other.

### ***2.1. Defining the term Migrant***

The term migrant has no formal legal definition in an international treaty. According to the recommendations of the UN Department of Economic and Social Affairs on migration statistics (UN DESA, 1998), every person who changes the country of residence is an international migrant. From this definition, those travelling abroad for purposes of recreation, holiday, business, medical treatment, or religious pilgrimage, would not be considered migrants because this does not entail a change of the country of residence (Ibid). In contrast, IOM (2019) describes a migrant as a neutral term to a person who moves away from the habitual place of residence, whether within a country or across an international border, regardless of whether the movement is voluntary or involuntary, temporarily, or permanently regardless of the reason for migration. From this perspective, migrants are entitled to human rights irrespective of their immigration status. States bear the primary responsibility to protect migrants within their territories. Therefore, the management of immigration by states must be exercised in full respect of international commitments and respect for fundamental rights.

### ***2.2. Irregular Migration***

Among the concepts that has received much attention in migration discourse is the issue of irregular migration (Sanchez, 2017). Irregular migration involves the movement of persons outside the laws, or regulations, governing the entry into or exit from the country of origin, transit, or destination (Piotrowicz, 2014). One of the reasons for the centrality of irregular migration is related to the adoption of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime (UN General Assembly, 2000). While the Protocol envisages effective instruments to combat and prevent irregular migration, restrictive migration policies may result in exclusion, human rights violations against migrants and a doubling of migrant deaths (Atak & Crepeau, 2014). Accordingly, each effort to hermetically seal a nation's borders against irregular migration increases the activities of migrant smugglers and the objective remains elusive (Dauvergne, 2014). Furthermore, irregular migration is sometimes regarded by most destination societies as a threat to national sovereignty and public security (Piotrowicz, 2014). The effect of these tensions has renewed the determination to keep out those would-be migrants. The drive towards restriction and exclusion encounters countervailing trends of immigrants' inclusion and

integration in destination states. Yet, active recruitment policies have disappeared and those that remain mostly favour highly skilled workers. Hence, the percentage of people who are allowed to enter destination states is infinitely lower than the percentage of potential migrants. This has invariably increased irregular migration. Prospective migrants thus find themselves exploited by migrant smugglers who often violate their human rights (Clapham, 2006).

The systematic failure of governments to redress socio-political challenges in most sending states, prompt potential migrants to cross international borders without complying with applicable requirements for entry and exit of destination societies (Castles & Miller, 2009). As a result, the territorial distinctness of receiving states has been infiltrated by profit-seeking smugglers who take advantage of the desire of people to move even when human safety is not guaranteed (Salt & Stein, 1997: 470). This solidifies the argument that migrant smugglers facilitate the movement of irregular migrants for financial benefit (Dauvergne, 2014). On the contrary, assisting a migrant to evade immigration regulation is prohibited under both national and international migration rules. Practically, it is unlawful to facilitate the entry of a person into a state of which that individual is not a national or a permanent resident (UN General Assembly, 2000). Nevertheless, migrant smugglers capitalize on Libya's unstable political situation and fragmented control over its territory and borders to obtain, directly or indirectly, a financial or other material benefit through the smuggling of migrants. In essence, the smuggling of migrants across the Mediterranean is a human emergency that requires strategic policies and mobilization to prevent further loss of life (Achilli, 2016). Conversely, several national, regional, and international instruments aimed at addressing irregular migration and related human rights violations are yet to be materialized.

### **3. Methods**

This paper emanates from a thorough systematic review of the evidence available in scientific literature. In addition, it adapts a non-statistical approach to analyse international documents and reports by UN Agencies and Non-Governmental Organizations (NGOs) to grasp deeper meaning of irregular migration on the Central Mediterranean. By documents, I mean data on a social reality that exists independently of the researcher's action (Bryman, 2016). Documents from Prior's (2011: 8) perspective carry content, words, images, plans, ideas, and patterns that have meaning, and their nature is defined by their use in social practices. Social practices according to Fairclough (1992: 66) have various orientations such as political, ideological, or a mode of controlling, retention, and exclusion of others. Therefore, qualitative data must be questioned and analysed to make it scientifically produced knowledge (Bryman, 2016: 584). In addition, the analysis of qualitative data should lead to a comprehensive understanding of the information (Fairclough, 1992: 231). This is done by studying the material in its entirety. Hence, the information obtained is not affected by the researcher's perspectives. This helps to avoid possible distortions in the analysis and dissemination of the findings.

