THE MANAGEMENT OF POST-GADDAFI TRANS-SAHARAN MIGRANT CRISIS BY THE EUROPEAN UNION

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DECLARATION

I hereby declare that, apart from the sources cited in this work which are duly acknowledged, this study is the result of an original research conducted under the supervision of Dr. Ken Ahorsu and that this research has not been presented either in part or in whole for any other purpose.

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Date: .................................  
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DEDICATION

This work is dedicated to my maker for how far he has brought me on this grace-full journey. Also to my parents, for their relentless support every step of the way.
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My profound gratitude goes to Dr. Ken Ahorsu for his supervision and assistance during the entire duration of this study.

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LIST OF ACRONYMS

ACP - African, Caribbean and Pacific countries
CEAS - Common European Asylum System
CMR - Central Mediterranean Route
FRONTEX- Frontières Extérieures (External borders)
GAMM – Global Approach to Migration and Mobility
EAM- European Agenda on Migration
EASO - European Asylum Support Office
EBCG - European Border and Coast Guard Agency
ECOWAS – Economic Community of West African States
ECU- European Currency Unit
ECtHR- European Court of Human Rights
EDF- European Development Fund
EEC - European Economic Community
EMP - Euro- Mediterranean Partnership
ENP – European Neighborhood Policy
EUTF- European Union Trust Fund
EUROPEAN Council Conclusions
IDP- Internally Displaced Person
IOM- International Organization for Migration
MHub- North Africa Mixed Migration Hub
MoU- Memorandum of Understanding
MPF- Migration Partnership Framework
ODA- Overseas Development Assistance
SAR- Search and Rescue operation
TCN- Third country national
TFEU- Treaty on the Functioning of the European Union
WWII- Second World War
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ABSTRACT

The Libyan Migrant Crisis has brought to the limelight the dilemma of Trans-Saharan migrants seeking better lives in Europe by making the treacherous journey through the Sahara and across the Mediterranean. This situation has also brought to the fore Europe’s determination to address irregular migration by outsourcing migration management to Libya and other third countries. The EU abdicates its responsibilities to address the crisis through this form of externalization, especially with Libya, a state virtually incapable of carrying out such a task. The study outlines the post-Gaddafi era policies to include return agreements, rescue missions at sea, partnership framework with third countries among others. The analysis argues that the policies the European Union has employed in the Mediterranean are inhuman, cruel and appalling, as they have resulted in the creation of detention centers, a thriving human trafficking industry, and the violation of migrants’ rights in general. Its findings include the fact that the large flows of African migrants to Europe present a quandary for the EU and its adoption of hardline approach to immigration was due to the Arab Spring and the lawlessness that followed Gaddafi’s demise. Additionally, the study finds that in recent times, the decreasing number of arrivals at European ports is because more migrants are dying at sea. The study recommends that the EU must accept migration as a phenomenon resulting from an increasingly globalized world and must seek to accrue benefits through a holistic approach – involving member states, transit and origin states. It further tasks African states to be more proactive in managing irregular migration.
CHAPTER ONE

INTRODUCTION

1.0 Background to the Research Problem
Migration has become a determining global issue of the 21st Century. Present-day mobility of people is higher than ever before in modern history. Migration refers to “the temporary or permanent move of individuals or groups of people from one geographic location to another.” Migrants are broadly categorized into regular and irregular migrants. The determining factors that shape migration as a key component of the international relations discipline are, first, the concern about how to safeguard the human rights of migrants and the second deals with the dysfunctional aspects of migration. Migration is conceptualized as promoting transnational security threats to destination countries and thus promotes a plethora of dangers like health threats, human trafficking, drug trafficking and terrorism.

Critical security studies literature has set the stage for debates on the terrorism- migration nexus. One camp argues that present-day migration developments and management have been shaped by the terror attacks of 9/11. The crumbling of the Twin Towers by short-term migrants, from the Middle East, marked a new security agenda through which the EU would shape its migration policies. Castles et al propose that the “2001 attacks on the World Trade Center in New York and the Pentagon in Washington DC have given rise to perceptions that threats to security of states are somehow linked to international migration and to the problems of living together in one society for culturally and socially diverse ethnic groups.”

The increasingly rising numbers of migrants can be attributed to globalization; which Czaika and Haas define as “the widening, deepening and speeding up of worldwide interconnectedness in all aspects of contemporary social life.” Contemporary globalization is primarily shaped by technological revolutions (e.g. spread of cellular phones, improved transport forms, live international news coverage etc.) that have reduced the cost of travel and communication worldwide. According to Simmons, these technologies have also led to a compression of time and
space such that geographically distant places are physically accessible within hours or a day of travel.\(^5\)

There are diverse reasons that explain why people migrate and these include tourism, disparities in income, forced migration due to political oppression, health, adventure, education, social ties, work opportunities and natural disasters. In addition, there is the idea that migration is caused by development as economic and progress in education make people seek better opportunities elsewhere. The migration systems theory explains that migratory movements occur because of the existence of prior links between destination and countries of origin based on colonization, political influence, trade, investment or cultural ties.\(^6\)

Until the 1970s, most migrants were from developed world into the developing countries or newfound countries like Australia, United States of America (USA), New Zealand and Canada. Castles postulates that rapid growth in migration during this period was because of European nation-state formation, colonialism and industrialization. The USA for instance economic growth and nation building relied heavily on immigration.\(^7\) Modern-day migration trends and structures have transformed, as majority of migrants are persons from developing countries, especially those from countries with poor public health delivery and poor economic development. According to Castles, the post-Second World War situation saw an enlargement in the volume and scope of international migration as there was significant labour migration to Western Europe, North America and Oceania from less-developed areas.\(^8\)

Sub-Saharan Africa has been one of the main sources of migrants to the developed world. The region has faced diverse problems ranging from squalor, extreme poverty, unemployment, the rule of oppressive governments, to the rise of terror groups and civil wars. Alongside this complex web of forces came the sudden wave of technology, which has made the “world smaller and dreams more concrete.” \(^9\) Technology fed younger generations living in the region with pictures that portrayed the improved lifestyles of friends and family living in Europe. In addition, the better remittance packages from these individuals abroad showed that life was much better on the other side of the divide.\(^10\) For these reasons, the desire for greener pastures and a better chance of survival is what has pushed migration through the northern territories of Africa to Europe. Today,
thousands of individuals from sub-Sahara Africa are trooping towards one exit, Libya; with the hopes of crossing the Mediterranean to destination countries for like Italy, Greece, Spain, Great Britain and Germany. The Libyan gateway is one of the main ways out by sea – yet it is a very unsure one.

Since the 1990’s, EU states have responded to migration flows by restricting immigration policies and by intensifying border controls. Haas explains that Europe has “externalized border controls to include the Maghreb countries to clamp down on irregular migration and to readmit irregular migrants in exchange for development aid, financial support for border controls, military equipment and limited number of temporary work permits for immigrants.” North African countries are some of Africa’s most developed economies and their geographical locations make them natural partners for the EU. For this reason, Gaddafi’s Libya served as a gatekeeper for Europe. He promised that for a sizable compensation from European states his country would stop the throngs of Africans that migrated to Europe. In 2008, the EU agreed to pay Gaddafi $500 million in exchange for this service; while Italy redoubled this deal. The Italian deal culminated in the adoption of the Treaty on Friendship, Partnership and Cooperation (or the Benghazi Agreement) under which Libya was to receive $5 billion over a period of 20 years. This amount was to ensure that Libya would act as a warden-state and served as reparations for the wrongs of Italian colonization.

To analyze the Migrant Crisis in Libya, there is the need to appreciate the events of the Libyan Revolution and the instability it generated due to the power vacuum created after the Libyan Head of State, Muammar Gaddafi, was overthrown. The Libyan Revolution or the first Libyan Civil War describes the armed conflict fought between forces loyal to Colonel Muammar Gaddafi against those who sought to overthrow his government. The 2011 civil war broke out in the broader context of the Arab Spring, “a series of antigovernment uprisings affecting Arab countries of North Africa and the Middle East beginning in 2010”.

The reasons why Libya has become a transit state for migration include the aforementioned agreement between Gaddafi and Europe and his overthrow during the revolution, which caused the opening of floodgates for irregular migration. Additionally, there is the suspicion amongst
Libyan nationals that many of the migrants from sub-Saharan Africa fought in support of Gaddafi. This suspicion has further intensified the plight of migrants as they are enslaved, killed, murdered for body parts and most female migrants are sexually harassed. The devastating state of the migrant condition in Libya has caused outrage in the international arena. When the migrants manage to embark on the final stage of the journey, the crossing of the Mediterranean, the Libyan Coast Guard intercepts their journey and they face indefinite detention at centers, where their human rights are undermined. Many of those held in the centers are prone to torture, forced labour, rape, exploitation, severe physical violence, starvation and other atrocities via the activities of traffickers or smugglers in the course of their journey through Libya.  

To enable them embark on the journey the migrants hire the services of smugglers who load them into crowded trucks that transport the migrants to Libya and then onto flimsy ships that make the journey from Sub-Saharan Africa through Libya to Europe even more treacherous. Migrant trafficking is a widespread phenomenon and a multibillion-dollar industry. There exist criminal networks that illegally support the various stages of the journey. A recent study by the University of Rome confirms that 70% of migrants who travel from Libya to Italy have been victims of human trafficking. These human traffickers help with the falsifying of documents, passage and bribing of public officials. They indulge in such activities because there have been few or other economic opportunities in the region since the toppling of Gaddafi. For many of these smugglers facilitating the passage of migrants has become a means of earning income.

The overthrow of Gaddafi created lawlessness as throngs of militias carved out their own spheres of influence; and thereby, undermined the authority of the central government. This opened the floodgates for migrants to cross into Europe. The Libyan natives claimed that during the conflict African migrants fought on the side of the government. The lawlessness that followed the revolution in 2011 allowed smuggling networks to thrive and created a lucrative market, purposely created for human trading that wields characteristics of the historical slave trade. The country’s 1,100-mile coastline is virtually an open border without any control and monitoring from state security forces. This situation has allowed traffickers to fill the void and regulate the exodus of dinghies and boats leaving the Libyan coast.
Europe as a continent has reacted to the crisis in ways that secure its national and regional interests. These include: the closure of its borders, the deployment of naval forces for border patrol, supporting the Libyan Coast Guard seize migrant boats and the creation of detention centers in third countries (Libya). Another policy Europe employs to address migration is the use of development aid to third countries in Africa to help stem migration flows (e.g. Libya and Niger) and countries of origin found mainly in West Africa and the Horn of Africa. The study looks at how effective these policies have been and how they have contributed to the creation of slavery and the abuse of Human Rights in Libya.

1.1 Statement of the Research Problem

The migrant crisis in Libya is one of a great dilemma facing the world. In the light of international norms and conventions bordering on the protection of the human rights of migrants, the Libyan migrant crisis and the attendant European policies are often seen to be undermining the rights of the migrants. Grigonis states, “Despite the fact that EU was acknowledged to ensure a human rights protection level equivalent to the one ensured under European Convention on Human Rights (ECHR), it is doubtful if the EU was able to ensure human rights in time of recent migrant crisis.” On the other hand, the discourse in the destination countries perceive the migrants as a threat and destabilizing force, which worsens unemployment, stretches social benefits, leads to xenophobia and terrorism. Schmid argues that both migration and terrorism are potential drivers of international conflict and an intersection exists between the two phenomena, thus developed countries experiencing migration flows encourage the use of migration control as an instrument for the control of terrorism. From the above it is obvious there is a dilemma of protecting migrant’s rights and ensuring the security of European society. This informs European policies in managing the Trans-Saharan migrant crisis, with a focus on the plight of migrants after Gaddafi’s demise, and the effectiveness of these policies in managing the crisis. Based upon this debate, the research seeks to know whether European policies have been effective in addressing or somewhat responsible for fueling the migrant crisis in Libya.
1.2 Research Questions

1) Why are irregular migrants voyaging to Europe?
2) How has the Libyan Revolution and its aftermath affected the migrant crisis?
3) What informs Europe’s Foreign Policy towards migrants?

1.3 Objectives of the Study

1) To review irregular migration from Africa to Europe.
2) To review European policies of managing migrants since the 1970s.
3) To examine the impact of the Libyan Revolution and its aftermath on African migration to Europe.
4) To recommend solutions to the crisis.

1.4 Scope of the Study

For many years, African migrants from sub-Saharan Africa have used North African territories in their quest to seek for greener pastures in Europe. The study will focus on the post-Gaddafi migrant crisis from 2011 to 2018 and European migration policies employed both as a regional bloc and as individual countries. This period is chosen for the study because 2011 marks the year Gaddafi died. Gaddafi served as the gatekeeper for Europe who controlled the movement of migrants but his death and the subsequent lawlessness in the Libyan state generally worsened the plight of migrants attempting to use the Central Mediterranean route.

1.5 Rationale

The migrant crisis in Libya has emerged as a dent on the conscience of humanity. This massive wave of migration through North Africa only came to an unquestionable height after Gaddafi’s demise. In November 2017, CNN released footage that revealed that there was some form of modern-day slave trade ongoing in Libya’s capital, Tripoli. Human Traffickers were selling both men and women off for as little as $100. The video, which has generated global uproar, showed African migrants from the sub-Saharan region auctioned at black market exchange rates. The
import of this study is to assess the issues and European Union policies concerning the migrant crisis critically and objectively. It is hoped that the findings of this study will offer solutions to this dilemma.

1.6 Hypothesis

European policies in managing the Libyan migrant crisis have been more detrimental than helpful in protecting the rights of migrants and stemming the tide of migrant flow.

1.7 Theoretical Framework

The study adopts the rational actor model as the theoretical framework to analyze the migrant crisis and EU member states response to the issue. The rational actor model is a realist perspective of foreign policy level of analysis, which falls under the umbrella of Rational Choice Theory. Rationality is a principle under the positivist tradition of social sciences regularly used in the study of politics and can be used to make predictive assessments. After the end of WWII, the realist viewpoint dominated foreign policy decision making. Realists assume that states are the relevant unit of analysis. It also adopts inter-state relations, by way of various state foreign policies, as the context for analysis. Foreign policies are the guidelines and programs governments use to shape and determine their actions on the international front. According to Pevehouse and Goldstein, the foreign policy process is one of decision-making. Decision-making is a steering process whereby governments take action to change the world and receive information (feedback) from the world, through monitoring, in order to evaluate the effects of the actions taken. These evaluations inform the next round of actions the state will take.  

Rationality is the precondition for the rational actor model. Rational behaviour is purposeful behavior whereby purposely-designed choices target outcomes consistent with the goals of the actor. This is instrumental rationality where the rational actor ensures that they choose the means that help them obtain the most desired ends. The realists believe that the decision-makers that practice governance behave as rational actors in an effort to influence others. Thus, its actions will advance its interests at all costs. The liberals, contrarily, believe that the rational actor is capable of relinquishing its short-term interest in order to further the long-term well-being of the community to which it belongs. The Rational Actor Model assumes that the state is a unitary actor
that exercises power as a single entity that ponders on it actions coherently. In addition, the rational actor makes choices it believes will lead to the best feasible outcomes as defined by their personal values and/or preferences. According to Bueno de Mesquita, the interest of the decision-makers may or may not include enhancing the national interest. The rational model requires that the actor clarify the goals in the situation, order them by importance, list the alternatives for achieving the goals, investigate the consequences of each alternative and then choose the alternative that best achieves the desired goal.

The criticisms leveled against the rational actor model include the fact that it neglects an array of political variables that include political decisions, emotions, non-political decisions, bureaucratic procedures, continuation of previous policy and sheer accident. The framework is said to be flawed because the actors may not know adequately well about the environment in which they act and may be acting under stress or mistaken assumptions. In the same vein, as humans we are imperfect and may work under imperfect conditions that promote uncertainty, time and resource constraints. These elements create a situation of bounded rationality during the decision-making process. Furthermore, there is the principle-agent problem or the organizational critique. This usually occurs when the decision-maker delegates the implementation of a policy, regulation or rule to an agent. In the executing of the phenomenon there is the likelihood of the agent diverging from the principal’s expected norm. The agent may sabotage the goals of the principal or simply execute the phenomenon in ways that thwart the intended goal.

Despite these criticisms, the rational actor model is apt for the analysis of European foreign policy decision making. This is because inherent in the approach is the fact that ‘national’ security is the dominant factor motivating the actions of the European states involved in managing the crisis. Their coercive capabilities and their individual preferences play a role in decision-making processes. Under this approach, the maximization of utility is the ultimate aim of states. According to Alden and Aran this simply means that “the state identifies and prioritizes certain foreign policy goals; it then identifies and selects from the means available to it which fulfills its aims with the least cost. This cost-benefit analysis involves trade-offs between different possible foreign policy positions and ultimately, produces a theory of foreign policy that choice that reflects a calculus of self-interest”. European states – posing as rational actors - have made key policy choices as part
of their foreign policy towards relevant third country states on the question of this migrant crisis. These policies ideally serve the collective interest of Europe that is, the desire to keep the destabilizing threat of migration at bay.