### **4. Findings and Discussion**

According to the European Commission (2017: 2), Libya represents the departure point for ninety percent of those seeking to travel to the EU. Since 2014, about ninety percent of migrants and asylum seekers who arrived in the EU across the Central Mediterranean passed through Libya (Ibid). Furthermore, more than two million five hundred thousand migrants have crossed the Mediterranean in an unofficial manner since the 1970s, with the largest number reported on the Central Mediterranean route (Fargues, 2017). Within the same period, many lives have been lost on the same stretch of the sea. In the first seven months of 2021, over one thousand migrants

have died trying to reach the EU by the Mediterranean (IOM, September 2021). Smuggling networks operating across North Africa and Sub-Saharan Africa aid migrants by road through Libya's border with Niger, Chad, and Algeria. From there, most of the migrants make their way to the country's coastal areas where they engage in unauthorized crossing of the Mediterranean into the EU (Ajayi, Ajayi, Folarin, Tiamiyu, Nnajidema & Ogunnowo, 2020). However, the Mediterranean has become the scene of major operations under the aegis of the Frontex Agency and NGOs, deploying ships and aircrafts to intercept and reduce deaths in that stretch of the sea (Hansen, 2014). According to the UNHCR and IOM estimates, over thirteen thousand migrants were intercepted on the Mediterranean and repatriated to Libya in the first six months of 2021 (UNHCR, June 2021). This data in the opinion of the UNHCR is worrying because most migrants who are brought back to Libya may be subjected to human rights violations (UNHCR, 2018). These events have triggered an array of political, legal, and institutional challenges. According to the IOM, there are approximately five hundred and seventy thousand migrants (IOM, 2020), two hundred and forty-five thousand internally displaced persons (UNHCR, May 2021), and four hundred and forty-five thousand returnees in Libya (IOM, 2019). Of these, over forty-three thousand are refugees and asylum seekers registered by the UNHCR (May 2021). In reference to the right to asylum and refugee protection, Libya has not ratified the Geneva Convention relating to the status of refugees and its supplementary protocols (UNHCR, 1951, 1967). Furthermore, there is no asylum legislation or established asylum procedures in the country. Hence, there is a lack of distinction between asylum seekers, refugees, migrants and victims of trafficking. Pursuant to Libyan legislation, once migrants are intercepted at sea, they may be detained pending expulsion (UNHCR, 2018).

#### ***4.1. Political Challenges to the Protection of Irregular Migrants***

One of the most outstanding achievements of the EU has been the creation of free movement of people among its member societies. The free movement of people is backed by the EU common immigration approach aimed at ensuring security, territorial integrity and efficient management of migration flows. As observed, the desperate approach by migrants to enter the EU in an unauthorized fashion have conditioned the gradual hardening of lawful migratory flows as national political discourse remains adamant towards accepting irregular migrants. This provision has been reinforced by the EU Commission's Action Plan designed to counter and prevent the smuggling and exploitation of migrants by criminal networks to reduce irregular migration (European Commission, 2015). The preoccupation with migration management has also been fuelled by the electoral gains of far-right parties across Europe on anti-immigration platforms (Wodak, 2015: 44). Although the control discourse has several layers and is complex in its production and formation, it expresses a core message that irregular migration into the EU must be prevented, controlled, and expelled. The prevalence of this discourse appears to be essential to the EU political divide to construct an image of undesirability and social alarm in respect to the phenomenon of irregular migration across the Mediterranean. These portrayals function to create a sense of fear, which justify the requirement to implement restrictive immigration policies to exclude some irregular migrants who may qualify for protection under the EU and international human rights instruments.