1.8 Literature Review

The *Age of Migration: International Population Movements in the Modern World* explains that migration goes beyond the simple action of an individual moving from his home country in search of a better life. Migration affects every aspect of social existence; though greater parts of the world’s population are not migrants, lives are constantly affected by the phenomenon. Theories that explain migration fall under two paradigms: functionalist theories and Historical-structural theories. Functionalist are the push-pull models that refer to economic, environmental and demographic factors as reasons pushing individuals out of home states to destination states. The authors raise the fact that this model is a cliché since it fails to explain how these factors combine to cause migratory movements, or how often combine to cause migratory movements, or how often. The Neo-classical migration is a functionalist theory that explains that the migrant will only move to a destination, where he is most productive, after carrying out a cost-benefit analysis based on their perfect knowledge of opportunities in the destination. Historical-structural theories explain that migration is voluntary and based on international inequalities whereby economic and political power is unevenly distributed between the developed and developing world; essentially the former’s power and wealth trumps the latter’s. Therefore, Migration fosters uneven development and exploiting the resources of developing nations.

Furthermore, Castles *et al* raise contemporary migration trends, which act as evidence for the development of new migratory flows. One trend is the globalization of migration, whereby international migration affects more and more countries. The second is the growing politicization of migration whereby countries domestic politics, bilateral & regional relations and national security policies are greatly affected by migration. The phenomenon injects some form of political salience, which has resulted in the establishment of an existing age of migration.
Large-scale Irregular Migration became a global phenomenon in the 1980s and is reported from almost every country in the world whether high-, medium-, or low-income countries. Undocumented migration is a fast-growing form of migration in the world according to the United Nations’ population division and has become a top policy concern. In “Irregular Migration” Franck Düvell purports that the governance of irregular migration is not global because an international normative or institutional framework does not guide it but rather several regional consultation processes (RCPs) express governance. Yet he acknowledges that a somewhat global trend exist through the “expansion of regional regimes that as a consequence become increasingly inter- and trans-regional.”

Düvell refers to irregular migration or illegal migration as clandestine entry, overstaying or irregular employment. It also entails actors like refugees and asylum seekers and issues like human smuggling, trafficking and organized crime. He further explains that irregular migration is promoted, particularly in Europe, rather than curbed with the introduction of protectionist immigration policies restrictions and the criminalization of unwanted migrants so that this form of migration is an expression of a confrontation between self-selected or willing agents and the destination state.

He explains that before irregular migration gained much prominence on the world scene it was dealt with on a national level. States only dealt with illegal migrants at the borders of their territory but from the 1970’s international bodies have made their voices heard on the issue. For example, the EU developed its own supranational policy of response in the mid-1980s and a second policy that dealt with illegal migrants from non-EU countries in the mid-1990s. One of the core values of the EU is the issue of migration and the first time the EU had a joint or common action on the issue was in the 1999 Amsterdam Treaty that focused on visa, asylum, immigration and the free movement of persons. Member states realized that in order to adequately address the issue of irregular migration there was the need to govern appropriately, refugees and regular labour migrants. The treaty also focused on the fact that the northern member states blamed southern and eastern neighbours for the continent’s migration problems, as they perceived them as the ‘soft underbelly’ of the EU.
Düvell also focuses on the external element of the EU’s migration control system and illustrates, with examples, the numerous means by which the EU expands its regime to cover both EU candidate countries (Hungary, Poland, Lithuania, Czech Republic and Estonia) and non-EU candidate countries within its neighbourhood. The latter group is of key importance to this study as Libya is geographically considered as a neighbor of the southernmost EU states.

Franck Düvell in Transit Migration: A Blurred and Politicised Concept describes a transit migrant, within the context, as those migrants, particularly, in countries neighboring the European Union (Morocco, Turkey, Ukraine, and Libya) who willingly risk hazardous journeys to reach another EU country. They usually travel a couple of months or years to reach their desired destination. The Assembly of Inter-Parliamentary Union in Geneva explained that they are “aliens who stay in the country for some time while seeking to migrate to another country”. The IOM also emphasizes that the target of transit migrants lies in the continuance of their journey. The phenomenon of transit migration has become one of increasing concern for many of the countries affected. In a bid to stop such ‘unwanted migration’ on the European continent the member states put the burden on the countries just outside the EU’s borders they employ internationalization or externalization of the EU’s migration policies. Düvell states that in the process of executing these policies, the migrants who turn to hazardous routes are usually stuck or stranded in third countries as a direct consequence of EU immigration restrictions.

Düvell draws the similarity between Transit migration and illegal or irregular migration. He explains that various sources often maintain that transit migration is irregular or illegal. The UN, for example, in its UN/ECE publication defines transit migration as “flows of irregular and illegal migrants from the Third World and from East European Countries”. In addition, Düvell suggests that the literature often uses expressions like ‘illegal migration routes’ and ‘illegal transit migration’. In the same vein, the key characteristics of transit migration highlighted in many sources are its illicit nature and the elaborate criminal organization it entails. The term is used in a biased manner, as it is only used when referring to the EU’s neighboring states that are expected to keep unwanted migration off the continent but not with EU countries like Poland, Italy or France despite the significant migrant flows through these territories.
To combat Transit migration, Düvell states that the phenomenon is addressed within a plethora of policy areas, which include the multilateral and bilateral processes. These examples include the EU accession processes, Euro-Mediterranean Partnership (EMP), the Barcelona Process, the Mediterranean 5+5 Dialogue, the Transit and Irregular Migration Management in Libya (by the IOM). Furthermore, Düvell states that the EU feels the need to integrate the countries of origin and transit because they are obliged to help contain the migrant flows and readmit their own citizens. For this reason, the EU is criticized as dumping the unwanted migrants in the laps of its neighbours, thus rather than “burden sharing” the EU engages in “shifting the burden”.

Although the study focuses on many of the management policies, that Düvell raises in *Transit Migration: A Blurred and Politicized Concept*, it stands apart because it intends to measure the effectiveness of the externalization policies the EU employs to manage its immigration reality. Besides, while Düvell’s article focuses on transit migration from both the Third World and particularly Eastern Europe, this study aims to focus on trans-Saharan migration and Libya’s role as a Transit country.

According to Stephen Castles in his article “The factors that make and unmake migration policies”, what governments do in response to Migration is of great significance. Migration policies often fail to achieve their professed objectives or have unplanned consequences. There are reasons that account for this situation. First are the factors that arise from the social dimensions of the migratory process. He outlines two principles that have been dominant in migration policy formation: the economic belief, stemmed from neo-classical theory, which explains that people move to maximize their personal utility and do not return home if the cost-benefit equation is altered. The second belief is “the bureaucratic belief that regulations designed to categorize migrants and to regulate their admission and residence effectively shapes aggregate behavior. He posits that the two beliefs together create the idea that migration can be turned on and off like a tap by appropriate policy settings”.

He further explains that the migration industry develops out of migration networks. This simply means that once an individual attempts to migrate it creates a series of activities or requires a range of special services (e.g. travel agents, labor recruiters, brokers etc.). The agents of these services
have a lot to gain thus the continuation of migratory movements is important despite the fact that government policies might restrict movements. When this occurs, the facilitation of migration turns to the illegal side of the migration industry that is, the human smuggling and trafficking.\textsuperscript{48}

Castles outlines other factors that account for the unintended consequences of Migration policies that fall within the space of globalization, transnationalism and the North-South Divide as well as those factors that fall within political systems. In terms of the North-South divide, he states that these are the most crucial borders in the international system as they maintain inequality between the powerful industrial nations and the less developed states in Africa, Asia and Latin America.\textsuperscript{49} The failure of migration policy is not limited to weak states but strong states that have long traditions of active migration policy. The states that implement policy initially see them as successful ones and policy failures only become evident years after implementation.

Castles purports that policy failure occurs when a policy does not attain its desired results.\textsuperscript{50} The state might fail to use effective policies or measures to achieve their objectives even when such measures are obvious and available. Thus, it is important to deconstruct official goals and find hidden agendas of the implementing state. The concern about ‘unwanted’ and undesired migration increased in the 1960s in Britain and in the 1970’s in the rest of Western Europe. The phenomenon of migration control was an essential part of high politics, which Castles describes as “the problems affecting relations between states, including the questions of war and peace”. Throughout the 1980s and 1990s, efforts were made, by both individual states and multilateral regulation systems, to address this undesired migration, for instance through the European Union the Schengen Agreement (1985) and the Amsterdam treaty (1997). Although these policies represented intensive efforts, the public perception is that migration is out of control.\textsuperscript{51}

Castles stance on the issue of migration helps to understand why migration policies may not be achieving desired, sustainable outcomes. He purports “a more equitable system of migration management, which seeks common ground between the interests of all those involved”. He asserts that in order to avoid exploitation by privileged groups (in the North), abuse and conflict, a genuine willingness to reduce global inequality and to work for greater democracy and participation in global governance.\textsuperscript{52}
Management of irregular migration is a priority at the European and national levels especially for the frontier states of the European Union like Greece and Italy. Triandafyllidou and Dimitriadi in “Migration Management at the Outposts of the European Union: The Case of Italy's and Greece's Borders” examine these states as the outposts where EU policies are used as a response to the influx of irregular migrants. Since the mid-1990’s immigration, control has been of top priority to the EU. The authors’ state that after the 9/11 attacks the control of irregular migrants was of great significance, the phenomenon was fully embedded in the security discourse, and a “Global Approach to Migration” emerged. They assert that this includes the establishment of a partnership with third countries, border controls and travel document security and readmission agreements. The article further expounds on the notion of externalization of border control. Externalization involves two levels: the first involves delegating irregular migration and asylum control to peripheral EU member states and the second deals with delegating migration and asylum management to third countries. This is simply to ensure that unwanted irregular migrants do not reach ‘inner’ states of the EU.

In their discussion of European policies of externalization and border management, they assert that Greece and Italy are of great importance because they have both been on the receiving end of irregular arrivals of migrants from across the Mediterranean. Thus, the article is essential because it forms the basis of understanding European migration activity. Italy has received flows from Northern Africa and sub-Saharan Africa particularly after the cut-off of the Spanish enclaves of Ceuta and Melilla in 2005, which only redirected migrants towards the Italian Island of Lampedusa. The management here focused on patrols across the coast of Lampedusa and Sicily. In addition, an Italian-Libyan cooperation developed, one borne out of the desire to prevent further arrivals.

The article highlights that the partnership was based on two pillars: (a) preventing entry to Italian waters and (b) the return of irregular migrants to Libya as point of transit and/or origin. Triandafyllidou and Dimitriadi articulate that the two levels of externalization raise a number of questions about their application. The externalization of migration policies tends to prioritize effectiveness and results over other policy considerations like the respect for fundamental human
rights. Immigration has transformed into a security concern due to the nature of arrivals yet at the same time policies of externalization potentially undermine fundamental human rights of migrants. Also, their work primarily focuses on case studies, Italy’s and Greece’s reaction to a rise in irregular migration directed towards their separate territories. This study intends to focus on the European Union’s reaction as a single unit, focusing more on multilateralism rather than the bilateralism.

Liliana Botcheva and Lisa L. Martin in *Institutional Effects on State Behavior: Convergence and Divergence* discuss how the effects of international institutions on member states’ behaviour can be examined. They state that some institutions lead to convergence of members’ practices whiles others lead to divergence. They argue that to accurately identify institutional effectiveness requires the recognition that different types of institutions will have different effects under specified conditions. They offer a typology of institutional effect that is, one of convergence and divergence, and a theoretically grounded hypothesis under which we should observe such effects. They argue that the patterns of convergence and divergence can fruitfully supplement the studies for international cooperation.

According to Botcheva and Martin convergence will occur when the cooperation problem states are trying to solve involves substantial externalities of state behavior. That is, when the institutions states craft have adequate mechanisms to overcome such collective dilemmas. Divergence effects, on the other hand, occurs when states exhibit significant variation in the organization and power of interest groups attentive to the issues covered by the international institution. The typology they adopt for assessment of international institutions gives room for precise measurement of institutional effects, rather than the usual binary variable of cooperation or no cooperation, and compliance or its lack. State behavior is varied and a dichotomization of assessment is very limited. Just cooperation, as an assessment, is unlikely to highlight the most interesting patterns of variation. Thus, a combination of both international cooperation and convergence and divergence are key analytical tools to measure institutions effectiveness.

Botcheva and Martin explain that a divergence effect on state behaviour occurs when there is a condition of low externalities especially in a situation where states have diverse preferences. Yet,
if the states within the institution prefer the same course of action while low externalities exists it is more likely that state behaviour will converge. Conversely, when externalities are high, states will be more responsive to the behaviour of other states, thus will converge on a number of issues. The authors further explain that the typology refers to the level of variation in state behaviour with respect to target outcome variables. States exhibited some level of variation, before the inception of an institution, when it comes to specific target variables. To measure efficiently the effect of an institution one must check whether the variation changes – increases, decreases or remains constant – when it comes to target variables such as levels of trade protection, aid effectiveness and the receptiveness of the state towards immigrants. Botcheva and Martin conclude that the new typology is an additional method for improving the quality of empirical research on international institutions.

Convergence is likely to occur because states create institutions to address “standard collective action dilemmas and when states delegate to those institutions adequate monitoring capabilities to allow for effective enforcement”. In contrast, when divergent behaviour occurs among member states “the issue area is not characterized by significant externalities to state behaviour and members demonstrate variation in the organization and access of private interests that favor the goals of the institution”. Thus, to judge whether the institution has failed or succeeded in an issue area there is the need to find out if the member states have complied by the objectives or purposes of the organization. This is what this study intends to find out, whether the EU member states have complied with its stated objectives.

Andrew Geddes and Peter Scholten in The politics of Migration and Immigration in Europe explain that since the refugee crisis of 2015 European governments have come up with two divergent approaches to addressing the problem of migration. The first is that some governments prefer responsibility sharing and a common solution to the issue, while others describe the refugee crisis as a threat to domestic labour markets as an unmanageable national and European security issue. The authors explain that to analyze international migration there is the need to look at a much broader and complex question. These include historical immigration and immigration patterns, the various forms of international migration as well as the convergence between migration policy of the EU and its member states. The book focuses on the policy responses of the
EU and its member states on international migration and assesses how these policies influence migration itself.

The book focuses on key migration areas but of particular interest is how the EU shapes the milieu within which European immigration and integration policies come into existence and the independent strategies of the member states. The two dimensions of the EU’s role are the ‘institutionalization of Europe’ and ‘Europeanization of institutions’. The institutionalization of Europe deals with how EU policies are developed and how member states shape the common framework for migration particularly through the question of external border controls security. They state that the member states have the ability to widen or tighten up the commonly accepted framework. The Europeanization of institutions on the other hand has to do with how EU measures are embraced by domestic politics of the member states. These are accepted differently by Northern states, Southern states and Central-Eastern states. For instance, in Southern Europe, the states are more open to immigration policy but Central-Eastern European states highly question the responsibility sharing (especially in the face of refugee crisis of 2015).

The book also emphasizes how the EU is unable to direct efficiently strong convergence for immigrant policies. The immigration policies are implemented within national contexts and there exists two migration models in Europe: the Northern and the Southern models. The authors explain that these regimes cannot be merged into a common migration policy that is, a convergence of the current state of affairs cannot exist for two reasons: migration patterns develop differently in these models and the fact that southern economies are behind their Northern counterparts. In contrast, the authors confirm that Europe’s Migration frontiers have moved south and east since the 1980s. This means that there has been a geopolitical shift concerning the types of migration and the new forms of state response separate from those of Northern Europe.

1.9 Operational Definitions

**Migration**- is the “movement of a person or a group of persons across an international border, or within a state. It is a population movement, encompassing any kind of movement of people,
whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes including family reunification.”

**Migrant**- a migrant is any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of the person’s legal status; whether the movement is voluntary or involuntary; what the causes for the movement are; or what the length of the stay is.

**Migration management**- entails the “numerous governmental functions within a national system for the orderly and humane management for cross-border migration, particularly managing the entry and presence of foreigners within the borders of the state and the protection of refugees and others in need of protection.”

**Migration Policies**- a government’s statements of what it intends to do or not to do (including laws, regulations, decisions or orders) in regards to the selection, admission, settlement and deportation of foreign citizens residing in the country.

1.10 **Sources of Data**

To ensure an effective and thorough analysis of the issue the research relied on both secondary sources and primary sources. The secondary sources included books, articles, journals, newspaper articles found at various libraries. In addition, a bulk of the sources were be taken from noteworthy internet sources that extensively address the migration issues. In terms of primary sources, interviews, with experts on the crisis, further helped carry out a detailed analysis. These experts included Dr. Amanda Coffie, Legon Center for International Affairs and Diplomacy and Dr. Leander Kandilige of the Center for Migration at the University of Ghana.

1.11 **Research Methodology**

The study used a qualitative method of enquiry which provided the needed depth and detail when it came to the analysis of what the European attitude to migration from sub-Saharan Africa entails and what sort of policies have been applied over the years. In addition, this method was used due to the individual interviews used to acquire the needed information for the study. This further encouraged openness as the experts were able to expand on their responses to cover other equally
important topics related to the study. The interviews employed the purposive sampling method that is; participants were individuals with expertise in the area.