Furthermore, irregular migrants are frequently mentioned in conjunction with a range of unlawful behaviour, such as fraud, prostitution, and human trafficking (Piotrowicz, 2014: 134). The involvement of facilitators in the irregular migration discourse to evade EU borders, is widely viewed as presenting an additional threat. On the contrary, there is often no obvious source that is easy to target these smugglers who pose immigration dichotomies to both destination and transit societies. The direct threat of this migratory phenomenon has been

exacerbated by the relative weakness of Libya's political institutionalization. The absence of a unified political structure in Libya seemed to have undermined the country's ability to promote social and political stability. The situation is further aggravated by a risk of erosion of the rule of law and less respect for fundamental rights. As specified, the internationally recognized Libyan government in Tripoli, has not restored its authority over the nation's territory (Human Rights Watch, 2021). In some parts of Libya, armed groups have assumed the function of enforcing the law with the intention of achieving political legitimacy (Ibid). The apparent lack of control and insecurity in Libya raises questions about the state's ability to honour international commitments including upholding the rights of irregular migrants. Inversely, the more stringent the measures to counteract irregular migration, the larger the market that can be created for human smugglers. In fact, migration enforcement and control policies give credence to reliance on alternative underground routes to overcome mobility restrictions (Sanchez, 2017: 21). In reality, destination societies usually structure migration policies according to their traditionally defined interest against what they regard as threats to their security rather than the root causes of the migrant crisis. The underlying forces of ethnic conflict, deepening economic inequality, and political repression in most origin societies are hardly addressed (Wallace, 2014). As Castles and Miller (2009) points out, migrants come from countries where the risk of inhuman and degrading treatment may be high.

#### **4.2. Legal Challenges to the Fundamental Rights of Irregular Migrants**

Under the precepts of international law, states have an obligation to respect the rights of those who are physically within their territories, including migrants, regardless of their legal status (Claude & Weston, 2006). Thus, entering a country in violation of its immigration laws does not deprive migrants of their fundamental rights. These rights are not limited to citizens, and must be available to all individuals, irrespective of nationality or statelessness including asylum seekers and refugees. However, irregular migrants are frequently marginalized from human rights protection because of the lack of homogeneity and fragmentation of international law. The fundamental rights applicable to irregular migrants may be found in a variety of regional and international legal instruments. These include both hard and soft law addressing human rights and specific issues relevant to international migration. The soft law specifically resolutions, international norms, principles, and procedures are non-binding instruments, while the hard law primarily treaties, and conventions are binding on signatory states (Alston & Goodman, 2013; Chetail, 2014; Crawford, 2012). Moreover, the UN Convention on the Law of the Sea (UNCLOS) establishes a global regime of laws and regulations of the oceans and seas (UN General Assembly, December 1982). It defines guidelines and rules for the uses of the oceans and seas. In addition, it obliges both the Master of a ship and coastal states to rescue persons in distress at sea (Ibid). Relatedly, both the Convention for the Safety of Life at Sea (SOLAS) and the Convention on Maritime Search and Rescue (SAR) establish obligations, procedures and organizational methods that contracting states must follow to ensure search and rescue of distress persons at sea (IMO, November 1974, April 1979). The SAR convention places an obligation on state parties to provide medical care and other needs to distress persons at sea and deliver them to a place of safety.

Conversely, the Geneva Convention on the Status of Refugees establishes the principle of non-refoulement by prohibiting refugees and asylum-seekers from being expelled or returned to a territory where their life or freedom would be in danger on account of their race, religion, nationality, membership of a particular social group or political opinion (UN General Assembly July 1951). This principle forms an integral part of international human rights law and is a customary international law of which no derogation is permissible. The prohibition of

refoulement applies to all forms of forced transfer, including deportation, expulsion, extradition and informal transfer. It is possible to derogate from this principle only if, on the basis of serious reasons, a refugee is considered a danger to the security of the country that the person resides. Though the Refugee Convention was not conceived to relieve the suffering of irregular migrants, but those who lacked the protection of their government, the UNHCR considers that refoulement of migrants on the Central Mediterranean to Libya exposes them to the danger of human rights violations (UNHCR, 2018). In addition, findings indicate that most irregular migrants lived on the margins of society, in conditions of extreme vulnerability (Ibid).