1.12 Arrangement of Chapters

The research is organized into four chapters. Chapter One is the Introduction which entails a background to the study and the research design. Chapter Two gives an overview of African Migration and European Migration Management (1970-2010). Chapter Three examines the European Union Management of the Trans-Saharan Migrant Crisis in Libya while Chapter Four focuses on the Summary of Findings, Conclusions and Recommendations.
ENDNOTES

7 Ibid., p.273
8 Ibid., p.274
10 Ibid.
13 Sakuma, A. op. cit.
19 Ibid.,
21 Sakuma, A. op. cit.
22 Squires, N. op. cit.
28 Ibid., p.78.
30 Castles et al., op. cit. p. 25.
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33 Ibid., pp. 31-32
34 Ibid., pp. 16-17
36 Ibid., p. 79
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40 Ibid., p. 87
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44 Ibid., p.417
45 Ibid., p. 418
46 Ibid., p. 420
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58 Ibid., p.3
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60 Ibid., p.8
61 Ibid.
62 Ibid., p.24
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64 Ibid.
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CHAPTER 2
AN OVERVIEW OF AFRICAN MIGRATION AND EUROPEAN MIGRATION MANAGEMENT (1970-2010)

2.0 Introduction

This chapter seeks to delineate the various trends, patterns and the structure of African Migration. The chapter will further examine the historical development of European Union Immigration policy to help explain the current migration situation. Thus, it focuses on a patchwork of both external and internal migration policies by addressing a variety of instruments implemented between 1970 and 2010. This is to help understand the setting of priorities by the union concerning the issue of irregular migration and immigration in general.

2.1 An Overview of African Migration

Sub-Saharan Africa is a region of contradictions. While it is rich in resources, its people are less privileged. Civil wars and political destabilization have disrupted its developmental trajectory and most countries have succumb to tackling basic and pressing matters like poverty and conflict while the rest of the world basks in the benefits of globalization. Intra-rural migration and rural-urban migration are the foremost forms of migration on the African continent. Historically, in many parts of sub-Saharan Africa, migrants moved from one rural area to another to gain employment as labour on farms and plantations that residents refuse to work on. Additionally, landlessness, unproductive landholdings and meagre incomes force farmers (seasonal immigrants) to seek employment in non-farm activities elsewhere in urban areas. Rural-urban migration has been on the rise due to insufficient infrastructure, poor environmental conditions and generally the absence of social amenities. Gradually, these forms of internal migration have blurred into international migration as migrants have become desperate to explore continually “diverse destinations through formal and informal entry points, often using the services of bogus traffickers.”

Due to Africa’s sluggish pace of development, more and more people choose to leave the continent. Africa’s history is that of large population movements due to situations like the slave
trade, colonialism, violent conflicts, poverty, and degradation of natural resources, population pressure, displacement, gross human rights violations as well as the outward orientation of some ethnic groups.\textsuperscript{5} Africa’s waves of migrants towards other regions, today, are because of these same factors classified as push factors.\textsuperscript{6} According to the IMF, migration outside the region is driven by mostly economic reasons. Economic migrants want to better their living standards thus look for employment opportunities elsewhere. They tend to be worried about the wage differentials between the origin and the destination. Thus, though they might be in employment in Africa, remain under employed and might be better off somewhere else or get better employment for the kind of skillset and educational qualification they hold.\textsuperscript{7} For example, Konhert states, “young people, threatened by unemployment and lack of perspectives in their home countries, are eager to try their luck in what may appear to them at first as their \textit{El Dorado}, i.e. Western Europe.”\textsuperscript{8} Thus, migration from Africa is a reflection of its social-economic dynamics over time.\textsuperscript{9}

Additionally, Push factors that center on political crisis may compel people to move from origin to destination countries. This phenomenon is usually country-specific and therefore varied. In Eritrea and Jammeh’s Gambia, the authoritarian regimes and regular human rights abuses accounted for migrant flows. In Somalia, state collapse and prevalent insecurity has fostered migration. In Liberia, people moved to other neighbouring countries due to the civil war. In Nigeria the threat of Boko Haram in northern-eastern parts of the country and the economic hardship are what push individuals to make the journey to North Africa.\textsuperscript{10} Another significant aspect of contemporary migration is the external pull factors. The immigration control measures or political decisions made by country of destination and origin. If there are immigrant-friendly measures it will serve as a pull factor for people moving and if the country of origin has harsh and expulsive policies these might serve as a reason to move out or push factors for people to move out.

Other reasons include the social network theory that focuses on the concept of family reunification. In this case, the migrant has family relations at the destination that will be able to facilitate his migration to the place. Therefore, the individual has access to a pool of successful migrants that know which destinations are favourable. Similarly, the way the individual has been socialized has an impact on his desire to leave the origin state: factors like education, upbringing, and social networks will inform the decision to move. In addition, Environmental reasons have to do with
climate change related type of movements. People might slip into abject poverty due to changes in climate. They are compelled to move for economic reasons because the climate deprives them off some economic needs required for survival. Generally, since 1990, the population of African migrants living outside the continent has more than doubled. In the 1990s, most migrants from SSA were refugees due to armed conflicts but by 2013, the most migrants moved to advanced economies for economic reasons. In 2015, over 16 million Africans were living in a different region and the movement to Europe was the most prominent as 9 million African-born migrants were residing there.

2.1.1 Migration Routes

Historically, there are land, sea and air routes migrants use to arrive at desired destinations in North Africa and Europe. However, overland routes are the most popular because of restrictive immigration policies and controls initiated by Europe. The journey from West Africa or the Horn of Africa to North Africa is usually done in stages and can take months or even years to complete. During the waiting periods, migrants settle temporarily in towns along the routes to work; this way, they are able to save up enough money to fund the onward journey, across the Sahara, which is typically in pick-up trucks.

Migration corridors or routes signify an accrual of mass movements over time. They are important because they provide a picture of how migration patterns have evolved. There are significant migration corridors from Africa that are associated with geographic proximity, historical ties and displacement factors. The main migratory routes for Africans to Europe are the Atlantic route and the Central Mediterranean Route. In the early 2000s, West African migrants entered Spain through the enclaves of Ceuta and Melilla via Morocco on boats. This was the Atlantic route or the Western Mediterranean route. However after restrictive policies were placed on migration from Morocco in 2003 the route evolved as migrants journeyed towards Spain from Senegal and Mauritania through the Canary Islands. This route peaked in 2006 due to the local fishing industry crisis in Senegal. This crisis led to 32,000 migrants landing in the Canary Islands of Spain as fishing exploitation deals in Senegal had ruined the livelihood of local anglers, who then turned into migrants and smugglers. In 2007, the migrant flows from these regions fell drastically as Spain
signed bilateral agreements with Senegal and Mauritania; however, the popularity of this route soared again in 2017.¹⁶

Many migrants enter the Maghreb region via the Nigerien city of Agadez. This city wields historical significance as it stands at the crossroads of trade routes that spread deeply into West and Central Africa.¹⁷ Migrants in transit in Agadez increased from an estimated 40-60,000 in the early 2010s to more than 250,000 in 2016.¹⁸ From Agadez, the routes diverge to the Sebha oasis in Libya and to Tamanrasset in Southern Algeria. From southern Libya, migrants move to Tripoli and other coastal cities or to Tunisia. At the coastline of North Africa, they sail on boats to Malta or the Italian island of Lampedusa, Pantalleria and Sicily.¹⁹ This route is the Central Mediterranean route (CMR). The CMR always had a modest flow of migrants until the early 2000s when there were emergent restrictions on the Western Mediterranean route via Morocco. Migrant flows on the CMR boomed in 2008 as “an unprecedented 31,000 migrants arrived in Italy, out of which 23,000 were from Africa, including 6,000 Nigerians, 5,000 Somalis and 3,000 Eritreans.”²⁰

Gaddafi’s cooperation with the Italians was able to stem the flows of migrants by more than half but after the collapse of his regime and the failure of the state-building process in Libya the numbers rose again in 2014. This allowed 93,000 Eritreans, 66,000 Nigerians and 27,000 Gambians reach Italy between the period of 2014 to 2016. This shows that the CMR, by 2016, had diverged towards both West Africa and the Horn of Africa.²¹ According to the World Migration Report 2018, between 2011 and 2016 almost 630,000 people used the CMR to reach the Italian coastline. It was the main route of arrival in 2016. About 90% of this number departed from Libya while the other departure countries remained Egypt, Algeria and Tunisia. In 2016, the origin states of disembarking migrants in Italy were West and East Africa states like Nigeria, Eritrea, Guinea, Côte d’Ivoire, Gambia, Ghana, Senegal, Mali and Somalia.²²

2.1.2 Human Rights Violations along the Central Mediterranean route

Today, there are 650,073 migrants (69%) from Africa in Libya; 446,732 of them are from sub-Saharan Africa while 182,226 individuals (39%) are from North African countries,²³ the former group of migrants face some grave human rights situations. There are grave human rights
violations along these corridors including “deaths at sea, in the desert and within transit states; missing migrants, exploitation, physical and emotional abuse, trafficking, smuggling, sexual and gender-based violence, arbitrary detention, forced labour, ransom demands and extortion.” As a result of these abuses inflicted some migrants and refugees are stranded in the Maghreb region. The death trap from the Sahara Desert to the Mediterranean is widening up as these movements have a devastating toll on human life. The CMR is the most deadly, in 2016, it accounted for 65% of all migrant deaths worldwide, in 2017 more than 2900 migrants died at sea and deaths at sea had reached 1000 migrants as of 1 July 2018.

Also, many migrants have perished in the desert en route to Libya. Some have had to face extra-judicial killings, extortion, torture and demands for ransoms, exploitation, sexual violence and forced labour. Those individuals that are able to make it to Libya are exposed to even more human rights violations. Post-revolution Libya is not a place of safety as survival is not assured, migrant lives are threatened and their basic needs (food, shelter, medical needs) cannot be met. According to the IOM 71% of the persons irregularly migrating to Europe through the CMR had to deal with human trafficking and exploitation. Other are held in both official and unofficial detention centers where they live in utmost squalor and inhuman conditions because of the EU’s financial assistance and training of the Libyan coast guard. In February 2018, the number of migrants held in Libya’s detention centers was approximately 4,443 individuals. There is evidence of emaciated and distressed men, women and children cramped, like sardines, in locked hangars with no functioning lavatories. They are often beaten and denied healthcare and medicine alongside conditions of inadequate food, poor sanitation and nutrition.

2.2 An Overview of European Migration Management

The European Union’s immigration policy focuses on regulating and managing the movement of individuals to and within the boundaries of the European continent. Europe’s immigration policy is categorized into three main areas. The first domain is Migration policy, which deals with third country nationals’ (TCN) movements across the region’s external borders. Czaika and Haas explain, “Migration policies are established in order to affect behaviour of a target population (i.e. potential migrants) in an intended direction.” The focus is on the maintenance of a comprehensive internal border control system and the coordination or management of external
border control. The expectation is that member states must control common borders of the EU, at their own costs, within the bounds of its common border standard. The second domain is Mobility policy, which deals with the movement of EU citizens within the EU, and the third domain is the Asylum policy where member states agree that the state of first entry is responsible for asylum applications in the situation of irregular migration. There have been different policies adopted by the union under these fields.\textsuperscript{31}

\textbf{2.2.1 Waves of European Migration Management (1970-2010)}

The continent of Europe had always been a continent of emigration; only until the post-war (Second World War) mass migrations ended did it transition to a continent of immigration. Until the 1960’s, European emigrants overseas surpassed immigrants in Europe from non-European regions.\textsuperscript{32} The structure and direction of trans-national migration changed significantly after WWII where Europe was no longer the source of large-scale out-migration.\textsuperscript{33} The shift to a continent of immigration only happened in the 1970’s, for this reason, the analysis begins from the 1970s. According to Bade in 1970-79, the immigration gains was an increase of 1.9 million; in 1980-89, it was 1.6 million and from 1990-1995, it was 2.1 million.\textsuperscript{34}

The development of a European migration policy has followed the path of European integration through the Justice and Home Affairs cooperation and its underlying treaties like the Treaty of Maastricht and the Treaty of Amsterdam. Seilonen \textit{et al} suggest that Europe has always targeted a convergence in European migration and asylum policy to ensure that a Europe without internal bodies will always exist and for the EU to have a common external border. That is, the member states must define a common policy for who is permitted into the EU and the rights that pertain to foreign nationals from non-EU countries.\textsuperscript{35}

There are several critical junctures, which are synonymous with the waves in migration policy-making on the European continent. In the beginning stages of the European Community, cooperation on migration was bilateral and centered on shared work-based immigration. From the year 1957 to 1972, the focus was on national policies and a laissez-faire policy, whereby labour migrants employed through bilateral agreements came for either a restricted or an unrestricted period.\textsuperscript{36} The immediate post war years (1950s-1960s) had demanded for labour movements from
southern Europe (Spain, Italy, Greece and Portugal), a situation determined by the economic differences between highly industrialized countries of Northern Europe and the agricultural, pre-industrial countries of the South.\(^{37}\) The oil price shock of 1973 altered this condition as the need for labour sharply reduced in these industrialized states and economic growth diminished. After the Oil Crisis, millions of foreign workers wanted to stay while simultaneously unemployment rates were sharply increasing.\(^{38}\) This period between 1973 and 1989 witnessed increased intergovernmental cooperation whereby the European Commission began to advocate for a common migration policy.

Another wave of migration from 1990 to 1999 witnessed intensified cooperation through the creation of the Dublin Convention. The Treaty of Maastricht there was an inclusion of migration and asylum in the EU’s main legal and political framework due to numerous issues like the increased migration to and within Europe, the growing effects on more member states, the EU’s newly gained importance and legislative powers. Moreover, at the time, new immigration-associated problems emerged such as concerns about irregular immigrants, human trafficking and smuggling.\(^{39}\) Seilonen et al note that though the EU was unable to reach a common policy by the turn of the millennium, the policies adopted during these years brought about important changes such as the ‘communitarization’ of migration and the decision to officially start working towards a common European Asylum system. This represents the theme for 2000-2010 period of the immigration phenomenon on the European continent.\(^{40}\)

2.3 Migration Management Policies (1970- 2010)

The EU’s response to migration has three broad divisions: common asylum and migration policy, cooperation with third countries and rigid border control.\(^{41}\) The restrictive migration regimes of the 1970s did not instantaneously set in motion the rise of irregular land and sea migration. These forms were rarely present in Europe until the 1990s as border security policies were increasingly being put in place.\(^{42}\) With increasing asylum seekers and refugees, the European Commission began to push towards a common migration policy that could evolve to become a fundamental part of the creation of the European citizenship.\(^{43}\) Sub-Saharan immigration became an issue in Europe only in the early years of the 21\textsuperscript{st} century as the European public and decision-makers saw pictures
of migrants struggling to scale barbed-wire barricades in Ceuta and Melilla in 2005 and videos of boats dragged to the beaches of the Canary Islands by migrants. This sent the message of an “African Invasion” throughout Europe and prompted the need for the application of various policies, both new and old, to address the influx of African migrants into Europe.44

2.3.1 Traditional Migration Policies
The Schengen Convention, signed in 1985 between Benelux countries, France and Germany, was the first step towards the definite removal of border checks among EU member states. It was introduced alongside intergovernmental agreement associated with the free movement of persons (EU citizens) within the EU.45 Its purpose was to allow the European labour population to freely move and stay in any member state. Thus, the countries implemented collective policies regarding visa and asylum applications, and the Schengen Information System (SIS), an information-sharing database on the goods and persons moving within the Schengen zone. Although the agreement originated outside the EU’s framework, the Treaty of Amsterdam placed it within the EU’s structure in 1999 and the area has expanded to include non-EU countries like Switzerland.46

The importance of the Maastricht Treaty or the Treaty on the European Union, signed in 1992, is its integration of a common migration policy into the institutional framework of the EU. The treaty was made up of three pillars, the third and the least ranked being the common migration policy that focuses on citizens of non-EU countries (TCNs).47 The treaty focused on several migratory issues like rules and the exercise of controls on crossing the Community’s external borders. Also, it focused on combating terrorism, serious crime, drug trafficking and international fraud; judicial cooperation in criminal and civil matters; creation of a European Police Office (Europol) with a system for exchanging information between national police forces; controlling illegal migration and a common asylum policy.48

The Treaty of Amsterdam was signed in 1997 and became operational in 1999. It involved a devolution of powers of national governments to the European Parliament across varied areas thereby giving the latter a stronger position. These areas included enacting immigration laws, adopting civil and criminal laws, and legislating foreign and security policy (CFSP) and implementing institutional changes for EU enlargement. The Schengen acquis was integrated into
the framework of the European Union with the signing of the Treaty. Under the treaty policies related to the free movement of persons, such as asylum and visa, were transferred from the third to the first pillar. This meant that decisions were no longer made in an intergovernmental, but in a supranational way by applying the Community method, which implies a monopoly for the Commission on the right of initiative and the widespread use of qualified majority voting in the Council.\textsuperscript{49} Migration issues thus gained more prominence in the EU’s agenda.

Further, the European Council adopted Tampere Programme (1999-2004) in October 1999 in an effort to create an area of freedom security and justice through the new possibilities created by the Treaty of Amsterdam. It formed the basis of common immigration and asylum policies and established some common rules, for example for family migrants and access to long-term residence.\textsuperscript{50} The aim of the common policy for asylum, visas and migration was the need for a harmonized way for immigrants and asylum seekers to seek and obtain access to all EU states. To secure this objective, Tampere shifted towards a partnership with countries of origin of immigrants, that is, outsourcing the traditional control policies to third countries that are either transit or origin states. It applied precautionary measures that addressed the causes of migration in order to eliminate incentives for migration.\textsuperscript{51} These included activities in the regions of origin purposely for combatting poverty and conflict, improving living standards and increasing job opportunities.\textsuperscript{52} In addition, it sought a fair treatment of TCNs and for the management of migration flows including severe sanctions against the traffickers of illegal migrants.\textsuperscript{53}

The Dublin Regulation II was implemented in 2003 to substitute the 1990 Dublin convention, which was “intended to prevent multiple petitioning; without having had their petitions dealt with, asylum seekers could be sent back to countries in which they had filed, or might have filed, a petition.”\textsuperscript{54} This was Europe’s geopolitical rationality, to have each member state bear the responsibility of handling migratory events arising due to that country’s physical location.\textsuperscript{55} Dublin II introduced the standards and apparatus for apportioning responsibility to an individual member state - for processing asylum claims - and put in place a hierarchy for identifying this member state. If no member could be designated for the task through the hierarchy then the original member state with which the asylum application was lodged will assume responsibility.\textsuperscript{56}
This hierarchy followed a set of criteria which includes “the principle of family unity, where the applicant has a family member who has refugee status or whose application is being examined. Also, the issuance of residence permits or visas, illegal entry or stay in a member state, legal entry in a member state and application in an international transit area of an airport.”57 Recently, the regulation has been critiqued as limiting asylum-seekers to frontline states that are unwilling to efficiently help the migrants or refugees as these outer-border economies and social systems are already strained. This in turn creates a situation where human rights are threatened and xenophobic behaviours spread as political parties with anti-immigration platforms politicize them. After the perilous journey across the Mediterranean, asylum seekers and migrants have to face more insecurities, discrimination and abuse in Europe’s border countries. For example, in Greece numerous migrants have been found living in abandoned buildings that have been characterized as unfit for human habitation.58

2.3.2 External Dimension of Migration Policies
The Hague Programme (2005-2009) represented the second phase for the formation of a Common European Asylum System (CEAS) to establish a uniform procedure for any migrant granted asylum. In 2004, the threat of terrorism had intensified particularly with the events of 9/11 and 3/11 in Madrid thus there was the need for a review and change in previous policies to protect Europe.59 The programme highlighted key areas like “the need for the adoption of a strategy for migration that would be in balance regarding admission for employment purposes and the promotion of integration, countering illegal migration and human trafficking.” It also called for solidarity among EU member states.60 However, the programme was seen as setback for supranationalism because it gave national governments more control on who to let in, particularly in the area of legal migration and immigration.61 The programme’s key activities were:

- A CEAS founded on the extensive and comprehensive application of the Geneva Convention and other relevant treaties.
- Integration of TCNs through a coherent European framework which defines integration as “a continuous two-way process involving both legal TCNs and the host society”62
- Partnership with third countries to increase the capacity for migration management and refugee protection, prevent and combat illegal immigration, inform on legal channels for migration,
resolve refugee situations by providing better access to durable solutions, build border-control capacity, enhance document security and tackle the problem of return.\textsuperscript{63}

In 2004, as part of efforts to control and restrict immigrants the EU established the European Agency for the Management of External Borders (FRONTEX).\textsuperscript{64} The purpose of Frontex “is coordination of intelligence driven-operational cooperation at EU level to strengthen security at external borders. The mission of Frontex is to strengthen the freedom and security of the citizens of the EU by complementing the national border management systems of the Member states.”\textsuperscript{65} Frontex is a key player in the EU’s response to migration flows along the three migratory routes, its operations are based on risk analysis of the situation, and intelligence gathered is evaluated for the identification and investigation of cross border crime.\textsuperscript{66} Frontex engaged in external bordering processes including military sea operations like in Hera in West Africa.\textsuperscript{67} Hera operations were collaborations between Spain, Senegal, Mauritania and Cape Verde, which aimed at stopping journeys along the sea route from West Africa to the Canary Islands.

According to Frontex, the reduction of illegal maritime crossings from five-digit to three-digit numbers is a success.\textsuperscript{68} In the first quarter of 2007, increased Frontex patrols and police cooperation in exchange for development aid in source countries – specifically Mauritania, Senegal and Cape Verde – led to a 60\% fall in migrant flows arriving at the Spanish Canary Islands.\textsuperscript{69} Yet there is evidence that the externalization of migration control to sub-Saharan Africa and the North African states lead to breaches to the \textit{non-refoulement} principle. For instance, Hera operations showed a lack of sufficient asylum screenings before aspiring migrants were sent back to their home countries.\textsuperscript{70} Also rather than solving the problem, Frontex operations shifted migration networks southwards and intensified activities of clandestine migrant industries. The robust anti-migration endeavours in Senegal only resulted in trafficking networks in the country pushing their central departure points further south into Guinea Bissau, thereby widening the scope of irregular migration.\textsuperscript{71}

The Lisbon Treaty or the Treaty on the functioning of the European Union was established to reform the EU institutions and improve the EU decision-making process. The objectives the treaty laid out were legally binding for all member states for the first time and consisted of a standardized
status of asylum and subsidiary protection, a common system of temporary protection, criteria and mechanisms for determining which member state is responsible for considering an application. Additionally it looked at standards of reception conditions and collaborations with third countries.72

2.3.3 Migration Management Policies towards Africa

In 1975, the European Economic Community (now EU) began to undertake an ambitious policy of cooperation towards e (ACP) countries, particularly former British, Dutch, Belgian and French colonies. The cooperation was in the areas of investment, financial and technical cooperation and the protection of human rights implemented through the Lomé Convention of 1975. The convention has been negotiated three times: Lomé II (1981-1985), Lomé III (1985-1990), Lomé IV (1990-1999). The field of migration was only considered in 1990 as part of the Lomé IV Convention whereby countries like Italy and Germany advocated for positioning the subject of migration within the political dialogue as member states view migration as a European Security Concern.73

In the 1980s the EEC began to find new ways of reducing emigration to Europe. The first initiative was the EC-funded repatriation of skilled African migrants in 1982 as part of Lomé II. 320 skilled migrants (mathematicians, architects, engineers etc.) were returned home in 1982 and in 1987 a larger number were repatriated. The motive was to deter potential migrants and encourage other returns. Another direction taken under the convention was to encourage emigration in migrant sending countries towards regional migration cooperation to maximize the use of ACP human resources. The financial protocol of Lomé IV gave ECU 1,250 million to ACP states to discourage irregular immigration. Rather the states were expected to ensure the implementation of labour-intensive development projects and focus on the development of intraregional migration. Yet still, these activities can be described as unyielding because migration flows have continually intensified due to population increases in ACP regions.

The Cotonou Agreement between the EU and the African, Caribbean and Pacific Group of States (EU- ACP) is the overarching framework for the two groups of states and stands as the most comprehensive arrangement between developing countries and the Union. The agreement was
signed on 23 June 2000 in Cotonou, Benin and will end in 2020. It covers 79 countries including
48 sub-Saharan countries and aims at reducing, eventually eradicating poverty and ultimately
securing an integration of the ACP countries in the world economy.\textsuperscript{74} The pact is founded on three
pillars: development cooperation, economic and trade cooperation and political dimension. The
latter seeks to address migration issues and security issues.\textsuperscript{75} Article 13 of the agreement focuses
on migration and migration control: as parties agreed on the deportation of TCNs and to adopt
strategies that “aim[ed] at reducing poverty, improving living and working conditions, creating
employment and developing training contribute in the long term to normalizing migratory
flows.”\textsuperscript{76}

European states intensifying border controls since 1990s and externalize border controls to the
Maghreb region. The relationship between the EU and its southern Mediterranean neighbours has
always been of a highly diverse nature precisely, association and co-operation agreements that
dealt with trade, financial co-operation, investments and aid. The Barcelona Conference of 1997
initiated the Euro-Mediterranean Partnership (EMP) or Barcelona Process that aimed at creating a
Euro-Mediterranean free-trade area by 2010. The instruments were the European Mediterranean
Association Agreement with all North African states Tunisia, Algeria and Morocco (except Libya)
and the MEDA programme, a financial instrument.\textsuperscript{77} Although the overall objective of the
agreement was the creation of a free-trade area, the dialogue had some bearing on migration and
clandestine immigration to prioritize the reduction of migration pressure, particularly through job
creation and the development of training in the emigration zone, and the readmission of repatriated
and irregular persons.”\textsuperscript{78}

The EMP was not as effective as Europe expected. Although it established the dialogue between
the two sides, it failed because it ensured that its Mediterranean partners carried out specified
economic and political reforms by making development aid conditional upon the progress of the
Mediterranean state. Also, the inability to solve the Middle East crisis - due to divisions among
Mediterranean states - and the inefficiency of the state machines of Mediterranean countries all
contributed to the failure of the EMP. The economic differences between North and South of these
Mediterranean was even more pronounced thereby further increasing migrant flows from North
Africa and Middle East to Europe.\textsuperscript{79} Contrarily the EMP was formed in the idea of shared values
and the ultimate creation of a secure, stable, and peaceful Euro-Mediterranean space. Blanc explains that the partnership nature of the EU did not seek to enforce its principles but to convince and attract its neighbours or act as a force of good. Yet Blanc confirms that out of fear the EU did not live up to this force for good image so well in subsequent agreements. Rather the EU began to lean towards Migration control, for instance with the European Neighbourhood Policy (ENP) of 2004.\textsuperscript{80}

The ENP was launched with the intention of enhancing the EMP maintaining the image of Europe as a positive force of good on the international scene. Accordingly, the aim was promote “security, stability and well-being for all” with incentives rather than sanctions with its partners to ensure that their mutual interests are addressed.\textsuperscript{81} Thus with its Mediterranean partners the EU pledged to improve migration management by providing technical and financial assistance to improve border surveillance capacity. In other areas, it pledged to support partners in the areas of judicial independence, police training and the reduction of corruption.

The ENP prioritized and securitized the migration issue, essentially illegal immigration was considered as a threat under this is framework, a ‘threat to the mutual security’. Illegal immigration was ranked in the various agreements with terrorism and communicable diseases and migrants were considered as potential terrorist Europe needs to avoid.\textsuperscript{82} Most importantly, the EU contemplated liberalizing the Schengen visa regime for its Mediterranean partners. Legal migration to the EU could be a ‘carrot’ in relations with its partners.\textsuperscript{83} Many of the member states were reluctant on this issue, as they preferred to use visa liberalization on a bilateral level.

The Union aimed at the externalization of migration control by strengthening its partners through a ‘remote control approach’ where it transfers technological expertise and training to the officials of the transit state (Morocco, Tunisia and Algeria). The EU sought to establish readmission agreements with its southern Mediterranean partners by dangling legal migration as a carrot. Visa facilitation was only made possible after a readmission agreement was signed. The agreement was of a dual nature; the ENP partner would not only have to readmit its citizens but also transit migrants who are natives of countries with which the EU did not have agreements. The problem
with the ENP when applied to migration is it expected countries with poor human right records to be gatekeepers for Europe.

The Cairo Declaration and Plan of Action were adopted at the first Africa-Europe Summit in April 2000. The Cairo Plan of Action accompanies the Cairo declaration and spells out the action that contributed to the accomplishment of the values and commitments contained in the Cairo Declaration. The summit was held with the support of the OAU and the EU. Articles 64-67 focus on migration as the two parties sought to collaborate to address the root causes of migration and asylum-seeking in all categories of countries - source, transit and recipient countries (Article 65) and “collaborate further in the issue of the reciprocal integration of migrants, migrant rights and readmission agreements between the European and African countries” (Article 66). In order to tackle the steady, increasing migration pressure from Africa and to design a Comprehensive Migration policy three-member states were particularly involved: Italy, Spain and Malta. The Euro-African conferences on Migration and Development, of Tripoli (November 2006) and Rabat (July 2006) were intended to create measures on how to manage African migration to Europe. The declarations expressed that management depended on partnership with countries of origin, transit and destination. At Rabat, 30 African and European states met and the Action Plan of Rabat mandated the African states to be more active in the close supervision and prevention of irregular migration as the border controls on land and sea were not enough.

At the Tripoli summit, the vice president of the EU, Franco Frattini, suggested a quota system of legal migration that will be tailored to the specific needs of each member state. However, the EU states were only willing to seal off ‘Fortress Europe’ with the construction of reception camps for boat people, refugees and other irregular migrants outside the EU borders in North Africa. Thus in a European Council meeting in 2004, the EU planned to build five detention centres in North African countries like Tunisia, Libya, Mauritania, Morocco and Algeria. They also agreed to approve common asylum rules until 2010 to ensure that asylum claims could be processed outside the EU. Accordingly, the Berlusconi government assisted to build a processing camp in Libya while another was built in Mauritania with the assistance of the Spanish government. In the latter camp, up to 4,000 undocumented migrants from Senegal and Mali were held in 2006.
The Africa-EU Migration, Mobility and Employment (MME) Partnership was launched during the second Africa-EU summit of Heads of State and Government in December 2007 in Lisbon, where the Joint EU-Africa Strategic Partnership and the First Action Plan (2008-2010) were adopted.\textsuperscript{89} This strategic partnership was purposely for the common understanding and commitment to provide all-inclusive responses to the issues of migration, mobility and employment. Its main objective was to create better jobs in Africa and manage migration flows.\textsuperscript{90} The creation of job-recruiting centres for temporary African migrants in sending states was an initiative co-financed by the EU and its interested member states.

The pilot project began in Mali in February 2007 and subsequently to Ghana, Senegal and Mauritania. The motive was to match the European demand for cheap labour in sectors like agriculture, cleaning or building in Spain, Italy and France, to the corresponding numbers of suitable African job seekers. It also looked at creating opportunities, through these centres, in the various African states to reduce pressures on the EU.\textsuperscript{91} The IOM spokesperson, Jean-Philippe Chauzy, described the partnership as laudable and constructive step in the right direction as legal migration is a necessary means of combatting irregular migration. The provision of required papers like visas and residence permits for the selected migrants was a good initiative. However, there were some dissenting views on the initiative, particularly concerning the brain drain it caused for African states. The migrants were not actually low-skilled individuals but doctors, engineers, IT specialists who ended up working in jobs far below their qualifications.\textsuperscript{92} Another drawback of the initiative is the fact that actual results have been scattered and depend on the political interests and institutional capacities of the concerned African and EU states.\textsuperscript{93}

Under the 2008 European Pact on Immigration and Asylum “the European Council considers that the time has come…to impart a new impetus to the definition of a common immigration and asylum policy that will take account of the EU and the specific needs of each member state.”\textsuperscript{94} The spirit of mutual responsibility and solidarity between member states and of partnership with third countries gave impetus to this agreement. The pact provided a roadmap for future immigration policies and delineated the five targets for action. These included “legal immigration and integration, control of illegal immigration, effective border controls, a European asylum system and migration & development.” \textsuperscript{95}
In summary, the above-mentioned policies aimed at drawing a vivid picture of the general immigration and asylum policies the EU wielded since the 1970’s to 2010 before the outbreak of the Arab Spring. This is a backdrop to help carry out an effective assessment of policies the institution adopted after the overthrow of Gaddafi. It is worthy to note that many of these policies are not terminated, neither are they set in stone thus may go through some updates and changes. Also this chapter put into perspective migration from sub-Saharan Africa, demarcating the routes and the factors that bring about the onset of such mobility patterns in the first place.
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CHAPTER THREE

THE MANAGEMENT OF THE POST-GADDAFI MIGRANT CRISIS BY THE EU

3.0 Introduction

This chapter explains the Libyan situation before and after the demise of Gaddafi. It assesses major policy implementations that address the root causes of migration. These include those made by Italy as a major frontline state, the union’s cooperation with Africa, through the Global Approach to Migration and Mobility (GAMM) and the Agenda on Migration. In addition, it analyzes other important building blocks - like the EU Migration Partnership Framework and the Emergency Trust Fund for Africa - needed for a European continent with strong borders. These help in assessing the effectiveness of policies to in turn evaluate whether they were helpful in first, upholding the rights of migrants in the Mediterranean and second, in stemming migrant arrivals in Europe.

3.1 Gaddafi’s Pre-Revolution Migration Control

The current migration crisis in Libya stems from the overthrow and death of the Libyan leader, Muammar Gaddafi, in October 2011. Under Gaddafi’s reign, only a few Libyans moved abroad due to a combination of the country’s immense wealth and isolation but the situation changed dramatically after 2011 when hundreds of Libyan natives fled the fighting. Prior to this period, the Middle East and North Africa (MENA) region was characterized by decades of political repression and stagnation. The socio-economic and political conditions of the time culminated in the sweeping changes in the region via the Arab Spring. The entire region was steeped in years of authoritarian regimes: Hosni Mubarak of Egypt had been in power for 30 years, Zine El Abidine Ben Ali for 24 years and Gaddafi for 42 years.

Libya has always been a destination country for migrants and refugees from its neighbouring regions. Sub-Saharan Africans and Arabs have always been attracted to Libya, which was North Africa’s richest oil-producing country. The employment prospects were high and the nation served
as a gateway to even better opportunities in Europe. Historically, these migrant flows began in the 1960s with the discovery of oil and hydrocarbons that required indigenous labor the state lacked. In the 1970s and 1980s the nation attracted large populations of immigrants from neighbouring Arab countries, like Egypt and Tunisia, and refugees from drought and violence plagued states in the sub-Saharan region (e.g. Nigerien Tuaregs and Tubu refugees). The composition of inward migrant flows changed in the 1990s with more sub-Saharan migrants journeying to Libya at the onset of Gaddafi’s open door policy, which saw a removal of residence permits and visas for non-citizens. This policy was a reaction to Libya’s lack of support from other Arab states following the Lockerbie bombing over Scotland in 1988. This culminated in the UN’s air and arms embargo of 1992.