While states are entitled to regulate irregular migration under their undeniable right to control foreigners' entry into and residence in their country, this right must be exercised in accordance with fundamental values in democratic societies. Equally, in an attempt to control state borders during unforeseen crisis situations, states are required to enable effective protection to vulnerable members of society, including irregular migrants (FRA & ECtHR, 2014). In fact, irregular migrants present in a state territory are holders of fundamental rights, that is, of those rights and freedoms that concern the protection of the essential needs of the human person. This principle assumes a universalistic dimension that exceeds the limit of territoriality. However, in recent years, many NGOs have withdrawn their search activities on the Mediterranean due to the uncertain legal framework related to the embarkation of migrants rescued at sea. As a result, rescue interventions take place after sightings carried out by satellites and aircrafts monitoring activities on the Mediterranean. Rescuing the distress at sea applies to all persons irrespective of nationality, legal status, and the activity in which the person is engaged. Before proceeding with any form of expulsion or refoulement, states are required to ensure that those facing repatriation are not or will not be at risk of undergoing treatments prohibited by international conventions. Hence, any deprivation of liberty should be aimed at protecting the migrants from arbitrariness (Claude & Weston, 2006; FRA & ECtHR, 2014).

#### ***4.3. Institutional Challenges to the Protection of Irregular Migrants***

The protection of migrants within the UN human rights system is primarily the work of the Human Rights Council, which was created in 2006 as a successor to the Commission on Human Rights (Alston and Goodman, 2013: 685). The functions of the Council include responding to violations, setting human rights standards, dealing with complaints and monitoring states compliance with their international obligations. The Council responds to violations through fact-finding by its expert Special Rapporteurs and considers individual complaints, for example, through the Working Group on Arbitrary Detention (Ibid: 685). Furthermore, the Treaty-based bodies such as the Human Rights Committee, monitor compliance by contracting states under those treaties. Other treaty bodies including the Committee on the Elimination of Racial Discrimination, Committee on the Rights of the Child and the Committee Against Torture also affirm the inclusion of migrants and non-citizens, irrespective of the immigration status within fundamental protections conferred by these treaties (Alston and Goodman, 2013: 686). While the protection of migrants' rights has indeed been a major feature of the international human rights regime, the system in place to secure their realization is not without problems. For irregular migrants, the gap between the rights they enjoy under international human rights law and the realities they face remain acute. As highlighted, irregular migrants are inherently vulnerable to exploitation and abuse because of the dispersive and uneven nature of human rights law in protecting the rights of migrants. The rules governing migrant protection are not articulated in a coherent, clear, and accessible manner. Different treaties and regimes for non-nationals, refugees, stateless persons, smuggled, and trafficked migrants tend to operate in

parallel and in isolation from each other. This convergence between the different tracks makes the protection for irregular migrants challenging.

The Universal Declaration of Human Rights (UDHR) promoted three fundamental pillars, specifically: dignity, freedom, and equality (UN General Assembly, December 1948). Dignity protects the values shared by all persons irrespective of differences in religion, ethnicity, or citizenship status. Freedom pertains to the promotion of free expression, opinion, and speech, as well religion and belief. Equality correlates to non-discrimination based on race, gender, or sexual orientation, as well as the promotion of political, social, and economic participation of all. Therefore, states are part of the institutional structures of international law who possess political power to protect fundamental human rights in ways that do not violate those same rights. However, as specified, Libya is not a signatory to the Refugee Convention, which makes compliance with the regime's norms arduous. Conversely, most EU member states are parties to the Refugee Convention, which articulates respect for migrant rights and freedoms. While legal immigration can be managed, in terms of people allowed to enter, the smuggling of irregular migrants poses an entirely different set of challenges to both destination and transit states institutional structures (Hansen, 2014) Relatedly, within the EU, there are fundamental differences on burden sharing and solidarity over how many migrants the member states will accept. The Covid-19 pandemic has led to a further hardening of positions on the question of migrants rescued on the Mediterranean.