Gaddafi signed various bilateral and multilateral agreements with sub-Saharan states to establish his open door policy. These included the 1990 Sudan cooperation agreement and several treaties with Chad in 1994. The creation of the regional organization, the Community of Sahel-Saharan States (CEN-SAD) which aimed at the removal of constraints to the integration of member states in both regions. It focused on free movements of persons among other objectives. It also allowed Africans to settle in Libya without working visas, which made migratory flows soar higher as migrants were able to acquire private and public sector jobs, of low qualification, in agriculture, construction and sanitation industries. Gaddafi’s regime reaped benefits as these migratory flows met the needs of the Libyan state. It brought in a flow of low-wage illegal migrants from sub-Saharan Africa; these flows were cornerstones of the Libyan economy.

The numbers also encouraged Gaddafi’s alliances with human smuggling groups, in the periphery, that legitimized the presence of a system of detention centers managed by the security apparatus of the Libyan state. The huge numbers of migrants ensured that the security apparatus also derived international legitimacy as key promoters of outsourced migration control and derived direct profits via extortions. Gaddafi was aware of the fact that the migrant flows in the early 2000s served a great purpose for Libya. Thus, despite his rejection on the international scene he knew that Europe would eventually have to strike a deal with him in order to contain the menace. Thus according to Dr. Leander Kandilige, a senior lecturer at the Legon Centre for Migration Studies, since the EU was actively part of those who imposed sanctions on Gaddafi’s Libya therefore he
had a hostile approach towards them before the 2000s but began to re-align himself, towards Europe, as early as the year 2000.  

The alarming rate at which immigrants arrived in Italy and Malta, through Northern African states, at the turn of the millennium ensured that the authorities in Rome sought closer ties with these countries as the EU’s policy on immigration was cumbersome and segmented.  

For instance, the initial agreement signed on 13 December 2000, with Libya, aimed at establishing the needed relationship to fight terrorism, organized crime, illegal migration and drug trafficking. Gaddafi’s motive behind these agreements was to maintain a balance between the open-door policy that allowed the needed sub-Saharan migrants to move in and Libya’s involvement in the higher echelons of discussions on illegal immigration control. The latter ultimately meant that the international embargo was lifted, Libya’s foreign investments were returned and the state emerged from 15 years of international isolation. In 2007, the Libyan authorities enforced entry visa requirements for Arabs and African migrants except for North African citizens. The migrants were classified as irregular; they lost free healthcare and educational benefits plus access to other public services. The state also adopted normative changes on the issues of labour and stay, and adjusted labour migration solely to its labour market-needs.

Consequently, in the 2000s, Gaddafi’s regime ordered massive expulsions of mainly sub-Saharan Africans with the aim of adjusting labour migration to the job market requirements of the time primarily to please Europe. The government expelled some 4,000 migrants in 2000; 43,000 in 2003; 54,000 in 2004; 84,000 in 2005 and 64,330 in 2006. Gaddafi further passed new laws, in 2005, that sentenced illegal immigrants up to one-year imprisonment and those illegal immigrants that successfully arrived in Europe were first transported back to Libya and then deported back to their countries of origin - in accordance with bilateral agreements Libya had with several EU countries. In November 2006, the Libyan government hosted an Africa-Europe conference to address the issue of immigration and the connection with human rights, asylum, health, security and cultural conflicts.

Until the early 2000s, Italian migration management concentrated on patrols between the coasts of Lampedusa and Sicily. The intercepted boats carrying migrants were given permission to
disembark at Lampedusa and immigrants were emergency care and subsequently held in detention centers awaiting identification. However, this procedure always ended up in the release of migrants who either disappeared into the country or travelled to other EU states although they had expulsion orders. Therefore, the Italian government saw the need to ensure that the boats carrying migrants would not reach the Italian coast and this was realized through the externalization of border control to Libya.\textsuperscript{16} The development of cooperation between the two states was inspired by similar partnerships between Spain and Morocco. Under the Berlusconi presidency, the two states signed several other agreements particularly in 2000 and 2005. These agreements focused on two main pillars: stopping entry to Italian waters and the return of irregular migrants to Libya as a point of transit and/or origin. The former was achieved through the provision of military equipment for border surveillance and the latter through the return of irregular migrants apprehended at sea by Italian authorities.

Subsequently, a series of such agreements culminated in the adoption of the Libyan-Italian Friendship Treaty of 2008, which required that Libya would contain illegal migration. The treaty marked a historical agreement between the two states with the aim of controlling migrants from sub-Saharan Africa. It was a treaty of mutual interests as Italy committed $5 billion, for a period of 20 years, purposely for vital infrastructure projects and to compensate the Libyan state; it marked a victory over the country’s former colonizer for the Libyans.\textsuperscript{17} Containment of illegal migration was achieved through a clampdown on irregular migration from Libya’s shores, via joint patrols in the Mediterranean and the application of electronic controls by Italian companies on Libya’s southern borders. Italy further played the role of political mediator between the EU and Libya.\textsuperscript{18} On 6 May 2009, because of the Italian policy of pushbacks implemented, Gaddafi’s government began to accept ‘pushed back’ migrants.\textsuperscript{19} Libya’s willingness to take back the migrants informed the zeal of Italian forces for this pushback policy. This activity was carried out without an establishing of migrant status - whether these migrants on the boats were asylum-seeking refugees or economic migrants. According to Dr. Amanda Coffie, a Research Fellow at LECIAD, Europe relied on Gaddafi as its warden, in order to avoid focusing on the sending states.\textsuperscript{20}

The entire policy of externalization collapsed with Gaddafi’s government at the peak of the revolution. Toaldo states that the “policy of outsourcing collapsed with the collapse of government
authority in Libya (in 2011) and new dynamics of the illegal economy, after the revolution, boosted illicit trafficking of all kinds, including human smuggling.”  

The Libyan leader foreshadowed the situation after his death when he cautioned Europe, in March 2011, that should Tripoli fall “there are millions of blacks who come to the Mediterranean to cross to France and Italy, and Libya plays a role in security in the Mediterranean.” 

The Libyan uprising of 2011 was worsened by NATO’s operation against the Gaddafi-led government and was primarily backed by Gaddafi’s former “allies” Italy and France. “These EU countries had turned on their former darling.” For this reason, the border control mechanisms that existed between the two sides were dissolved thereby further promoting increased crossing of the Mediterranean.

Gaddafi’s predictions were right the Mediterranean has become a “sea of chaos.”

3.2 Post-Gaddafi Libya

The years that followed the Libyan uprising, in 2011, have been marked by lawlessness. Due to the lack of a central power in Libya, the country serves as the crime hub including the facilitation of illegal migration. The political and security situation has made travelling through or living in the country life threatening for many of the migrants, from the sub-Saharan region, thus they continually attempt to cross the Mediterranean Sea into Europe for fear of their lives. After the Libyan revolution, migration by sea, from Libya to the Europe, has increased due to volatility in the country, which has in turn obstructed border control and created the ideal environments for smuggling and trafficking networks to thrive. Migrants who embarked on the journey to Libya were drawn by the country’s job opportunities. They had the intention of staying permanently or temporarily before returning to their home countries but “the lack of stability, rule of law, the economic crisis and widespread abuse and exploitation pushes some to attempt to reach Europe.”

Therefore, not all migrants who attempt the journey across the Mediterranean intended to do so initially, but engage in the activity because of poor conditions and peer behavior or the realization that other migrants are journeying to Europe. Additionally, there was an upsurge of Libyan natives fleeing the 2011 turmoil. The state had never recorded significant outward migration flows. The Libyan nationals abroad were mostly students and businesspersons who emigrated for temporal purposes.
With such conditions, migration through Libya skyrocketed in the years after the Libyan Revolution, from 40,000 per year since the early 2000s to 120,000 arrivals in 2014, mainly in Sicily.\textsuperscript{28} Toaldo relates this to a push factor or more specifically, “the situation in Libya quickly deteriorated and insecurity spread, migrants and asylum-seekers who once would have stayed in Libya decided to leave through what seemed to them the safest route: the sea.”\textsuperscript{29} The unabated politics - migration nexus in the state has spurred on a surge in migrant flows since the 2011 revolution. Factors that condition these events are the ongoing tussle between the factions of post-revolution Libya, the existence of politically driven local militia, the violence entrepreneurs, the human smuggling and criminal activities. These lie against the backdrop of a second civil war in 2014 that unraveled due to the failure to transition to democracy and thus intensifying cross-border movements beyond the Mediterranean.\textsuperscript{30}

After the Arab Spring, between 2010 and 2013, the average number of migrants crossing towards Europe annually via the Central Mediterranean route was 28,000. In 2013 this increased to 40,000 and in 2016 nearly 200,000.\textsuperscript{31} In 381 MHub surveys conducted of migrants that arrived in Italy in January 2017, 65\% of respondents reportedly witnessed migrant deaths during their entire journey from the their origin countries. Of these, 44\% reported deaths were witnessed in mainland Libya; 82\% of the deaths were attributed to physical abuse in the form of torture, executions, beating, starvation and dehydration while in unofficial and official detention camps. Also 9\% of the deaths were caused by a lack of medical treatment as migrants explained that they were denied access to medical attention in detention centers and hospitals.\textsuperscript{32} The refusals of basic healthcare and extreme abuse are also factors that pushed migrants to escape for the European continent.

Besides the violence, the migrants in Libya were faced with other undesirable factors like the lack of legal or humanitarian protection and deteriorating socioeconomic conditions. The uncertainty influenced the activities of relief agencies too as many withdrew to Tunisia in mid-2014. Access to humanitarian aid diminished while the humanitarian needs of the migrants and natives increased. For instance in December 2015, according to the UN, approximately 2.4 million people were in need of humanitarian support and this included 435,000 internally displaced persons.\textsuperscript{33} The humanitarian agencies fell on local organizations like NGOs, civil society organizations, youth groups and universities to support migrants and make required transfers to other
organizations. For this reason, the aid agencies lacked access to the situation on the ground, context analysis was partial and engagement with authorities and militias were not uniform.\textsuperscript{34}

Furthermore, the vacuum after the revolution has given enough leeway for the activities of migrant smugglers. The various militias and armed groups that seek to gain control and legitimacy over fragments of Libyan territories have increasingly engaged in smuggling and other crimes. The smuggling industry provides the necessary funding for weapons and military operations in the fight between militias that want to gain territorial control. The disintegration of the Libyan economy has fostered the activities of the smuggling industry. Inhabitants of the coastal regions and stranded sub-Saharan African migrants, who act as intermediaries, are those involved in the migrant smuggling business. However, these fragmented smuggling activities only metamorphosed into a proper industry with the arrival of Syrian refugees as their huge numbers translated as large purchasing power - in a deteriorating Libya.\textsuperscript{35}

For European legislators the difference between pre- and post-2011 Libya was the existence of an unlikable but staunchly reliable interlocutor for the execution of its migrant policies to suppress and contain the threat of an ‘invasion’ from the African continent. Gaddafi’s Libya symbolized an address to contain the menace. With the disintegration of the Libyan state machinery, Europe’s externalization to Libya has been in shambles particularly since 2014.\textsuperscript{36}

3.3 Italy’s approach to Irregular Migration
After the Arab Spring, the main destination countries for refugees and countries were Italy and Malta via the CMR with Libya as the departure point. The bilateral agreements that existed with North African states like Libya, Tunisia and Egypt that previously ensured that these states acted as gatekeepers, had dissolved along with the pre-crises regimes. Individual EU states therefore repositioned themselves to draw up new pacts with the transitional governments. In April 2011, the Italian government set a €200 million arrangement, in aid and credit, with Tunisia to prevent more departures and accept returned migrants. On 17 June 2011, Italy also established a contract with the National Transitional Council (NTC) of Libya to cooperate in the fight against illegal migration and the return of irregular migrants. By way of this Cooperation Accord, between January and July 2011 over 13, 000 migrants were returned to Libya.\textsuperscript{37} Italy reckons that either it is a villain or a
victim given the situation it faces therefore decisions made are primarily to safeguard its interest.\textsuperscript{38} The conditions under which these returns were made and the Italy- Libya arrangement, en bloc, was highly questioned by NGOs as they deemed that the operation overlooked international law or the principle of \textit{non-refoulement}. More precisely, whether these returns accounted for the risks involved in repatriating migrants to post-conflict zones, since historically Libya is noted for its natives attacking sub-Saharan Africans.\textsuperscript{39}

\textbf{3.3.1 Operation Mare Nostrum}

During the immediate post-revolution years up until 2015, the Italy, as a frontline state, was essentially, left to go at Europe’s migration issue on its own. It did so in the form of Operation Mare Nostrum.\textsuperscript{40} Mare Nostrum, meaning ‘Our Sea’ is Italy’s maritime response to the thousands that attempted to cross Mediterranean waters between October 2013 and 2014. It operated in Italian, Maltese and International waters and had a dual mission of guaranteeing the protection of life at sea and disordering migrant smuggling systems. The operation is a joint effort of personnel, naval and air resources of the Italian Navy, Air Force, \textit{Carabinieri, Guardia di Finanza}, the Italian Red Cross Military Corps and the Ministry of the Interior.\textsuperscript{41} Leaders in the EU argued that Mare Nostrum’s huge rescue area, as its rescue boats went as far as the Libyan coast, signified a magnet or a bridge to Europe. Thus, further encouraging smugglers’ illicit industry whereby many migrants are packed into unseaworthy boats that only lead to rising death tolls.\textsuperscript{42}

Patalano opines that contrary to the notion that the operation symbolized a pull factor urging more migrants to cross, Mare Nostrum actually met a core security requirement of controlling and identifying migrants while actively preventing the loss of life in the Mediterranean.\textsuperscript{43} The operation was first initiated as a moral responsibility to a humanitarian crisis. On 3 October 2013, approximately 130 migrants died off the Italian Island of Lampedusa provoking condemnations from Pope Francis and the Italian President at the time, Giorgio Napolitano who blamed the EU’s unresponsiveness to the crisis.\textsuperscript{44} On one hand, the operation was adjudged a safety net for migrants. According to the IOM, Mare Nostrum was able to aid the arrival of 150,000 migrants in Europe, over a period of ten months and its approach was able to save lives as a top priority in its activities. Contrarily, it was considered a pull factor to Europe or an invasion of its southern border. Additionally, in spite of increased rescues in 2014, approximately 3,200 migrants died while
attempting to cross the Mediterranean.\textsuperscript{45} Mare Nostrum ended with the failure of other EU member states to provide funds for Italy’s activities. The only support the operation had received was a sum of €1.8 million from the EC.\textsuperscript{46}

\subsection*{3.3.2 Memorandum of understanding with Libya}

On 2 February 2017, Italy’s Gentiloni-led administration endorsed a Memorandum of Understanding (MoU) with, the internationally recognized Fayez al Serraj, Government of National Accord (GNA). The MoU focused on development cooperation, clandestine illegal immigration, human trafficking, fuel smuggling and reinforcement of border security. The Italian-Libyan collaboration was not a novel policy choice for Italy. It had had agreements with Gaddafi’s regime in the 2000s that ended in 2012 because of the outbreak of the civil war and the judgment of the ECtHR Hirsi Jamaa case that expressed disapproval for Italy’s violation of the non-refoulement norm and recognized that irregular migrants have the rights to have rights.\textsuperscript{47} The MoU in article 2 states that Italy would provide funds for the set-up of reception centres in Libya for migrants and refugees while awaiting returns (forced or voluntary) to their home countries. For this to be possible, the agreement postulates that the need for readmission agreements with states of origin. This deal was part of a broader European approach and was endorsed in the Malta Declaration on 3 February 2017 by European leaders.

The memorandum is a replica of the EU-Turkey deal, which was aimed at the externalization of migration control to a country that stands as a gateway to Europe. As a result of the MoU Italy and the EU, as a whole, have assisted the Libyan Coast Guard with training and provided vessels for sea patrols all in an effort to ‘pull back’ migrants on their final stage of the journey to Europe. According to Amnesty International, the Libyan Coast Guard, in 2017, intercepted about 20,000 migrants that were sent back to Libya’s detention centers\textsuperscript{48} (called holding centers by Libyan officials). Yet still, the MoU has not been as successful as the Turkish deal, which was able to close down a migratory route. Unlike, the latter agreement the MoU does not take into consideration resettlement of migrants and no differentiation is made in the legal statuses of the persons journeying across the Mediterranean. The migrants are wholly categorized as illegal. Comparatively, the state of human rights in Libya is much worse and preoccupying than the
Turkish situation because the state is not a signatory of the 1951 Refugee Convention and has no national charter regulating migrant’s rights.49

3.3.3 Italy’s Code of Conduct

Since 2014, several Non-governmental organizations (NGOs) have engaged in search and rescue (SAR) operations in the Central Mediterranean to save the lives of migrants at sea and by the first half of 2017, NGOs had helped 93,000 migrants land on Italian territory. Frontex and prosecutors in Italy accused the NGOs of enabling the work of human smugglers and encouraging migrants to embark increasingly on the sea voyage towards Italian shores. Italian Interior Ministry drafted a 12-point EU-supported ‘code of conduct’, in July 2017, stipulating the commitments that NGO’s would have to observe before they can engage in SAR operations.50 The commitments include pledging to stay within the confines of international waters that is, not to cross into Libyan territorial waters, cooperating with investigations into migrant trafficking, notify constantly officials of the flag state about activities undertaken by the NGO’s vessel, pledging to respect the obligation not to turn off tracking devices, and promote transparency in NGO funding.51

In reaction to the code of conduct, NGOs were divided as only four NGO have signed the memorandum, namely, Save the Children, Migrant Offshore Aid Station, Sea-Eye and Proactiva Open Arms. Those that refuse to sign the memorandum are SOS-Mediterranee, Médecin Sans Frontières, Sea-Watch and Jugend Rettet (‘Youth Rescue’). The NGOs believed that the proposed code of conduct fundamentally criminalized their life-saving SAR activities because “Migrants [Those] we rescue have names, faces, families, friends, dreams, strengths & flaws. They’re more than numbers & simply don’t deserve to drown.” 52 The Code of Conduct for NGOs is one of the reasons why conditions have worsened in the Mediterranean and more migrants die or go missing. In tandem with this are recent events in 2018 that symbolize an escalation in EU policies to obstruct non-governmental or charity SAR operation. The charity ships were initially denied access to local Italian ports for the 2018 summer season and were not even allowed in for refueling. The NGOs argue that states have given the SAR responsibility to the Libyan Coastguard to intercept boats in distress and return them to Libya detention centres without due legal process. The Italian state perceives the NGOs as undermining local efforts made by Libya to rescue and return migrants.53 Consequently, in June 2018, the Italian far-right government turned away rescue ships with 634
refugees forcing it to reroute to Spain. Again on 26 June, an Aquarius SAR vessel carrying 224 was denied authorization in Italy as the Italian Prime Minister, Matteo Salvini, confirmed that the migrants will never enter Italy but only see it ‘on a postcard’. Italy asked Malta to accept the migrants but the latter refused and the former accused them of being inhuman. These antecedents have culminated into Europe’s adoption of a new Pan-European migration policy contained in the EUCO of 28 June 2018. Concerning SAR operations, the EUCO focuses on “actions based on shared and complementary actions among the member states” as states agreed to voluntarily open control centres to process migrants that make it to Europe.

3.4 European Union’s approach (2011-2017)
As expected, the issue of how to address the migrants in quest of reaching the European continent is a multifaceted and multilayered matter. The traditional migration control policies, from the 1970s to early 2000s, the EU had implemented to restrict access to asylum systems, to address the influx of irregular migrants on European territory have had limited success. The range of policies rather generated an increase in the levels of immigration rather than curtailed the ‘menace’ Europe faced. They drove more and more migrants and refugees to seek other illegal and dangerous means to enter Europe. These policies gave rise to smuggling networks and have also undermined states capabilities of addressing and protecting the rights of genuine refugees.

These inadequacies in EU immigration policies mandated the EU and its member states to turn to another group of policies to address the control of migratory flows. These policies took a two-fold approach. The first centered on cooperation with migrant sending countries and transit countries. The aim here was the fortification of border control systems of these states, fight illegal entries, combat migrant smuggling and trafficking and the readmission of migrants that illicitly crossed into the EU. The other approach took a preventive form whereby the policies adopted aimed at changing the factors that influence migrant’s decisions to move to Europe. That is, they aimed at addressing the push factors through measures like development aid, commerce, foreign direct investment and foreign policy tools. Underlying both approaches is the element of externalization whereby the EU seeks to find solutions to its migration threat in regions beyond its territory.
The pre-Gaddafi years had ensured that the EU had someone, somewhat, manning the gates. However, with the event of the 2011 Libya crisis and the Libyan civil war in 2014 - and other contemporaneous crises in countries like Syria – there was an influx of migrant and refugee flows. These arrivals put more pressure on frontline states like Greece and Italy as they received throngs of migrants. Though the EU had migration as a top priority issue, Europe’s management of migration faced some challenges primarily because of the lack of solidarity among its member states, the absence of the political will to share responsibility for the management of migrant, refugee flows, and poor implementation of prevailing EU laws like the Dublin Regulation.58

The immediate emergency responses of the EU after the Arab Spring centered on the control and containment of migrants, the organization of humanitarian assistance and supporting repatriation of foreigners stranded in Libya. Frontex was mobilized immediately to address the intensification of border control and surveillance policies. It deployed the Joint Operation EPN Hermes extension in 2011 as a response to Italy’s request for assistance to quell the vessels carrying irregular migrants from the Maghreb region towards Pelagic Islands, Sicily, and the Italian mainland. The operation involved professionals from 11 member states as well as Italian and Maltese aerial and naval support. It also involved the screening of migrants by officials to gather information on routes and migrant arrivals. The experts identified potential criminals among the migrants that reached Italian territory and facilitated the repatriation of those denied asylum after such checks.59 Operation Hermes was extended into 2012 as it reportedly achieved its search and rescue purpose but it was also critiqued for focusing on the prevention of irregular entries rather than preventing deaths at sea. This exposed the EU’s lack of a coordinated response, as approximately over 1,500 people died during border crossings in 2011.60

Also, the EU followed Italy’s example of securing cooperation agreements with North African states in the immediate aftermath of the disaster. The union made available to Tunisian authorities an amount of €400 million as assistance for Tunisia’s democratic transition in return for active efforts by Tunisian authorities to clamp down on irregular migration flows. According to Carrera et al, the post-revolutionary leaders were determined to dissociate themselves from the paths taken by former president Ben Ali. They did not intend on succumbing to EU pressures on migration as it run counter to their economic, social and democratic transition goals. Nevertheless, the huge
financial incentives given out by the EU culminated in a Joint EU-Tunisia operational project in June 2011.\textsuperscript{61}

Another immediate post-Arab spring response undertaken by the EU was the two 2011 proposals made regarding the amendment of existing EU Border code. The primary motive of the proposals was to allow the EU respond better to future influxes of migrants. The first proposal was a modification of the Visa Regulation and second was the re-imposition of border controls. The latter was directly influenced by the revolutions. In the spring of 2011, the Italian government received flows of 30,000 Tunisian migrants who were granted temporary protection thus allowing the migrants to unrestrictedly move throughout the Schengen area.\textsuperscript{62} France feeling threatened by the arrivals, introduced spot checks at its shared-border with Italy. This further led to discussions among member states for the reintroduction of internal border controls. Specifically, a suspension of Schengen temporarily to reduce difficulties in the management of the EU’s external border. Former presidents Sarkozy of France and Berlusconi of Italy, in a joint letter, reiterated this proposal.

This joint application led to the establishment of the Schengen Governance Package: “the crossing of the external border of large number of TCNs might, in exceptional circumstances, justify the immediate reintroduction of some internal border control”. Internal controls would be acceptable if a member state persistently fails to safeguard a part of the EU’s external border.\textsuperscript{63} The Schengen border reforms symbolize an example of a knee-jerk policy in response to the inflow of migrants. It showed the limits of the EU’s claims of solidarity with the people and leaders of North Africa, its humanitarian support - as it restricted the movement of all migrants. Home Affairs Commissioner Cecilia Malmström criticized the reforms in a statement when she questions whether 30,000 migrants arriving in Italy and attempting to cross the French border actually constitutes a threat to public policy and the EU’s internal security.\textsuperscript{64}

\textbf{3.4.1 An Overarching Framework- GAMM}

In 2011, the EU’s policy framework, the Global Approach to Migration (GAM), within which the EU’s external migration policy had developed since the early 2000s, was renewed to become the Global Approach to Migration and Mobility (GAMM). The union was forced to reevaluate its
approach towards the Southern Mediterranean, due to the Arab Spring and the unrest it created. The GAMM has numerous instruments under it that play a part in the EU’s cooperation with third countries of origin and transit. These include Migration dialogues, Mobility partnerships, Common Agendas on Migration and Mobility (CAMM), EU Readmission Agreements (EURAs), Visa Facilitation Agreements (VFAs), Regional Protection Programmes (RPPs) & Regional Development and Protection Programmes (RDPPs).

The GAMM is the overarching framework of the union’s external migration policy and its aim is to ensure more coherency and integration in migration and mobility strategies. The new GAMM took a mobility dimension rather than a mere focus on migration like its predecessor, the GAM. It consideration for the “mobility of TCNs across the external EU borders is of strategic importance in this regard. It applies to wide range of people, e.g. short-term visitors, tourists, students, researchers, nosiness people or visiting family members. It is thus a much broader concept than migration.” The framework differentiated between the two concepts relating migration to border controls, expulsions and readmissions, while mobility focuses on facilitating visas for TCNs that may be of strategic significance to the union like tourists and scientists. It also sought to cover the areas of international protection and the human rights of migrants.

The EU constantly identifies the Sub-Saharan region as a focal region for cooperation on migration issues. This is only expected as the source region for the droves of migrants crossing the Mediterranean towards Europe. One way was through the establishment of readmission programs with some African states. These agreements enable and accelerate the return of migrants to their source of countries and are usually backed by attractive incentives to sign and cooperate with the EU on readmissions and reduce irregular departures. The incentives are sometimes related to migration areas like the granting of visas for business and study and non-migration areas like development aid and trade. The EU’s argument concerning returns is the fact that countries are obligated, within the bounds of international law, to readmit their own citizens. It is worthy to not that readmission clauses are not novel policies but have actually been used as far back as the 1999 Amsterdam Treaty. It was also incorporated into article 13 of the Cotonou Agreement demanding states to readmit their citizens.
In 2014, the less than 40% of the illegal migrants the EU had ordered to leave actually departed, for such reasons the EU is of the belief that a comprehensive system must exist for the voluntary or forced repatriation of these individuals. The EU Action Plan on return of 2015 was the EU’s answer for a dedicated return programme.\textsuperscript{67} Generally, to improve return rates a renewed Action Plan was implemented in 2017 for faster processing and stronger measures. Accompanying this initiative were specific actions such as €200 million for member states’ national return efforts, the assistance of the European Border and Coast Guard Agency with returns and attempts to negotiate readmissions agreements with Nigeria, Tunisia, Morocco and Algeria.\textsuperscript{68} Launched in 2016, these agreements never progressed much. According to the European Commission third countries are reluctant in engaging in readmission negotiations because they are a source of public hostility which may in turn affect political considerations.\textsuperscript{69}

The GAMM was activated primarily using Dialogue and Mobility Partnerships. Carrera defines a mobility partnership as “a long term framework based on political dialogue and operational cooperation…within the general context of the relations between the EU and the partner country concerned.” By the last quarter of 2011, the EU had launched Regional Dialogues with Southern Mediterranean states like Tunisia, Morocco, Egypt, Jordan and ultimately Libya. The GAMM has also been formulated along geographical divisions. At the continental level, the EU-Africa Summit in 2014 enhanced cooperation between the two regions on the issue of migration. The Africa-EU Migration, Mobility and Employment (MME) Partnership adopted the second action plan (2014-2017). At the Regional level the Rabat process continues with the Seahorse Atlantic Network for example established as a form of information-sharing cooperation between Spain, Portugal, Senegal, Mauritania, Cape Verde, Morocco, Gambia and Guinea Bissau with the primary purpose of inhibiting irregular migration and cross-border crime. In addition, the Khartoum process was established in Rome between the EU, countries from the Horn of Africa and transit states in North Africa (Djibouti, Ethiopia, Eritrea, Kenya, Somalia, South Sudan, Sudan, Egypt and Tunisia). Another regional initiative is the Sahel Regional Action Plan 2015-2020 adopted in April 2015. It acts as the principal EU strategy for security and Development for all five Sahel countries.
3.4.2 An Agenda on Migration

In 2016, the UNHCR global trends confirmed that a record 65.6 million people were uprooted from their homes due to conflict and persecution.\textsuperscript{70} This general displacement ensured that over 1 million refugees crossed the Mediterranean to Europe in 2015; representing an abrupt surge unseen in previous years. The migrant numbers sparked a political crisis within the EU as the frontline states specifically struggled to cope with rising asylum-seekers. This situation coupled with the rise of nationalist parties in several member states put security, sovereignty and restrictive immigration policies at the helm of EU activity. Additionally, in the 2015 Eurobarometer, EU citizens indicated migration as one of the most significant issue for the EU. The EU knowing that no member state can effectively address the issue of migration alone, attempted to address the inadequacies of the extant procedures of migration management announced its first concrete action in response to the crisis in 2015 in the form of the European Agenda on Migration (EAM).\textsuperscript{71}

Presented by the EC, the agenda is the continent’s comprehensive approach to supplement the GAMM, this means to a large extent it is still based on the GAMM. The EAM is a political document that states Europe’s priorities in the areas of migration, asylum and border policies by focusing on four pillars: reducing the incentives for irregular migration, reinforcing external border control, strengthening the common asylum policy and developing a new policy on regular migration.\textsuperscript{72} The EAM calls for a swift response to migrant crisis of 2015 with six high priority actions to help frontline states cope with migrant flows.

\textit{Rescue at Sea Operations}

Saving Lives at sea through rescue at sea operations was one major way the EU responded to increased death rates on its southern borders. After the cessation of Mare Nostrum, Frontex operation “Frontex Plus” (which later became known as Operation Triton) was implemented on 27 August 2014. Triton is an SAR operation initially intended to secure the EU’s external borders. This means it was primarily intended to synchronize EU border patrol activities in the Mediterranean and support Italy in border patrol and surveys in the region. It also carried out the EU’s search and rescue missions whenever the situation demanded it, which is, when distressed vessels were found at sea during patrol activities.\textsuperscript{73} The operation’s budget is €2.9 million per month and has a thirty nautical miles operational range from Italy’s southern border thus does not
proactively seek vessels but merely encounters them. It wields a large fleet of resources, twenty-two vessels and three aircrafts, compared to Mare Nostrum with seven vessels and six aircrafts.

The operation has faced some severe criticisms like the fact that its budget is just one-third of its precursor, Mare Nostrum, and its SAR area is comparatively small. In addition, Triton’s mandate was ambiguous as it had many masters – 28 member states – and confined to European waters thus its role in SAR missions was just to satisfy expected international duties. Additionally, within its first three months of operation in 2015, a lot more migrants died at sea, than the first quarter of 2014 that is, 479 migrants compared to 15 migrants respectively. The fact that Triton was unable to meet the demands of the migrant situation led to increased activities of private humanitarian actors like Médecin Sans Frontières (MSF) and the Migrant Offshore Aid Station, a search and rescue charity, implementing their own SAR missions. This initiative, with just three SAR ships, was able to assist 23,000 migrants in 120 isolated rescue operations unlike Triton that had several resources at its disposal.

Countering Human Trafficking and Smuggling
Addressing irregular migration by targeting criminal smuggling networks is another key objective under the EAM. This is mainly by the EC’s espousal of an EU Action Plan against Migrants’ smuggling COM(2015) 285, the EU Action Plan on Return COM(2015) 453 and a Recommendation on Common Return Handbook. The aim of these three initiatives is to facilitate the return TCNs to their origin states and to cooperate with third countries on readmission agreements. The EU action plan on migrant smuggling provided the framework for member states, EU agencies and other relevant organizations to work in tandem to gain key objectives like tracing illicit financial flows of these migrant networks by information sharing. One achievement of the action plan has been the European Migrant Smuggling Centre’s preemptive high-profile investigations against criminal networks. In 2016, its first year of operation, it provided support to member states in 93 cases leading to 147 arrests; in 2017 68 cases were supported. To reduce irregular migrant misconceptions about life after arrival in Europe the EU has financed information campaigns in migrant-sending states like Niger, Sudan and Ethiopia. Also to counter human trafficking and smuggling actions have been taken as part of Operation Sophia, a Southern Central
Mediterranean military operation, originally named EUNAVFOR-MED but later named after a baby born on one of the missions’ vessels.

Enacted in 2015, its intentions are to disrupt the business model of the smuggling networks. It is structured in four phases: the first, intelligence gathering on how these migration networks functions; the second, by boarding, searching, seizure and diversion of vessels used for the illegal business. Phase three, is the disposal of vessels and other assets in the territorial and internal waters of Libya and phase four is the withdrawal of forces marking the end of the operation. After a previous extension, the European Council extended the mandate of the operation again to December 31, 2018 and it was tasked to train the Libyan navy and coastguard and to assist the application of the 2016 UN arms embargo on high seas off the Libyan coast. Operation Sophia, by September 2017, had contributed to the apprehension and detention of 117-suspected human smugglers and trafficker, the disposal of 478 smuggling vessels in Libyan high territorial waters and had provided training for 24,000 and more civilian and military security forces in Sahel missions.

Despite these activities, Operation Sophia has been criticized as one of the EU developments that have contributed to increasing deaths of migrants at sea rather than saving lives. In an effort to clampdown on smuggling networks, the operation has put migrants and refugees at greater risk in two major ways. Firstly, as the operation engages in complete destruction of smugglers’ boats, the smugglers have also turned to using less seaworthy boats – rubber dinghies. As 70% of all boats leaving the Libyan coast were of this nature, these have made the Mediterranean crossing even more dangerous. The surge in the use of rubber dinghies has created a market for ‘refugee boats’ on the internet that sell for $800- $1000. Secondly, the increased arrest of smugglers has led to them sending migrants out on these boats without an escort for navigation or without any concern for the lives of the migrants at sea. They are left to their own fate.