## **5. Implications**

The tightening of the EU's Southern frontier, and other measures aimed at tackling irregular migration have had a negative repercussion on the fundamental rights of migrants who access the Central Mediterranean route. Some of the direct consequences include a rise in migrant death on the Mediterranean, inhuman and degrading treatment, arbitrary detention, exploitation, deprivation of liberty, and psychological traumas (Lyon, 2014: 174; UNHCR, 2018). In 2017, IOM surveys of over four thousand seven hundred migrants in Italy of which seven hundred and twenty-five were children between the ages of fourteen and seventeen years who had crossed the Mediterranean into Italy showed that, seventy-seven percent of the migrants reported to have been detained against their will by armed groups, while seventy-nine percent reported that they had experienced torture and other forms of physical violence. The survey further noted that, thirty-eight percent of the migrants reported to have been forced to work or perform activities against their will. Again, thirty-one percent of the migrants who were women also reported to have been forced into sexual work and prostitution. These findings resonate African Commission report of a continuous violation of migrants' fundamental rights in Libya including arbitrary detentions, slavery, and human trafficking (African Commission, 2017). Accordingly, the African Commission on Human and Peoples' Rights noted with concern, cases of trafficking in persons and slavery targeting African migrant populations who have been auctioned in Libyan markets (Ibid). The statement further noted that migrants are regularly sold by smugglers, in what appears to be a recurrent situation. It also highlights the situation of slavery in which many migrants find themselves while transiting through Libya. Such acts according to the Commission constitute serious violation of Article 2, non-discrimination, Article 3, prohibition of torture and cruel, inhuman, and degrading treatment, and Article 12, the right to freedom of movement under the African Charter to which Libya is a signatory (Ibid).

Therefore, the disembarkation of intercepted migrants on the Mediterranean back to the transit state seems to disregard the non-refoulement principle. As revealed, the UN Refugee Agency does not consider Libya as qualified for the purpose of disembarkation following rescue at sea (UNHCR, 2008). Guaranteeing migrants rights seems not to be the prime purpose of the

migration control discourse. Part of this unpredictability can certainly be placed on the whims of international law enforcement (Nessel, 2014: 344). The absence of a sovereign enforcing body can be seen as one limitation constraining the effectiveness of migrants' rights. The UN treaty monitoring committees for various human rights instruments, which in principle have power to officially reprimand states for non-compliance have been less effective in preventing rights violations against irregular migrants. Regular admonitions by UNHCR on the importance of upholding fundamental rights of migrants have not changed this approach (UNHCR, 2018). In fact, the sanctions that can be brought to bear may be limited and could risk provoking or causing further harm to the very migrants whose rights are being violated (Nessel, 2014).

## 6. Conclusion

It is widely acclaimed that states have the right to permit or deny the entry of non-nationals into their territory, subject to various treaties and other customary international laws. However, state political, legal, and institutional discourse has been framed by the need to look inward in terms of the protection of its citizens and deterring unsanctioned entries. Yet, the migrant crisis on the Mediterranean, lends credence to the assertion that an increasing proportion of irregular migrants continue to lose their lives while others face human rights violations. Nevertheless, the normative interpretation of these challenges tends to portray irregular migrants as victims of smugglers, rather than the complex international migratory phenomenon. Human rights issues arise because some state and non-state actors may be unwilling or unable to enforce the measures necessary to protect the fundamental rights of irregular migrants. Conversely, the interest of all stakeholders in discouraging unauthorized crossing of the Mediterranean must be respected because the practice threatens security and immigration rules of destination societies. Finally, the stability of Libya stands out to stem the exploitation of migrants by criminal organizations and the apparent disregard for fundamental rights and freedoms.

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