Relocation Scheme for asylum seekers and refugees
To address the multitude of migrants that came in from North Africa and Syria the Council adopted a temporary relocation scheme for asylum seekers and refugees in September 2015. The scheme was elicited as an emergency response from the main frontline states – Italy and Greece. The two
states could no longer withstand the arrivals thus the EC voted in favour of a fair relocation of migrants among member states. Prior to this, the EU relied on the Dublin regulation that stipulates that migrants must apply for asylum in the EU state at the point of entry. Thus, they agreed on a two-year plan for the relocation of 160,000 asylum seekers (including 106,000 from Greece and Italy) to other European countries to ease the burden on frontline states. A new distribution key model for the allocation of responsibility was devised based on GDP (which shows how well refugees will integrate) population size (which is a marker for the state’s capacity to absorb refugees) and unemployment rate. These criteria gave particular weighting or quotas to member states; such that countries like France and Germany were due to take in 15% and 20% of arrivals respectively, while newer states like Hungary and Romania pegged at 2% and 4% respectively.  

The first relocation, on 9 October 2015, saw 19 Eritrean asylum-seekers transported to Sweden while the second, on 12 October, saw 19 Eritrean and Syrians to Sweden and 48 to Finland. The scheme has suffered some drawbacks, as members have been unable to relocate the proposed target of 6,000 relocations per month. International organizations, UN agencies and the European public for its limited progress and lack of commitment from countries like Hungary, that built barbed wire fences in protest to the scheme, criticize it. As of 26 June 2018, countries like Poland, Hungary and Denmark have taken zero refugees while Czech Republic, Slovakia and Austria have taken 12, 16 and 44 refugees respectively. 

The Hotspot Approach

Europe’s Hotspot Approach complements the Relocation scheme, which aims at controlling the existing situation in frontline states, particularly Greece and Italy. To ensure frontline states do as expected within the bounds of EU law the two approaches were designed as enhanced instruments of intra-governmental surveillance. The approach includes procedures like fingerprinting of migrants and refugees, quick selection and relocation of asylum-seekers, creation of reception facilities, and rapid return of migrants that are assessed as not requiring international protection. In Italy, six hotspots have been established including Lampedusa, Pozallo, Taranto, Trapani, Augusta and Porte Empedocle. In all there are 11 hotspots lining Europe’s Southern Border serving as a migration frontline archipelago. The Lampedusa hotspot, before its temporary closure in March 2018, served as a model for all the others, as a defensive frontier. It had the double goal
of blocking migrants and simultaneously blocking as many refugees as possible from claiming asylum.

Some problems within this approach are that migrants receive inadequate legal assistance and information for migrants. In addition, there is the problem of the presence of third country authorities during registration. The third-country representatives are present to offer technical support to ensure frontline states carry out their border functions. The belief is that the vigilance of these individuals will ensure frontline states, or “the soft underbelly of the EU” will actually fingerprint migrants as stipulated by Dublin III regulations of 2013.87 Further, there is the problem of how migratory profiles (economic migrants or refugees) are assigned on nationality-basis and with the use of scanty biographical information gathered during rapid identification processes. This nationalist system of assessment separates economic migrants from refugees with the simple knowledge of migrants’ country of origin. Individuals from West Africa are denied both relocation opportunities and asylum claims in the country of the hotspot and are illegalized immediately. Eritreans, Syrians and Iraqis are given greater chances with the nationalist system.88

*European Border and Coast Guard Agency*

As part of the EAM the EC made efforts to expand Frontex on a semi-military structure to create a European Border and Coast Guard Agency (EBCG). In fall 2015, various European leaders like the German Chancellor, Merkel, and the Hungarian Prime Minister, Victor Orbán came to a consensus that the Union needed to focus on the reduction of the huge inflows of migrants and refugees. The agency was established to ensure rigorous policing of Europe’s external borders and begun operations in early 2017.89 The belief is that to effectively and sustainably secure and protect a Schengen area without internal borders there is the need to protect the external borders. The objectives of the agency were to ensure the implementation of effective border management standards and the communal management of external borders of the EU consistent with the TFEU. Additionally, the EBCG must have a strong responsive system, as it was set up to work effectively in all phases of border management, when deficiencies exist in the system or when in crises.90 The EU’s focus on border management likens the idea of Fortress Europe to a “gated global community” that uses Frontex operations to execute border control and management strategies thus reflecting imperialistic notions of western tendencies to ostracize a particular group of people.
3.4.3 Direct Engagement with Third Countries

The EU with the intention of promoting an all-inclusive response to the migration crisis of 2015 opted to work with third countries to tackle the issue under the EAM. Dr. Leander Kandilige states that the EU tried a number of approaches to manage this migration crisis, because apart from the Syrians who were displaced in their numbers, and initially were received by Germany and a few other countries, the bulk of the people are from sub-Saharan Africa. As a result, Europe has tried to reach out to different African countries in different ways. Most of it is incentive-based. The European perspective on migration is to link migration and development in a very twisted way. Where there is a feeling that if only African countries were supported to develop, their young people would not cross the Sahara to Libya or even attempt to cross Mediterranean to get Europe. Thus funding from time to time has been made available for some African leaders in countries of origin to discourage migrants from travelling this route.91 The EU has long begun (via the GAMM) to cooperate with third countries as a significant part of the EU’s migration toolbox. Some of the important instruments the EU has created include the EU Emergency Trust Fund for Africa (EUTF) and the Migration Partnership Framework.

**EU Emergency Trust Fund for Africa**

Development is used as a means of tackling the root causes of irregular migration such as poverty, conflict, human rights violations, food insecurity, political instability and lack of access to natural resources.92 The concept of migration management through development aid is well evidenced by the EUTF and the partnership framework with third countries. In November 2015, the European Commission launched the EUTF at the Valetta Summit to address the root causes of irregular migration and displaced persons. The Valetta Summit is a classic example of the migration-development nexus. A huge amount of money distributed according to how strategic the union deemed the country in question was. Thus, countries like Morocco and Libya got more funds than countries further away. Likewise, they used arrival statistics to determine priority countries. Therefore, the EU focused its attention on countries where the migrants tend to come from in order to support their development and discourage their young people from leaving.93 In addition, the EUTF hoped to ensure stability in Africa by “promoting economic and equal opportunity, security and development.”94 This differs from the goal of EU development cooperation, which is the
alleviation and eventual eradication of poverty, as addressed in the Lisbon Treaty. The notion shared amongst EU states is that more development aid to developing countries will reduce the impetus for departure.

In the area of migration, the EUTF is the financial instrument funding Europe’s political engagement with Africa through member states and donor contributions. It targets three key regional spaces: North Africa, Sahel or Lake Chad region and the Horn of Africa. The fund is worth over €3.1 billion that constitutes of €2.9 billion from the European Development Fund (EDF) and €234 million from its member states and added associates. The fund is similar to traditional EU development programmes as it prioritizes job creation, education, healthcare and social protection. This highly depends on the categorization of countries as origin, transit or destination for irregular migration. However, in some regard it is dissimilar because the aid provided is more specific to the area of migration with aims like inhibiting and stopping irregular migration, combatting human smuggling, funding return and readmission efforts and capacity building in matters of law enforcement and border management.  

Though the EUTF has been praised for its flexibility as it allows the union to adapt to situations that arise by relocating and renaming funds when need be, it has been criticized as being excessively flexible alongside an opaque eligibility process. This characteristic makes it possible for possible partners to allow their migration situation to deteriorate in order to receive more funding with priority status. For this reason when Ghana, Côte d’Ivoire and Guinea gained more significant status in 2017 by their addition to the fund’s eligibility list, other nations begun to speculate the eligibility criteria of the Trust Fund. According to Kandilige the funds are an incentive for African states to do nothing. This because the basic logic of the argument behind the fund’s establishment is misplaced. Migration hump theory explains that as development takes place, emigration increases in the immediate short-term to medium-term and it is only when development peaks that emigration rates will begin to reduce gradually. When countries ultimately develop it means more people increasingly have the means to migrate and as people are able to afford the cost of migration they will always embark on such journeys. Essentially, development funding is a self-defeating type of approach.
The Migration Partnership Framework

The Migration Partnership Framework (MPF), building on the Agenda on Migration, was adopted in June 2016 primarily with the inspiration of a successful, but highly criticized, EU-Turkey deal. Its implementation is attributable to large conspicuous migrant arrivals that caused public outcry on the failures of the relocation scheme. The partnership identifies five priority countries, namely, Nigeria, Niger, Mali, Ethiopia and Senegal. The purpose of the Partnership framework was to enable the EU tailor migration compacts with third countries to ensure they sustainably manage irregular migration flows. The main aims are to fortify borders by intercepting irregular migrants and strengthen the capabilities of the coast and border guards of origin countries, increase the numbers of returned irregular migrants and address the push factors that motivate the migrants to leave.

Additionally, the EU has partnerships of varying degrees with non-compact countries in North and West Africa. It adopts a carrot and stick approach as “a mix of positive and negative incentives” are used to reward countries that are amenable to migration management with the EU. The EU therefore uses a conditionality principle where benefits range from development cooperation, research, trade to education etc. Non-cooperative states, on the other hand, face consequences like the delay of agreed projects or tightening of diplomatic visas. Also, the MPF uses trade policy as a means to obtain cooperation on migration issues but this could risk unraveling progress made in unrelated trade deals.

North African countries in the past always yielded to cooperation with the EU on the question of irregular migration as principal destination and transit countries. The GAMM-era mobility partnerships had enabled EU states provide operational and financial support to states in the Maghreb to fortify border controls and contain irregular departures towards Europe. However, the occurrence of the Arab Spring overthrew stable but authoritarian governments of the region that had served a good purpose for EU migration objectives. As a result, a situation of the economic fragility and political instability created in the region, particularly in Libya, the EU shifted its priorities towards source and transit countries in the South.
Niger, for instance, is praised by the EU as exemplary of what can be accomplished with a transit country through the MPF. It is the main transit route for sub-Saharan Africans to the Mediterranean. Smugglers leave migrants to their death in the desert thus widening the death trap from the Mediterranean to the Sahara. In 2016, the IOM reported that 400,000 migrants journeyed through Agadez on their way to Libya and Algeria. The presence of armed groups and group-based grievances in the state has undermined the country’s stability and fostered the activities of migrant smugglers. Accordingly, the union provided financial and logistical assistance to Niger to stop the migrants. A joint investigation team funded by the EUTF was set up in March 2017 to address the activities of smuggling networks through training in investigative techniques. This has successfully led to disordering smuggling networks in Tchin-Taburaden. There are also toughened border control and enforcement actions against human trafficking. Eighteen operations in June 2017 led to the arrest of over thirty people and confiscation of vehicles for smuggling.

According to the IOM, the number of incoming migrants (37,000) in the first quarter of the 2017 outnumbered those leaving to Libya (22,000). Yet still, the fall in migrant numbers leaving Niger does not tally with the overall number of migrants reaching Libya this means migrants are finding new routes to by-pass official reinforced borders.

The current approach taken up by the EU with its external engagement of third countries is to concentrate on the root causes of migration and to strengthen third country migration management by increasing development aid to developing countries. This is ultimately to reduce the incentive for migration and address the root causes of migration in source countries. Yet Article 208 of the Treaty of the functioning of the EU (TEFU) explains that the aim of development cooperation and/or aid is to primarily reduce and further eradicate poverty. However, today the prioritization of migration management over poverty reduction is a main goal but this stretches the definition of Overseas Development Assistance (ODA). Simply it blurs the lines of development principles.

Furthermore, the prevention of border crossings through stringent border control by partner countries is in itself a violation of the rights of the migrant – the freedom of movement. The individual must be given the opportunity to genuinely establish his need for international protection. In the same vein, the EU’s outsourcing of its responsibility to respect human rights is criticized. It overlooks the human rights records of partners in order to achieve their migration
goals. For example, in Sudan, the MPF has resulted in stricter policies to stem migrant flows, an initiative the EU counts as a success. However, this has been critiqued as *refoulement* whereby individuals are prevented from journeying to North Africa through techniques that do not conform with international human rights standards.  

### 3.5 Effectiveness of the EU’s Policies

Effectiveness in terms of immigration policies has to do with whether a certain desired effect is produced by the implementation of the various policies. The preceding analysis has dealt with the specific objectives of key EU strategies, the stakeholders and the processes involved in implementation. The EU has enforced its plethora of policies, over the years, to achieve some general objectives too. These generic objectives, which help assess effectiveness, have to do with the volume and composition of the illegal migrant population and can be categorized into short term or long-term intentions.

#### 3.5.1 Short-term objectives

The first short term objective is to save lives at sea is the primary priority stipulated under the European Agenda on Migration. The humanitarian argument is that “Europe cannot stand by whilst lives are being lost” yet recent events in European politics do not reflect this goal. According to the UNHCR *Mediterranean Situation*, number of arrivals has dropped since 2015 and the number of deaths at sea has fallen. However though absolute numbers have dropped, they correspond with an overall decrease in the number of sea crossings therefore showing that death rates remain high. Likewise, “along the CMR the arrivals in the first two months of 2017 and 2018, fell from 13,446 in 2017 to 5,247 in 2018; and from 442 to 316, respectively yet the rate of death along the CMR has actually increased.” In February 2017, in every 30 migrant arrivals, 1 person had died while in February 2018, for every 16 migrant arrivals 1 person had died. Moreover, with recent events the objective of saving lives at sea stands as highly questionable as states like Italy and Malta have turned away charity rescue boats declaring their ports off-limits to these rescue boats.

The second short term goal is to combat the trafficking and smuggling industry and its beneficiaries. Boswell and Geddes (as cited in Ambrosetti and Paparusso) stipulate a ‘policy failure’ approach to analyze EU immigration policy. A marker for policy failure in the area of
combatting illicit smuggling activities is the fact that migration is self-sustaining in the sense that once it reaches a certain threshold the migration network and industry itself begins to facilitate the movements of people across borders. The effects of its self-sustaining nature trump the populist immigration policies, implemented in the interim, with limited and precise aims.\textsuperscript{114} For instance, established smuggling networks play a huge role as intermediaries in facilitating movements in trans-Saharan migration and movements across the Mediterranean. The smugglers know all the routes to take to avoid authorities, they are aware of the various policies that have been put in place to deter illicit migratory movements. The fact that such movements still persists in spite of restrictive immigration policies confirms that immigration policies are ineffective.

Another EU objective is to increase returns of migrants who do not have the permit to stay. Returns made through transit states enable migrants and refugees to stay within close proximity to their origin states. The idea is to create “a buffer zone around its territory by committing its neighbouring countries to readmit migrants who have passed through them on their way to the European Union”.\textsuperscript{115} Yet, the problem lies in the fact that unlike countries of origin, a transit state is not bound by international law to readmit migrants on the simple pretext that they have transited through its territory with or without its consent. For this reason in such agreements, the EU has resorted to adequately compensating transit states but the results are complicated. The agreements allow for the blatant abuse of the human rights of migrants since the transit country has no adequate protection regime to cater for the rights of the migrants. Furthermore, though a readmission agreement obliges the transit state to readmit an undocumented migrant from the EU it does not cover the basic needs of the migrants like shelter, healthcare or social welfare therefore posing a threat to human dignity.\textsuperscript{116} This has further perpetuated the existence of detention center in a transit state like Libya, which is not exactly a place of safety given the ordeals migrants have suffered for years even before the overthrow of Gaddafi and the revolution.

The UNHCR defines migrant detention as the “deprivation of liberty, or confinement in closed place which an asylum seeker is not permitted to leave at will, including, though not limited to prisons or purpose built detention, closed reception or holding centers or facilities.”\textsuperscript{117} Libya has no migration framework under its law thus the categories of migrants are undifferentiated and are regarded as illegal migrants. The migrants that travel to Europe through Libya risk arbitrary arrest
whereby they are placed in these centers that are operated with a severely, punitive attitude towards migrants. These centers are not nouvelle phenomena in Libya and have been in existence since the early 2000s while the rest of the world watched blindly. The role Libya plays is to intercept migrants that are journeying towards Italy.

The EU and its member states in attempts to deal with their migration issue has passed on the burden to Libya, a state that is incapable of managing the numerous migrants and refugees crossing through its territory and has fostered a climate of racism. The EU is negotiating with Libya as a country but the state has three rival governments. This takes away from the union’s effort to police effectively the situation. The bottom line is the crisis that was created by not managing the removal of Gaddafi was going to be the undoing of the EU. It was not thought through, there might have been valid reasons for his removal but it left a vacuum that has been filled by competing factions with contending agendas. When such a safe space is created for terrorist organizations, radicals, rebels and people, who are even anti-EU anyway, it makes it difficult to successfully negotiate any concrete pact with a country like that and being almost a failed state it is going to be very difficult. Additionally, the failure of EU states, as liberal states, to uphold its moral obligations by adhering to the rights of all migrants within the bounds of International Law is a marker for policy failure.

3.5.2 Long-Term objectives

The Long-term objectives of the EU include addressing the root causes of irregular migration and forced displacement by assisting partner countries in terms of political, social and economic spheres of development. A marker for Policy failure is how EU policies are unable to reach the goal of restricting migration for a number of reasons. These policies are unable to “influence structural factors, such as socioeconomic inequalities, labour market shortages and political conflicts in origin countries.” They do not address the root causes efficiently as these are not fully clarified- there is the assumption that most migrants are economic migrants. Also, many of the projects with partner countries are intended to yield immediate results while the root causes of illegal migration are more long-term in nature. Besides, the EU does not draw a line between development aid and funds for stemming migration.
Another long-term objective is to improve opportunities in origin states to foster sustainable development, which will in turn create better futures for citizens. This runs in tandem with tackling the root causes of migration. The EU takes a broad-spectrum approach when addressing migratory flows by emphasizing development cooperation to find lasting solutions to the irregular movement of migrants through the EUTF for instance. They focus on creating employment opportunities, providing basic services for locals and the most vulnerable, enhancing stability and governance. This involves assisting African states, regional bodies and the African union in developing and strengthening migration strategies. The initiatives are primarily based on the recognition by the EU that irregular migration is a shared responsibility hence the need for partnership for the purposes of mutual interests. Although the EU’s initiatives are laudable, there is a chance that states will do less to combat irregular migration particularly concerning high remittances received from migrants. The remittances to sub-Saharan amounted to $35.2 billion in 2015 while the EUTF accrued only €2.56 billion in the same year. A huge portion of this went to North Africa thus the African states understand that curbing migration would be detrimental to their economies than EU assistance.

In addition, to analyze the EU immigration policies is the Securitization approach, which derives from the 9/11 terrorist attacks. The approach focuses on political, economic and social reasons. The rationale behind the EU’s externalization of migration control is security-driven. These focus on the need for the EU, as a rational entity, to protect its borders from unwanted migrants in a bid to preserve European cultural identity. The multitudes of irregular migrants crossing into the European Union has become a commonplace event in recent years and the EU’s intention is to control and preferably halt the hundreds of potential irregular migrants by all means possible. This is essentially through the joint management of migratory flows with third countries via border controls, surveillance, cooperation, the setting up of readmission agreements. The policies are constantly in a flux as additions and renewals have been made over the years. According to Dr. Amanda Coffie, the changes in policy do not represent a failure on the part of the EU’s policies rather they represent a lack of consensus and solidarity in some areas among the EU’s member states.
Due to the EU’s anti-immigrants bloc of states, Italy, Hungary, Austria, Poland, Denmark, Czech Republic etc., policies are not working as planned by its member states. Immigration has become a cause of political tensions and upheavals. This situation is evidence for something not working right that is, the lack of solidarity and consensus. The migration crisis has exposed clear divisions within the EU especially between the former Eastern European countries, Balkan countries who are openly against the more streamlined countries like Germany, France, and UK (before Brexit) are trying to do. The argument is that the latter group of countries are not directly affected by the migrants in the first instance are comfortable in preaching what should and should not be done but the frontline states like Italy, Spain, Malta and Greece are the ones that bear the brunt. For instance, Greece at the time of its financial crisis also had to simultaneously deal with migrant numbers and of course did not have the resources to do so. The EU being able to redistribute these arrivals would have been a good thing but there is no clear-cut formula as to insisting on countries receiving their fair share of the burden.

Also, in tandem with the outlined divisions is Botcheva and Martin’s explanation for divergence sourced from variation in states behaviour and convergence as a reduction of variation in states behaviour.\textsuperscript{125} Within the EU, we witness a variation in behaviour towards immigration policies and migrants in general by some member states. While the Western European states are more open to receiving and integrating migrants that deserve international protection the EU’s anti-immigrant bloc of states, perhaps for valid rational reasons, diverge from the stated objectives of the EU.

To say the organization has failed or succeeded has to do with how states have complied by its objectives.\textsuperscript{126} The Italians (and Maltese) refuse to rescue migrants on charity boats at sea because it refuses to become Europe’s refugee camp at the behest of NGOs that act as, in their opinion, taxis and pull factors for these migrants. In the same way, Hungary built a fence to avoid the relocation of migrants to its territory and states like Czech Republic, Romania and Austria have taken very few migrants. Thus, per this delineation there is evidence for how the institution has developed a migration regime towards the influx of migrants that is divergent from the orthodox liberal view of immigration. In effect, European politicians are capitalizing on using populace language to gain political capital and this is what is frustrating the EU’s ability to manage this
whole situation. They are appealing to the sentiments and emotions of the populace and then whipping up sentiments against migrants in general.

The situation is a very confused one and is going to be difficult to manage. Therefore, the far right anti-immigrant parties are becoming more popular, winning elections in a number of countries. In the case of Italy, Salvini, the new interior minister, is openly anti-immigrant and he won on that kind of rhetoric that Italy was being taken over or taken for granted as migrants increasingly arrive without checks and controls. This type of rhetoric works against legitimate or well-deserving types of asylum-seekers who should be entitled international protection under the Geneva Convention and the 1951 Refugee convention. In Germany, Angela Merkel, the German chancellor faced a hard time, as coalition partners threatened to pull out which would have in collapsed the government.

One security-driven policy is the Dublin regulation. The unsustainability of Dublin has shown the ineffectiveness of the crux of EU immigration policy as frontline states remained dissatisfied about shouldering the entire migration burden without the solidarity of other states in Central and Western Europe. In the recent June 2018 EU summit, that disclosed Europe’s age-old splits on migration, European leaders attained a victorious consensus for the EU- a shared effort on voluntary basis. The plan is to establish regional disembarkation platforms in relevant third countries (in North Africa) in conjunction with the UNHCR and the IOM for those migrants saved at sea in SAR operations. Thereafter, member states, which opt to use their controlled centres for the distinguishing of individuals who deserve international protection, will receive migrants for assessment. This process is voluntary on the part of member states without prejudice to the Dublin regulation. Yet still, though the details of the programme remain sketchy, some of the EU’s Mediterranean partners have ruled themselves out. In addition, some critics have questioned whether these processing centres in North Africa will respect the rights of these migrants under international law.
ENDNOTES


6 Ibid.


8 Dr. Kandilige Leander, Transcribed Interview granted to the Researcher on 6 July 2018 by Dr. Leander Kandilige, a Senior Lecturer at Centre for Migration Studies, Legon.


11 MPC Team op cit.

12 Francesca, Z., op cit.

13 MPC Team op. cit.

14 Ibid.

15 Szlajgyi op cit.


18 MPC Team op. cit.

19 Toaldo op. cit p.7.

20 Dr. Coffie Amanda, Transcribed Interview granted to the Researcher on 26 June 2018 by Dr. Amanda Coffie, Research Fellow at Leciad, Legon.

21 Ibid.


24 Ibid.

25 Sputnik op. cit.


28 Toaldo, M., op cit p.5

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39 Carrera, Sergio et al op cit.
44 Ibid.
45 IOM. "Iom Applauds Italy’s Life-Saving Mare Nostrum Operation: Not a Migrant Pull Factor.”
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57 Ibid. p.619-620.
60 Carrera et al Op cit. p.5.
61 Ibid. p.6.
62 Ibid. p.7.
61 Ibid.
62 Ibid.
71 Koller op cit.
72 Ibid.
73 Ibid.
74 Ibid.
75 Wittenberg op cit. p. 16.
79 European Commission, Delivery of the European Agenda on Migration.
81 Ibid.
86 Wittenberg op cit. p. 17.
88 Ibid.
91 Dr. Kandilige Leander, Transcribed Interview granted to the Researcher on 6 July 2018 by Dr. Leander Kandilige, a Senior Lecturer at Centre for Migration Studies, Legon.
93 Dr. Kandilige Leander, Transcribed Interview granted to the Researcher on 6 July 2018 by Dr. Leander Kandilige, a Senior Lecturer at Centre for Migration Studies, Legon.
94 Ibid.
The EU-Turkey deal had led to a huge decrease in arrivals from Eastern Mediterranean. The deal was that Turkey would strengthen its border patrol and coast guard to ensure that refugees would be unable to leave Turkey for Europe. This was also to reduce the number of deaths at sea. In return, Turkey received €6 billion worth of aid from the EU.
CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.0 Introduction
This chapter summarizes the findings of the study and makes recommendations for the general improvement of the situation in the Mediterranean. To answer the research questions effectively, the study reviewed irregular migration from Africa to Europe, discusses the relevant policies Europe has employed over the years to combat this activity, particularly along the Central Mediterranean route and the effects of the Libyan revolution on the migration situation in this region.

4.1 Summary of Findings
International Migration, which is process of movement from one country to another, entails many complex challenges. For decades, there has been a massive wave of sub-Saharan Africans crossing the Sahara Desert, towards Libya, with the intention of finding a better life there. However, in recent years with the deteriorating situation in Libya, after the overthrow of Gaddafi in 2011 and the subsequent civil war, many of these migrants have turned to embarking on that treacherous journey to Europe, making Libya a major gateway to Europe. It can be confirmed that the migrants are fleeing dire situations in Libya in hope of better chances at survival in Europe. The reasons why irregular migrants embark on this journey range from political as they flee from conflict; socioeconomic in search of better living standards; religious and environmental reasons that can be classified push-pull factors.

The Migratory movements through Libya represent the largest flow of irregular migrants in Africa. The EU and Italy, as a major frontline state, has over the years worked in conjunction with the Libyan state to stem these flows by providing all the resources and funding under a special form of cooperation. The state of Libya, after the political turmoil of the Arab Spring and the breakdown of law and order, is virtually a failed, lawless and unstable state as none of the three rival factions have been able to gain total control of the state. Militias that engage in human trafficking and
smuggling of migrants have filled the vacuum created. There is also the widespread occurrence of human rights violations as migrants are left in unsanitary detention conditions.

There exist a quandary between the protection of migrants’ rights and the security-driven outlook of the EU and its member states have assumed. The fear in Europe is that immigrants will strain Europe’s public resources as they enjoy social transfers. EU natives also fear that increasing migrant numbers will result in a redistribution of wealth to include other minor groups thereby upsetting wages and employment. For European hardliners, the argument is that Europe cannot preserve its culture, maintain its standard of living, and protect itself and its social infrastructure while simultaneously absorbing migrants especially from the African continent.

The outbreak of the Arab Spring and the Libyan Revolution were the two events that sparked Europe’s current resort to restrictive migration policies, which aim at limiting the movements of migrants. The migrants have to withstand the worst of such restrictive policies that fail to differentiate among the various categories of migrants. While political refugees, who are fleeing from war, conflicts and persecution, possess a special legal status - under the 1951 Geneva Refugee Convention - as genuine refugees who should be given care; economic migrants, on the other hand, do not have a protected status under international law. The EU, however, often fails to separate the two groups in the decision-making process and in the application of its anti-immigration policies. Migrant rights are continually trampled upon, both directly and indirectly, because of the persistent fusion of the two types. In recent times, more and more migrants are dying in the desert and in the Mediterranean Sea than are arriving at European ports, and this accounts for the reduced number of arrivals.

4.2 Conclusion
Generally, efforts made by countries, all around the world, to restrict immigration have often been unsuccessful. The mere fact that restrictive external and internal policies, implemented by the EU, have been unable to achieve the desired goal of permanently curtailing migrant flows shows that its immigration policies have been generally ineffective. This is because movements between states are driven primarily by structural factors or push factors like labour market imbalances, inequalities in wealth, conflicts and persecution in their home countries. Restrictive migration
policies have little effect on factors like these; rather such policies might influence the manner in which people migrate as they may resort to irregular or illegal means of migration.

Furthermore, the study confirms the hypothesis that the European policies have been more detrimental than helpful in protecting the rights of migrants and stemming the tide of migrant flows. Underprivileged people will resort to illegal migration as they find it difficult to migrate with visa requirements and stricter border controls. If a state, as a rational actor, has a strict set of immigration measures in place, the option of regular routes for people to migrate, in an orderly fashion, is jettisoned. Ultimately, people will resort to whatever options they have left - smugglers and traffickers. Therefore while a section of the Union’s policies attempt to address the source of irregular immigration from sub-Saharan Africa with development aid and projects, other rules are merely profiting the traffickers because legitimate ways of travelling are made expensive and requirement-focused. Thus, when people, with the zeal to survive, turn up the right way and apply for asylum but are threatened with deportation, in subsequent attempts they will enter clandestinely with the help of traffickers, who will sell fake documents to migrants and identify routes or loopholes in the system where people can by-pass to enter the country. The migrant situation that the EU faces is difficult; it has been because of a plethora of factors, and these irregular migratory flows may never be stopped.

The European Union, seeking to maximize its interest implements policies that will help limit the flows of migrants but this has also come at the expense of the lives and rights of genuine migrants. In addition, more people are continually engaging these irregular routes of migrating. The number of people, worldwide, driven from their homes by conflict has increased by 40% since 2013. The figure for internally displaced persons (IDP) due to conflict and violence in 2017 is pegged at 40 million worldwide with Africa accounting for 5.5 million. With such huge numbers of IDPs, it is only expected that more migrants will undertake perilous journeys across the Sahara into the Maghreb and to Europe. Thus, in an increasingly globalized world chances are that any form of immigration policy will be incapable of limiting the volumes of migrants moving to new territories. States no longer have the ability to control migration because of worldwide increases in migratory flows and the desire to migrate in general.
4.3 Recommendations
The EU needs to take a more holistic approach to facing the situation in the Mediterranean and migration management in general. There is the need to improve collaboration and solidarity among member states to avoid jittery reactions to events concerning irregular migration. The EU needs to understand that migration is not a scab that needs to be viciously scratched away. Neither is it a problem that needs to be solved. It should not characterize the issue as a security problem rather the focus should be on managing irregular migration. To do this the EU needs to do more research to understand the fundamental reasons why people are moving. There is a mistaken view that Europe will be overwhelmed if it took in anymore migrants as they believe every migrant is on the journey for economic reasons, as done in the Italian Memorandum of Understanding with Libya. Thus, there is the need to separate the asylum seekers from economic labour migrants and address their predicament with very different policies. This is the only way Europe can make headway on the migration situation.

The EU must create more legal alternatives. The creation of such alternatives, for refugee and migrant entry towards Europe has been limited and this has contributed to the large numbers of irregular migrants. The lifting or reduction of these visa requirements could help reduce the numbers that turn to human smugglers and traffickers in the desert region and ultimately reduce the number of migrants that undertake the journey towards North Africa and on to Europe. This way mortality rates on the high seas and in the Sahara will drastically reduce because people have easily accessible options that are formally recognized. These alternative ways include “humanitarian evacuation programmes, humanitarian visas, increased resettlement and humanitarian admission, and a more extensive use of existing migration visas for family reunification and a more extensive use of existing migration visas for family reunification, work, study or research.”

Since these movements towards Europe cannot be stopped, the region can benefit by maximizing the positive aspects of this sort of migration while minimizing the negatives. Many industrial regions face an ageing population situation which means that there is the need to fill up labour shortages in high-skilled areas like information technology and the healthcare sector and in low-skilled areas like agriculture, construction and manufacturing that require manual workers.
European population is ageing gradually; it means pension systems are strained thus the arrival of immigrants will reduce the rate at which the population is ageing and in effect diminish the strain on the pension system. In the same vein, European workers generally have low geographical mobility within the EU; thus with the arrival of migrants who move towards regions where labour quantities are inadequate they help stabilize shocks on the state’s economy.

In addition, many of the irregular mobility movements towards Europe come from West Africa and actually remain within the region. A common migration pattern is the movement of individuals to and from countries like Nigeria, Côte d’Ivoire, Ghana and Senegal that play the role of major immigration hubs in the sub-region while labour exporting hubs include Burkina Faso, Guinea, Mali and Togo. The ECOWAS protocol on the free movement of persons, goods and services amongst member states emphasizes the need for effective regional migration and economic integration to reduce poverty levels and enhance economic development in the region. This requires the strengthening of migration regimes and institutions to protect effectively migrants while enhancing the constructive effects of remittances and knowledge transfer.

The international community must realize that the Mediterranean situation is not only Europe’s problem. There is the need for proper liaising among all players from source, transit and destination states as well as humanitarian agencies and Regional bodies. The source countries must develop comprehensive policy frameworks that will essentially tackle the root of these migration flows, poverty and conflict. African governments must be proactive and focus on creating job opportunities within the sectors that Africans are most dependent and can most rely on. The agriculture sector must be raised on a pedestal by incorporating new technologies in the entire value chain process.

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Dr. Coffie Amanda, Transcribed Interview granted to the Researcher on 26 June 2018 by Dr. Amanda Coffie, Research Fellow at Leciad, Legon.
APPENDICES

APPENDIX 1

Irregular Migration Routes in Africa

Source: Marcogeo
www.foodandmigration.com
### APPENDIX II

Number of sea arrivals by irregular migratory routes & Dead and missing migrants

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SEA ARRIVALS</th>
<th>DEAD AND MISSING</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>216,054</td>
<td>3,538</td>
</tr>
<tr>
<td>2015</td>
<td>1,015,078</td>
<td>3,771</td>
</tr>
<tr>
<td>2016</td>
<td>362,753</td>
<td>5,096</td>
</tr>
<tr>
<td>2017</td>
<td>172,301</td>
<td>3,139</td>
</tr>
<tr>
<td>2018</td>
<td>58,475*</td>
<td>1,489**</td>
</tr>
</tbody>
</table>

Source: Table created based on data from UNHCR Mediterranean Situation website. Includes refugees arriving by sea to Italy, Greece, Spain and Cyprus via all irregular migratory routes. [https://data2.unhcr.org/en/situations/mediterranean](https://data2.unhcr.org/en/situations/mediterranean)

*Last updated 2 August 2018  
**Last updated 31 July 2018